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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0594; Project Identifier MCAI–2022–00561–T; Amendment 39–22071; AD 2022–11–21]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This AD was prompted by reports that the inflation valve safety pin has been found installed on the nitrogen bottle of a certain escape slide in-service and may be installed on the nitrogen bottles of certain other escape slides on other airplanes in-service. This AD requires inspecting the inflation valve of the nitrogen bottle of the escape slide for the presence of the safety pin, and if the safety pin is installed, removing the safety pin from the inflation valve and stowing it in the safety pin stowage pouch of the escape slide, as specified in a Transport Canada Civil Aviation (TCCA) Emergency AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective June 15, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 15, 2022.

The FAA must receive comments on this AD by July 15, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material incorporated by reference (IBR) in this AD, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0594.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0594; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0594; Project Identifier MCAI–2022–00561–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Chirayu A. Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The TCCA, which is the aviation authority for Canada, has issued TCCA Emergency AD CF–2022–23, dated April 22, 2022 (TCCA Emergency AD CF–2022–23) (also referred to as the MCAI),

to correct an unsafe condition for certain Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes.

This AD was prompted by reports that the inflation valve safety pin has been found installed on the nitrogen bottle of two forward passenger door escape slides in-service and may be installed on the nitrogen bottles of the forward and aft passenger and service door escape slides on other airplanes in-service. The inflation valve safety pin may be installed on up to four of the six nitrogen bottles of the escape slides used for the emergency exits. The FAA is issuing this AD to address installed inflation valve safety pins, which, if not removed, could prevent the deployment of the affected escape slides during an emergency evacuation, thereby significantly impeding emergency egress. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

TCCA Emergency AD CF–2022–23 specifies procedures for a detailed inspection of the inflation valve of the nitrogen bottle of the escape slide for the presence of the safety pin, and applicable on-condition actions. The on-condition actions include removing the safety pin from the inflation valve and stowing it in the safety pin stowage pouch of the escape slide. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Requirements of This AD

This AD requires accomplishing the actions specified in TCCA Emergency AD CF–2022–23 described previously, except for any differences identified as exceptions in the regulatory text of this AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, TCCA Emergency AD CF–2022–23 is incorporated by reference in this AD. This AD requires compliance with TCCA Emergency AD CF–2022–23 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this AD. Service information required by TCCA Emergency AD CF–2022–23 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0594 after this AD is published.

FAA's Justification and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies forgoing notice and comment prior to adoption of this rule because an inflation valve safety pin installed on the nitrogen bottle of escape slides could prevent the deployment of the affected escape slides during an emergency evacuation, and this unsafe condition may simultaneously affect up to four out of the six emergency exits. The non-deployment of a majority of the emergency escape slides could significantly affect emergency egress during an emergency evacuation. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forgo notice and comment.

Regulatory Flexibility Act (RFA)

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

Costs of Compliance

The FAA estimates that this AD affects 54 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
3 work-hours × $85 per hour = $255	$0	$255	$13,770

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

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
1 work-hour × $85 per hour = $85	$0	$85

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

Authority for This Rulemaking

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

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

Regulatory Findings

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, and

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–11–21 Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Amendment 39–22071; Docket No. FAA–2022–0594; Project Identifier MCAI–2022–00561–T.

(a) Effective Date

This airworthiness directive (AD) is effective June 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (type certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada Civil Aviation (TCCA) Emergency AD CF–2022–23, dated April 22, 2022 (TCCA Emergency AD CF–2022–23).

(d) Subject

Air Transport Association (ATA) of America Code 25, Equipment/furnishings.

(e) Unsafe Condition

This AD was prompted by reports that the inflation valve safety pin has been found installed on the nitrogen bottle of two forward passenger door escape slides in-service and may be installed on the nitrogen bottles of the forward and aft passenger and service door escape slides on other airplanes. The FAA is issuing this AD to address installed inflation valve safety pins, which, if not removed, could prevent the deployment of the affected escape slides during an emergency evacuation, thereby significantly impeding emergency egress.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, TCCA Emergency AD CF–2022–23.

(h) Exception to TCCA Emergency AD CF–2022–23

(1) Where TCCA Emergency AD CF–2022–23 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where TCCA Emergency AD CF–2022–23 refers to hours air time, this AD requires using flight hours.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

For more information about this AD, contact Chirayu A. Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New

York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Transport Canada Civil Aviation (TCCA) Emergency AD CF–2022–23, dated April 22, 2022.

(ii) [Reserved]

(3) For TCCA Emergency AD CF–2022–23, contact TCCA, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *AD-CN@tc.gc.ca;* internet *https://tc.canada.ca/en/aviation.*

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

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

Issued on May 24, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11660 Filed 5–26–22; 11:15 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–1172; Project Identifier MCAI–2021–00939–T; Amendment 39–22051; AD 2022–11–01]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Airbus SAS Model A300 series airplanes, Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). This AD was prompted by reports of cracking in the main landing gear (MLG) support rib 5 lower flange. This AD requires a one-time detailed inspection (DET) of the affected area, and applicable corrective actions, 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 July 5, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 5, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1172.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–1172; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0190, dated August 17, 2021 (EASA AD 2021–0190) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A300, A300–600, and A300–600ST airplanes. Model A300–600ST airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Airbus SAS Model A300 series airplanes and Model A300–600 series airplanes. The NPRM published in the **Federal Register** on January 12, 2022 (87 FR 1703). The NPRM was prompted by reports of cracking in the MLG support rib 5 lower flange. The NPRM proposed to require a one-time DET of the affected area, and applicable corrective actions, as specified in EASA AD 2021–0190.

The FAA is issuing this AD to address cracking of the MLG support rib 5 lower flange. This condition, if not detected and corrected, could affect the structural integrity of the airplane. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from FedEx. The following presents the comment received on the NPRM and the FAA's response.

Request for Allowance of Previously Approved Hardware

FedEx requested that the FAA include a comment allowing previous Airbus Repair Design Approval Sheet (RDAS)-approved hardware that is different from the hardware specified in Airbus Alert Operators Transmission (AOT) A57W017–21 (which is referred to in EASA AD 2021–0190). FedEx noted that it had airplanes with different fasteners than those specified in a required for compliance (RC) step in Airbus AOT A57W017–21, and that those different fasteners were approved through an Airbus RDAS. FedEx added that Airbus provided configuration approval and structural acceptance of its proposed deviations to the fastener specifications through Airbus Statement of Airworthiness Compliance (ASAC) 80955386/006/2021 Issue 1, dated August 25, 2021, and ASAC 08955386/024/2022 Issue 1, dated February 25, 2022. FedEx stated that adding such a provision in the proposed AD would eliminate the necessity for an alternative method of compliance (AMOC).

The FAA concurs with FedEx's request because the alternative method will provide an acceptable level of

safety. The ASAC documents are equivalent to an AMOC approval. The FAA has redesignated paragraph (i)(1) of the proposed AD as paragraph (i)(1)(i) of this AD and added paragraph (i)(1)(ii) to this AD to specify that Airbus ASAC 80955386/006/2021, Issue 1, dated August 25, 2021, and ASAC 80955386/024/2022, Issue 1, dated February 25, 2022, are approved as AMOCs for the corresponding provisions of this AD, for the airplanes identified in those ASACs only.

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0190 specifies procedures for a DET of the affected area, a one-time fluorescent penetrant inspection (FPI) around some fastener holes in the affected area, and applicable corrective action(s) including crack repair.

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

Costs of Compliance

The FAA estimates that this AD affects 124 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
23 work-hours × $85 per hour = $1,955	$0	$1,955	$242,420

The FAA estimates the following costs to replace any cracked rib that would be required based on the results of any required actions and repair status. The FAA has no way of determining the number of aircraft that might need this on-condition action:

ESTIMATED COSTS OF ON-CONDITION ACTIONS

Labor cost	Parts cost	Cost per product
Up to 1,500 work-hours × $85 per hour = $127,500	$620,000	Up to $747,500.

The FAA has received no definitive data on which to base the cost estimates for the repair specified in this AD.

Authority for This Rulemaking

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

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

Regulatory Findings

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:

2022–11–01 Airbus SAS: Amendment 39–22051; Docket No. FAA–2021–1172; Project Identifier MCAI–2021–00939–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 5, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus SAS airplanes, certificated in any category, without Airbus modification 11912 and identified in figure 1 to paragraph (c) of this AD.

Figure 1 to paragraph (c): *Affected airplanes by MSN*

Model	Manufacturer Serial Number (MSN)
A300 B2-1A, B2-1C, B2K-3C, B2-203, B4-2C, B4-103, and B4-203 airplanes	075, 080, 090, 107, 126, 139, 141, 151, 154, 157, 173, 175, 183, 203, 210, 212, 227, 235, 239, 255, 256, 261, 274, 277, 292, 299, and 302
A300 B4-601, B4-603, B4-620, and B4-622 airplanes A300 B4-605R and B4-622R airplanes A300 C4-605R Variant F airplanes A300 F4-605R and F4-622R airplanes	358, 361, 365, 380, 388, 401, 405, 408, 417, 464, 477, 479, 518, 521, 530, 532, 536, 543, 546, 553, 555, 557, 559, 561, 572, 575, 579, 581, 584, 602, 603, 607, 608, 611, 613, 617, 618, 621, 623, 625, 626, 630, 632, 633, 637, 641, 643, 657, 659, 664, 666, 668, 670, 677, 679, 683, 688, 696, 701, 703, 707, 709, 711, 713, 715, 717, 722, 723, 724, 725, 726, 727, 728, 729, 730, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 748, 749, 750, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 766, 768, 769, 770, 771, 772, 773, 774, 775, 777, 778, 779, 780, 781, 783, 789, 790, and 791

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of cracking in the main landing gear (MLG) support rib 5 lower flange, inboard and outboard of Rib 5, on the right-hand and left-hand sides. The FAA is issuing this AD to address cracking of the MLG support rib 5 lower flange. This condition, if not detected and corrected, could affect the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0190, dated August 17, 2021 (EASA AD 2021–0190).

(h) Exceptions to EASA AD 2021–0190

(1) Where EASA AD 2021–0190 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2021–0190 specifies to ''accomplish those instructions accordingly'' if any crack is detected, for this AD if any crack is detected, the crack must be repaired before further flight using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) The ''Remarks'' section of EASA AD 2021–0190 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):*

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

(ii) Airbus Statement of Airworthiness Compliance (ASAC) 80955386/006/2021, Issue 1, dated August 25, 2021, and ASAC 80955386/024/2022, Issue 1, dated February 25, 2022, are approved as AMOCs for the corresponding provisions of this AD for the airplanes identified in those ASACs only.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any service information referenced in EASA AD 2021–0190 contains paragraphs that are labeled as RC, the instructions in RC paragraphs, including subparagraphs under an RC paragraph, must be done to comply with this AD; any paragraphs, including subparagraphs under those paragraphs, that are not identified as RC are recommended. The instructions in paragraphs, including subparagraphs under those paragraphs, not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the instructions identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to instructions identified as RC require approval of an AMOC.

(j) Related Information

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

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0190, dated August 17, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0190, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on May 13, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11538 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2021–0787; Project Identifier MCAI–2021–00252–T; Amendment 39–22048; AD 2022–10–10]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. This AD was prompted by a report of a wing stall (wing drop/un-commanded roll) during a landing flare. This AD requires revising the existing airplane flight manual (AFM) to incorporate a limitation and procedure for the wing anti-ice (WAI) system in order to mitigate the risk of ice accumulation on the wing leading edges. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 5, 2022.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 5, 2022.

ADDRESSES: For service information identified in this final rule, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0787.

Examining the AD Docket

You may examine the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0787; 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: Chirayu Gupta, Aerospace Engineer, Mechanical Systems and Administrative Services Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; email *9-avs-nyaco-cos@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–06, dated February 26, 2021 (TCCA AD CF–2021–06) (also referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–0787.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Bombardier, Inc., Model CL–600–1A11 (600), CL–600–2A12 (601), and CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes. The NPRM published in the **Federal Register** on September 15, 2021 (86 FR 51279). The NPRM was prompted by a report of a wing stall (wing drop/un-commanded roll) during a landing flare. The NPRM proposed to require revising the existing AFM to incorporate a limitation and procedure for the WAI system in order to mitigate the risk of ice accumulation on the wing leading edges. The FAA is issuing this AD to address ice accumulation on the wing leading edges, which could result in a wing stall during landing and consequent reduced controllability of the airplane. See the MCAI for additional background information.

Comments

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

Conclusion

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

The FAA has determined that these minor changes:

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

Related Service Information Under 1 CFR Part 51

Bombardier has issued the following service information, which specifies a revised AFM limitation and procedure for the WAI system in order to mitigate the risk of ice accumulation on the wing leading edge. These documents are distinct since they apply to different airplane configurations.

- Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section of the Canadair Challenger AFM, Product Publication No. 600, Revision A114, dated April 16, 2020.
- Sub-section C., Icing Conditions During Flight, of Chapter 3., SYSTEMS OPERATIONS—ANTI-ICE, of the Canadair Challenger AFM, Product Publication No. 600, Revision A114, dated April 16, 2020.

• Sub-section I., Before Landing, of Chapter 42., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, Product Publication No. 600, Revision A114, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 4., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, Product Support Publication (PSP) No. 600–1, Revision 106, dated April 16, 2020.

• Sub-section C., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the Canadair Challenger AFM, Product Support Publication (PSP) No. 600–1, Revision 106, dated April 16, 2020.

• Sub-section I., Before Landing, of Chapter 23., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, Product Support Publication (PSP) No. 600–1, Revision 106, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601–1A, Revision 123, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601–1A, Revision 123, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1A–1, Revision 82, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1A–1, Revision 82, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601–1B, Revision 86, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601–1B, Revision 86, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1B–1, Revision 84, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1B–1, Revision 84, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601A–1, Revision 106, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601A–1, Revision 106, dated April 16, 2020.

• Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601A–1–1, Revision 95, dated April 16, 2020.

• Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601A–1–1, Revision 95, dated April 16, 2020.

• Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, Revision 116, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, use Document Identification No. CH 604 AFM.)

• Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, Revision 116, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, use Document Identification No. CH 604 AFM.)

• Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, Revision 54, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, use Document Identification No. CH 605 AFM.)

• Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, Revision 54, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, use Document Identification No. CH 605 AFM.)

• Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, Revision 19, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, use Document Identification No. CH 650 AFM.)

• Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, Revision 19, dated December 18, 2019. (For obtaining the limitation and procedure for the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, use Document Identification No. CH 650 AFM.)

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

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
1 work-hour × $85 per hour = $85	$0	$85	$52,615

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–10–10 Bombardier, Inc.: Amendment 39–22048; Docket No. FAA–2021–0787; Project Identifier MCAI–2021–00252–T.

(a) Effective Date

This airworthiness directive (AD) is effective July 5, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc., airplanes, certificated in any category, as identified in paragraphs (c)(1) through (3) of this AD.

(1) Model CL–600–1A11 (600) airplanes having serial numbers (S/Ns) 1001 through 1085 inclusive.

(2) Model CL–600–2A12 (601) airplanes having S/Ns 3001 through 3066 inclusive.

(3) Model CL–600–2B16 (601–3A, 601–3R, and 604 Variants) airplanes having S/Ns 5001 through 5194 inclusive; 5301 through 5665 inclusive; 5701 through 5988 inclusive; and 6050 through 6153 inclusive.

(d) Subject

Air Transport Association (ATA) of America Code 30, Ice and Rain Protection.

(e) Unsafe Condition

This AD was prompted by a report of a wing stall during a landing flare. Photographs after landing showed that the airplane had mixed ice on the leading edges of the wings; therefore, it was determined that during descent the wing anti-ice (WAI) system had been OFF because the ice detector did not detect ice. The FAA is issuing this AD to address ice accumulation on the wing leading edges, which could result in a wing stall during landing and consequent reduced controllability of the airplane.

(f) Compliance

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

(g) Airplane Flight Manual (AFM) Revision

Within 60 days after the effective date of this AD: Revise the existing AFM to incorporate the specified sections of the Bombardier or Canadair Challenger AFM revision limitations and procedures for the WAI system specified in figure 1 to paragraph (g) of this AD.

BILLING CODE 4910–13–P

Figure 1 to paragraph (g) – *AFM Revisions*

Bombardier Airplane Model/Serial Number	New Limitation/Procedure	AFM	AFM Revision and Issue Date
CL-600-1A11 (Variant 600), 1001 through 1085 inclusive for non-winglets	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section C., Icing Conditions During Flight, of Chapter 3., SYSTEMS OPERATIONS – ANTI-ICE, and sub-section I., Before Landing, of Chapter 42., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section	Canadair Challenger AFM, Product Publication No. 600	Revision A114, dated April 16, 2020
CL-600-1A11 (Variant 600), 1001 through 1085 inclusive for winglets	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 4., OPERATING LIMITATIONS, of the LIMITATIONS section; sub-section C., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, and sub-section I., Before Landing, of Chapter 23., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section	Canadair Challenger AFM, Product Support Publication (PSP) No. 600-1	Revision 106, dated April 16, 2020

Bombardier Airplane Model/Serial Number	New Limitation/Procedure	AFM	AFM Revision and Issue Date
CL-600-2A12 (Variant 601), 3001 through 3066, and 43,100 lb. maximum take-off weight (MTOW)	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Canadair Challenger AFM, PSP No. 601-1A	Revision 123, dated April 16, 2020
CL-600-2A12 (Variant 601), 3001 through 3066, and 44,600 lb./45,100 lb. MTOW	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Bombardier Canadair Challenger AFM, PSP No. 601-1A-1	Revision 82, dated April 16, 2020
CL-600-2A12 (Variant 601), 3001 through 3066 with -3A engine, and 43,100 lb. MTOW	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Canadair Challenger AFM, PSP No. 601-1B	Revision 86, dated April 16, 2020

Bombardier Airplane Model/Serial Number	New Limitation/Procedure	AFM	AFM Revision and Issue Date
CL-600-2A12 (Variant 601), 3001 through 3066 with -3A engine, and 44,600 lb./45,100 lb. MTOW	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Bombardier Canadair Challenger AFM, PSP No. 601-1B-1	Revision 84, dated April 16, 2020
CL-600-2B16 (Variant 601-3A/3R) 5001 through 5134 inclusive, and 43,100 lb. MTOW	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Canadair Challenger AFM, PSP No. 601A-1	Revision 106, dated April 16, 2020
CL-600-2B16 (Variant 601-3A/3R) 5001 through 5194 inclusive, and 44,600 lb./45,100 lb. MTOW	Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section; and sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS – ANTI-ICE, of the NORMAL PROCEDURES section	Bombardier Canadair Challenger AFM, PSP No. 601A-1-1	Revision 95, dated April 16, 2020

Bombardier Airplane Model/Serial Number	New Limitation/Procedure	AFM	AFM Revision and Issue Date
CL-600-2B16 (Variant 604) 5301 through 5665 inclusive	Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02-04, Operating Limitations, of Chapter 2 – LIMITATIONS; and sub-section M., Icing Conditions During Flight, of Section 04-14, Ice and Rain Protection, of Chapter 4 – NORMAL PROCEDURES	Bombardier Challenger 604 AFM, PSP No. 604-1[1]	Revision 116, dated December 18, 2019
CL-600-2B16 (Variant 604) 5701 through 5988 inclusive	Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02-04, Operating Limitations, of Chapter 2 – LIMITATIONS; and sub-section M., Icing Conditions During Flight, of Section 04-14, Ice and Rain Protection, of Chapter 4 – NORMAL PROCEDURES	Bombardier Challenger 605 AFM, PSP No. 605-1[2]	Revision 54, dated December 18, 2019
CL-600-2B16 (Variant 604) 6050 through 6153 inclusive	Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02-04, Operating Limitations, of Chapter 2 – LIMITATIONS; and sub-section M., Icing Conditions During Flight, of Section 04-14, Ice and Rain Protection, of Chapter 4 – NORMAL PROCEDURES	Bombardier Challenger 650 AFM, PSP No. 650-1[3]	Revision 19, dated December 18, 2019

[1] For obtaining the limitation and procedure for the Bombardier Challenger 604 AFM, Publication No. PSP 604-1, use Document Identification No. CH 604 AFM.

[2] For obtaining the limitation and procedure for the Bombardier Challenger 605 AFM, Publication No. PSP 605-1, use Document Identification No. CH 605 AFM.

[3] For obtaining the limitation and procedure for the Bombardier Challenger 650 AFM, Publication No. PSP 650-1, use Document Identification No. CH 650 AFM.

BILLING CODE 4910–13–C

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the

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

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

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–06, dated February 26, 2021, for related information. This MCAI may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2021–07871.

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

(j) Material Incorporated by Reference

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

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

(i) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger Airplane Flight Manual (AFM), Product Publication No. 600, Revision A114, dated April 16, 2020.

(ii) Sub-section C., Icing Conditions During Flight, of Chapter 3., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, Product Publication No. 600, Revision A114, dated April 16, 2020.

(iii) Sub-section I., Before Landing, of Chapter 42., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, Product Publication No. 600, Revision A114, dated April 16, 2020.

(iv) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 4., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, Product Support Publication (PSP) No. 600–1, Revision 106, dated April 16, 2020.

(v) Sub-section C., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 600–1, Revision 106, dated April 16, 2020.

(vi) Sub-section I., Before Landing, of Chapter 23., CONSOLIDATED CHECK LIST, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 600–1, Revision 106, dated April 16, 2020.

(vii) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601–1A, Revision 123, dated April 16, 2020.

(viii) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601–1A, Revision 123, dated April 16, 2020.

(ix) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1A–1, Revision 82, dated April 16, 2020.

Note 1 to paragraph (j)(2)(ix): The List of Effective Pages contains a page date error for page i of the LIMITATIONS Contents. The page date identified is in the List of Effective Pages is October 26, 2009; the date specified on page i is April 16, 2020.

(x) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1A–1, Revision 82, dated April 16, 2020.

(xi) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601–1B, Revision 86, dated April 16, 2020.

(xii) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601–1B, Revision 86, dated April 16, 2020.

(xiii) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1B–1, Revision 84, dated April 16, 2020.

(xiv) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601–1B–1, Revision 84, dated April 16, 2020.

(xv) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Canadair Challenger AFM, PSP No. 601A–1, Revision 106, dated April 16, 2020.

(xvi) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Canadair Challenger AFM, PSP No. 601A–1, Revision 106, dated April 16, 2020.

(xvii) Sub-sub section (2), Wing Anti-ice System, of sub-section I., Operation in Icing Conditions, of Chapter 3., OPERATING LIMITATIONS, of the LIMITATIONS section, of the Bombardier Canadair Challenger AFM, PSP No. 601A–1–1, Revision 95, dated April 16, 2020.

(xviii) Sub-section E., Icing Conditions During Flight, of Chapter 4., SYSTEMS OPERATIONS—ANTI-ICE, of the NORMAL PROCEDURES section, of the Bombardier Canadair Challenger AFM, PSP No. 601A–1–1, Revision 95, dated April 16, 2020.

(xix) Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, Revision 116, dated December 18, 2019.

Note 2 to paragraph (j)(2)(xix): For obtaining the limitation and procedure specified in paragraphs (j)(2)(xix) and (xx) of this AD for the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, use Document Identification No. CH 604 AFM.

(xx) Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 604 AFM, Publication No. PSP 604–1, Revision 116, dated December 18, 2019.

(xxi) Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, Revision 54, dated December 18, 2019.

Note 3 to paragraph (j)(2)(xxi): For obtaining the limitation and procedure specified in paragraphs (j)(2)(xxi) and (xxii) of this AD for the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, use Document Identification No. CH 605 AFM.

(xxii) Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 605 AFM, Publication No. PSP 605–1, Revision 54, dated December 18, 2019.

(xxiii) Sub-sub section B., Wing Anti-ice System, of sub-section 4., Operation in Icing Conditions, of Section 02–04, Operating Limitations, of Chapter 2—LIMITATIONS, of the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, Revision 19, dated December 18, 2019.

Note 4 to paragraph (j)(2)(xxiii): For obtaining the limitation and procedure specified in paragraphs (j)(2)(xxiii) and (xxiv) of this AD for the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, use Document Identification No. CH 650 AFM.

(xxiv) Sub-section M., Icing Conditions During Flight, of Section 04–14, Ice and Rain Protection, of Chapter 4—NORMAL PROCEDURES, of the Bombardier Challenger 650 AFM, Publication No. PSP 650–1, Revision 19, dated December 18, 2019.

(3) For service information identified in this AD, contact Bombardier Business Aircraft Customer Response Center, 400 Côte-

Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–2999; email *ac.yul@aero.bombardier.com;* internet *https://www.bombardier.com.*

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

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

Issued on May 6, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11531 Filed 5–27–22; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Financial Services Sectoral Determination and Directives 1A, 2, 3, and 4 Under Executive Order 14024 of April 15, 2021

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of one determination and four directives.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing a sectoral determination by the Secretary of the Treasury, in consultation with the Secretary of State, and four Russian Harmful Foreign Activities Sanctions directives in the **Federal Register**. The determination and four directives, all issued pursuant to an April 15, 2021 Executive Order, were previously issued on OFAC's website.

DATES: The Determination Pursuant to Section 1(a)(i) of Executive Order 14024 was issued on February 22, 2022 and took effect immediately. Directive 1A under Executive Order (E.O.) 14024, ''Prohibitions Related to Certain Sovereign Debt of the Russian Federation,'' was issued on February 22, 2022, and the prohibitions therein took effect on March 1, 2022. Directive 2 under E.O. 14024, ''Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions,'' was issued on February 24, 2022, and the prohibitions therein took effect on March 26, 2022. Directive 3 under E.O. 14024, ''Prohibitions Related to New Debt and Equity of Certain Russia-related Entities,'' was issued on February 24, 2022 and the prohibitions therein took effect on March 26, 2022. Directive 4, ''Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation,'' was issued on February 28, 2022 and took effect immediately.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On April 15, 2021, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), issued Executive Order (E.O.) 14024 (86 FR 20249, April 19, 2021).

In E.O. 14024, the President found that specified harmful foreign activities of the Government of the Russian Federation—in particular, efforts to undermine the conduct of free and fair democratic elections and democratic institutions in the United States and its allies and partners; to engage in and facilitate malicious cyber-enabled activities against the United States and its allies and partners; to foster and use transnational corruption to influence foreign governments; to pursue extraterritorial activities targeting dissidents or journalists; to undermine security in countries and regions important to United States national security; and to violate well-established principles of international law, including respect for the territorial integrity of states—constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States and declared a national emergency to deal with that threat.

Among other things, section 1 of E.O. 14024 blocks all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State.

On February 22, 2022, the Secretary of the Treasury, in consultation with the Secretary of State, determined that section 1(a)(i) of E.O. 14024 shall apply to the financial services sector of the Russian Federation economy (''February 22, 2022 Determination Pursuant to Section 1(a)(i) of Executive Order 14024''). Pursuant to this determination, any person that the Secretary of Treasury, in consultation with the Secretary of State, or the Secretary of State, in consultation with the Secretary of the Treasury (or their respective designees), subsequently determines operates or has operated in the financial services sector of the Russian Federation economy shall be subject to the prohibitions described in section 1(a)(i) of E.O. 14024.

On February 22, 2022, the Director of OFAC issued Directive 1A under E.O. 14024, ''Prohibitions Related to Certain Sovereign Debt of the Russian Federation'' (Russia-related Sovereign Debt Directive), replacing and superseding Directive 1 under E.O. 14024 of April 15, 2021 (86 FR 35867, July 7, 2021), to extend existing sovereign debt prohibitions to cover participation in the secondary market for bonds issued after March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, effective March 1, 2022.

On February 24, 2022, the Director of OFAC issued Directive 2 under E.O. 14024, ''Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions'' (Russia-related CAPTA Directive), which prohibits U.S. financial institutions from: (i) The opening or maintaining of a correspondent account or payable-through account for or on behalf of foreign financial institutions determined to be subject to the prohibitions of the Russia-related CAPTA Directive; and (ii) the processing of transactions involving foreign financial institutions determined to be subject to the prohibitions of the Russia-related CAPTA Directive. The effective date of these prohibitions with

respect to the entities listed in Annex 1 to the Russia-related CAPTA Directive, or foreign financial institutions that are 50 percent or more owned, directly or indirectly, individually or in the aggregate, by one or more such entities, is March 26, 2022; for other entities determined to be subject to the Russia-related CAPTA Directive, or foreign financial institutions that are 50 percent or more owned, directly or indirectly, individually or in the aggregate, by one or more such entities, these prohibitions take effect at 12:01 a.m. eastern time on the date that is 30 days after the date of such determination.

Additionally, on February 24, 2022, the Director of OFAC issued Directive 3 under E.O. 14024, ''Prohibitions Related to New Debt and Equity of Certain Russia-related Entities'' (Russia-related Entities Directive), to prohibit all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity was issued on or after 12:01 a.m. eastern daylight time, March 26, 2022 by the entities listed in Annex 1 to that directive, or their property or interests in property. These same prohibitions also apply to any entity subsequently determined to be subject to the prohibitions of the Russia-related Entities Directive, or its property or interests in property, beginning on or after 12:01 a.m. eastern time on the date that is 30 days after the date of such determination.

On February 28, 2022, the Director of OFAC issued Directive 4 under E.O. 14024, ''Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation'' (Russia-related Sovereign Transactions Directive), which prohibits U.S. persons from engaging in any transaction involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities.

The texts of the February 22, 2022 Determination Pursuant to Section 1(a)(i) of E.O. 14024, the Russia-related Sovereign Debt Directive, the Russia-related CAPTA Directive, the Russia-related Entities Directive, and the Russia-related Sovereign Transactions Directive are below.

Determination Pursuant to Section 1(a)(i) of Executive Order 14024

Section 1(a) of Executive Order (E.O.) 14024 of April 15, 2021 (''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'') imposes economic sanctions on any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, or the Secretary of State, in consultation with the Secretary of the Treasury, to operate or have operated in such sectors of the Russian Federation economy as may be determined, pursuant to section 1(a)(i) of E.O. 14024, by the Secretary of the Treasury, in consultation with the Secretary of State.

To further address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States described in E.O. 14024, and in consultation with the Secretary of State, I hereby determine that section 1(a)(i) shall apply to the financial services sector of the Russian Federation economy. Any person that I or my designee, in consultation with the Secretary of State or the Secretary of State's designee, or the Secretary of State or the Secretary of State's designee, in consultation with me or my designee, subsequently determine operates or has operated in such sector shall be subject to sanctions pursuant to section 1(a)(i).

This determination shall take effect upon publication by the Director of the Office of Foreign Assets Control on the Department of Treasury's website.

Janet L. Yellen

Office of Foreign Assets Control

Directive 1A [1] Under Executive Order 14024

Prohibitions Related to Certain Sovereign Debt of the Russian Federation

Pursuant to sections 1(a)(iv), 1(d), and 8 of Executive Order 14024, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'' (the ''Order''), the Director of the Office of Foreign Assets Control has determined, in consultation with the Department of State, that the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation are political subdivisions, agencies, or instrumentalities of the Government of the Russian Federation, and that the following activities by a U.S. financial institution are prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control:

(1) As of June 14, 2021, participation in the primary market for ruble or non-ruble denominated bonds issued after June 14, 2021 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation;

(2) as of June 14, 2021, lending ruble or non-ruble denominated funds to the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation; and

(3) as of March 1, 2022, participation in the secondary market for ruble or non-ruble denominated bonds issued after March 1, 2022 by the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation.

For the purposes of this Directive, the term ''U.S. financial institution'' means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

All other activities with entities determined to be subject to the prohibitions of this Directive, or involving their property or interests in property, are permitted, provided that

[1] A prior version of this Directive, which was issued on April 15, 2021 and which is replaced and superseded by this version, prohibited the same activities with respect to participation in the primary market for ruble or non-ruble denominated bonds issued after June 14, 2021 by the entities determined to be subject to the Directive, and with respect to lending ruble or non-ruble denominated funds to the entities determined to be subject to the Directive.

such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by the Office of Foreign Assets Control.

Except to the extent otherwise provided by law or unless licensed or otherwise authorized by the Office of Foreign Assets Control, the following are also prohibited: (1) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of this Directive; and (2) any conspiracy formed to violate any of the prohibitions of this Directive.

A listing of entities determined to be subject to the prohibitions of this Directive can be found in the Office of Foreign Assets Control's Non-SDN Menu-Based Sanctions (NS–MBS) List on the Office of Foreign Assets Control website (*www.treas.gov/ofac*).

February 22, 2022.
Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Office of Foreign Assets Control

Directive 2 Under Executive Order 14024

Prohibitions Related to Correspondent or Payable-Through Accounts and Processing of Transactions Involving Certain Foreign Financial Institutions

Pursuant to sections 1(a), 1(d), and 8 of Executive Order 14024, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'' (the ''Order''), and following the Secretary of the Treasury's determination, in consultation with the Secretary of State, under section 1(a)(i) of the Order with respect to the financial services sector of the Russian Federation economy, the Director of the Office of Foreign Assets Control, in consultation with the Department of State, has determined that the following activities by a U.S. financial institution are prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control:

(1) The opening or maintaining of a correspondent account or payable-through account for or on behalf of foreign financial institutions determined to be subject to the prohibitions of this Directive, or their property or interests in property; and

(2) the processing of a transaction involving foreign financial institutions determined to be subject to the prohibitions of this Directive, or their property or interests in property.

The prohibitions of this Directive apply only with respect to a U.S. financial institution's opening or maintaining of a correspondent account or payable-through account for or on behalf of, or processing of a transaction involving, a foreign financial institution.

The Director of the Office of Foreign Assets Control, in consultation with the Department of State, has determined that, pursuant to section 1(a)(i) of the Order, the foreign financial institutions listed in Annex 1 to this Directive operate or have operated in the financial services sector of the Russian Federation economy, or are foreign financial institutions that are 50 percent or more owned, directly or indirectly, individually or in the aggregate, by one or more such foreign financial institutions, and are subject to the prohibitions of this Directive.

The prohibitions of this Directive shall take effect: (i) With respect to any foreign financial institution listed in Annex 1, beginning at 12:01 a.m. eastern daylight time on March 26, 2022; or (ii) with respect to a foreign financial institution otherwise determined to be subject to the prohibitions of this Directive, beginning at 12:01 a.m. eastern time on the date that is 30 days after the date of such determination.

For the purposes of this Directive, the term ''U.S. financial institution'' means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

For the purposes of this Directive, the term ''foreign financial institution'' means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by the Office of Foreign Assets Control.

For the purposes of this Directive, the term ''correspondent account'' means an account established by a U.S. financial institution for a foreign financial institution to receive deposits from, or to make payments on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution.

For the purposes of this Directive, the term ''payable-through account'' means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

All other activities with foreign financial institutions determined to be subject to the prohibitions of this Directive, or involving their property or interests in property, are permitted, provided that such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by the Office of Foreign Assets Control.

Except to the extent otherwise provided by law or unless licensed or otherwise authorized by the Office of Foreign Assets Control, the following are also prohibited: (1) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of this Directive; and (2) any conspiracy formed to violate any of the prohibitions of this Directive.

A listing of foreign financial institutions determined to be subject to the prohibitions of this Directive,

including the foreign financial institutions listed in Annex 1, can be found in the Office of Foreign Assets Control's Correspondent Account and Payable-Through Account Sanctions (CAPTA) List on the Office of Foreign Assets Control website (*www.treas.gov/ofac*).

February 24, 2022.
Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Annex 1

PUBLIC JOINT STOCK COMPANY SBERBANK OF RUSSIA
ARIMERO HOLDING LIMITED
IKS JOINT STOCK COMPANY
INSURANCE COMPANY SBERBANK INSURANCE LIMITED LIABILITY COMPANY
INSURANCE COMPANY SBERBANK LIFE INSURANCE LIMITED LIABILITY COMPANY
JOINT STOCK COMPANY RASCHETNIYE RESHENIYA
JOINT STOCK COMPANY SBERBANK
JOINT STOCK COMPANY SBERBANK AUTOMATED TRADE SYSTEM
JOINT STOCK COMPANY SBERBANK LEASING
JOINT STOCK COMPANY SBERBANK PRIVATE PENSION FUND
LIMITED LIABILITY COMPANY MARKET FUND ADMINISTRATION
LIMITED LIABILITY COMPANY PROMISING INVESTMENTS
LIMITED LIABILITY COMPANY SBERBANK CAPITAL
LIMITED LIABILITY COMPANY SBERBANK CIB HOLDING
LIMITED LIABILITY COMPANY SBERBANK FACTORING
LIMITED LIABILITY COMPANY SBERBANK FINANCIAL COMPANY
LIMITED LIABILITY COMPANY SBERBANK INSURANCE BROKER
LIMITED LIABILITY COMPANY SBERBANK INVESTMENTS
LIMITED LIABILITY COMPANY YOOMONEY
OPEN JOINT STOCK COMPANY BPS–SBERBANK
SB SECURITIES SA
SBERBANK EUROPE AG
SETELEM BANK LIMITED LIABILITY COMPANY
SUBSIDIARY BANK SBERBANK OF RUSSIA JOINT STOCK COMPANY
TEKHNOLOGII KREDITOVANIYA LIMITED LIABILITY COMPANY
VYDAYUSHCHIESYA KREDITY MICROCREDIT COMPANY LIMITED LIABILITY COMPANY

Office of Foreign Assets Control

Directive 3 Under Executive Order 14024

Prohibitions Related to New Debt and Equity of Certain Russia-related Entities

Pursuant to sections 1(a), 1(d), and 8 of Executive Order 14024, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'' (the ''Order''), the Director of the Office of Foreign Assets Control, in consultation with the Department of State, has determined that the following activities by U.S. persons or within the United States are prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control:

(1) For new debt or new equity of entities listed in Annex 1, or their property or interests in property, all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after 12:01 a.m. eastern daylight time on March 26, 2022; and

(2) For new debt or new equity of entities otherwise determined to be subject to the prohibitions of this Directive, or their property or interests in property, all transactions in, provision of financing for, and other dealings in new debt of longer than 14 days maturity or new equity where such new debt or new equity is issued on or after 12:01 a.m. eastern time on the date that is 30 days after the date of such determination.

The Director of the Office of Foreign Assets Control, in consultation with the Department of State, has determined that, pursuant to sections 1(a)(i) and 1(a)(vii) of the Order, the entities listed in Annex 1 to this Directive operate or have operated in the financial services sector of the Russian Federation economy, or are owned or controlled by, or have acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation, and are subject to the prohibitions of this Directive.

All other activities with entities determined to be subject to the prohibitions of this Directive, or involving their property or interests in property, are permitted, provided that such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by the Office of Foreign Assets Control.

Except to the extent otherwise provided by law or unless licensed or otherwise authorized by the Office of Foreign Assets Control, the following are also prohibited: (1) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of this Directive; and (2) any conspiracy formed to violate any of the prohibitions of this Directive.

A listing of entities determined to be subject to the prohibitions of this Directive, including the entities listed in Annex 1, can be found in the Office of Foreign Assets Control's Non-SDN Menu-Based Sanctions (NS–MBS) List on the Office of Foreign Assets Control website (*www.treas.gov/ofac*).

February 24, 2022.
Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Annex 1

CREDIT BANK OF MOSCOW PUBLIC JOINT STOCK COMPANY
GAZPROMBANK JOINT STOCK COMPANY
JOINT STOCK COMPANY ALFA–BANK
JOINT STOCK COMPANY RUSSIAN AGRICULTURAL BANK
JOINT STOCK COMPANY SOVCOMFLOT
OPEN JOINT STOCK COMPANY RUSSIAN RAILWAYS
PUBLIC JOINT STOCK COMPANY ALROSA
PUBLIC JOINT STOCK COMPANY GAZPROM
PUBLIC JOINT STOCK COMPANY GAZPROM NEFT
PUBLIC JOINT STOCK COMPANY ROSTELECOM
PUBLIC JOINT STOCK COMPANY RUSHYDRO
PUBLIC JOINT STOCK COMPANY SBERBANK OF RUSSIA
PUBLIC JOINT STOCK COMPANY TRANSNEFT

Office of Foreign Assets Control

Directive 4 Under Executive Order 14024

Prohibitions Related to Transactions Involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation

Pursuant to sections 1(a)(iv), 1(d), and 8 of Executive Order 14024, ''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'' (the ''Order''), the Director of the Office of Foreign Assets Control has determined, in consultation with the Department of State, that the Central Bank of the Russian Federation, the

National Wealth Fund of the Russian Federation, and the Ministry of Finance of the Russian Federation are political subdivisions, agencies, or instrumentalities of the Government of the Russian Federation, and that the following activities by a United States person are prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control: Any transaction involving the Central Bank of the Russian Federation, the National Wealth Fund of the Russian Federation, or the Ministry of Finance of the Russian Federation, including any transfer of assets to such entities or any foreign exchange transaction for or on behalf of such entities.

All other activities with entities determined to be subject to the prohibitions of this Directive, or involving their property or interests in property, are permitted, provided that such activities are not otherwise prohibited by law, the Order, or any other sanctions program implemented by the Office of Foreign Assets Control.

Except to the extent otherwise provided by law or unless licensed or otherwise authorized by the Office of Foreign Assets Control, the following are also prohibited: (1) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions of this Directive; and (2) any conspiracy formed to violate any of the prohibitions of this Directive.

A listing of entities determined to be subject to the prohibitions of this Directive can be found in the Office of Foreign Assets Control's Non-SDN Menu-Based Sanctions (NS–MBS) List on the Office of Foreign Assets Control website (*www.treas.gov/ofac*).

February 28, 2022.
Andrea M. Gacki,
Director, Office of Foreign Assets Control.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–11608 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 587

Publication of Russian Harmful Foreign Activities Sanctions Regulations Determinations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of determinations.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing two sectoral determinations issued pursuant to an April 15, 2021 Executive order, as well as a category of services determination issued pursuant to an April 6, 2022 Executive order. Each determination was previously issued on OFAC's website.

DATES: The March 31, 2022 Determination Pursuant to Section (1)(a)(i) of Executive Order 14024 was issued on March 31, 2022. The May 8, 2022 Determination Pursuant to Section (1)(a)(i) of Executive Order 14024 was issued on May 8, 2022. The May 8, 2022 Determination Pursuant to Section 1(a)(ii) of Executive Order 14071 was issued on May 8, 2022 and takes effect on June 7, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC's website: *www.treas.gov/ofac.*

Background

On April 15, 2021, the President, invoking the authority of, *inter alia,* the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued Executive Order (E.O.) 14024 (86 FR 20249, April 19, 2022). Among other prohibitions, section 1(a) of E.O. 14024 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of, any person determined by the Secretary of the Treasury, in consultation with the Secretary of State: (i) To operate or have operated in the technology sector or the defense and related materiel sector of the Russian Federation economy, or any other sector of the Russian Federation economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State.

On April 6, 2022, the President, invoking the authority of, *inter alia,* IEEPA, issued E.O. 14071 of April 6, 2022, ''Prohibiting New Investment in and Certain Services to the Russian Federation in Response to Continued Russian Federation Aggression'' (87 FR 20999, April 8, 2022). Among other prohibitions, section 1(a)(ii) of E.O. 14071 prohibits the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any category of services as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, to any person located in the Russian Federation.

On March 31, 2022, the Secretary of the Treasury, in consultation with the Secretary of the State, issued a sectoral determination pursuant to E.O. 14024. This determination took effect upon publication on OFAC's website, which occurred on March 31, 2022. On May 8, 2022, pursuant to delegated authority, the Director of OFAC, in consultation with the Department of State, issued a sectoral determination pursuant to E.O. 14024. This determination took effect upon publication on OFAC's website, which occurred on May 8, 2022. Also on May 8, 2022, pursuant to delegated authority, the Director of OFAC, in consultation with the Department of State, issued a category of services determination pursuant to E.O. 14071. This determination takes effect at 12:01 a.m. eastern daylight time on June 7, 2022.

The texts of the March 31, 2022 and May 8, 2022 sectoral determinations pursuant to E.O. 14024, and the May 8, 2022 category of services determination pursuant to E.O. 14071, are below.

Determination Pursuant to Section 1(a)(i) of Executive Order 14024

Section 1(a) of Executive Order (E.O.) 14024 of April 15, 2021 (''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'') imposes economic sanctions on any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, or the Secretary of State, in consultation with the Secretary of the Treasury, to operate or have operated in such sectors of the Russian Federation economy as may be determined, pursuant to section 1(a)(i) of E.O. 14024, by the Secretary of the Treasury, in consultation with the Secretary of State.

To further address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States described in E.O. 14024, and in consultation with the Secretary of State, I hereby determine that section 1(a)(i) shall apply to the aerospace, electronics, and marine sectors of the Russian Federation economy. Any person that I or my designee, in consultation with the Secretary of State or the Secretary of

State's designee, or the Secretary of State or the Secretary of State's designee, in consultation with me or my designee, subsequently determine operates or has operated in such sectors shall be subject to sanctions pursuant to section 1(a)(i).

This determination shall take effect upon publication by the Director of the Office of Foreign Assets Control on the Department of the Treasury's website.

Janet L. Yellen

Office of Foreign Assets Control

Determination Pursuant to Section 1(a)(i) of Executive Order 14024

Section 1(a) of Executive Order (E.O.) 14024 of April 15, 2021 (''Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation'') imposes economic sanctions on any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, or the Secretary of State, in consultation with the Secretary of the Treasury, to operate or have operated in such sectors of the Russian Federation economy as may be determined, pursuant to section 1(a)(i) of E.O. 14024, by the Secretary of the Treasury, in consultation with the Secretary of State.

To further address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States described in E.O. 14024, and in consultation with the Department of State and pursuant to 31 CFR 587.802, I hereby determine that section 1(a)(i) shall apply to the accounting, trust and corporate formation services, and management consulting sectors of the Russian Federation economy. Any person that the Secretary of the Treasury or the Secretary of the Treasury's designee, in consultation with the Secretary of State or the Secretary of State's designee, or the Secretary of State or the Secretary of State's designee, in consultation with the Secretary of the Treasury or the Secretary of the Treasury's designee, subsequently determines operates or has operated in such sectors shall be subject to sanctions pursuant to section 1(a)(i).

This determination shall take effect upon publication by the Office of Foreign Assets Control on the Department of the Treasury's website.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.
May 8, 2022.

Office of Foreign Assets Control

Determination Pursuant to Section 1(a)(ii) of Executive Order 14071 Prohibitions Related to Certain Accounting, Trust and Corporate Formation, and Management Consulting Services

Pursuant to sections 1(a)(ii), 1(b), and 5 of Executive Order (E.O.) 14071 of April 6, 2022 (''Prohibiting New Investment in and Certain Services to the Russian Federation in Response to Continued Russian Federation Aggression'') and 31 CFR 587.802, the Director of the Office of Foreign Assets Control, in consultation with the Department of State, hereby determines that the prohibitions in section 1(a)(ii) of E.O. 14071 shall apply to the following categories of services: Accounting, trust and corporate formation, and management consulting. As a result, the following activities are prohibited, except to the extent provided by law, or unless licensed or otherwise authorized by the Office of Foreign Assets Control: The exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of accounting, trust and corporate formation, or management consulting services to any person located in the Russian Federation.

This determination excludes the following:

(1) Any service to an entity located in the Russian Federation that is owned or controlled, directly or indirectly, by a United States person;

(2) any service in connection with the wind down or divestiture of an entity located in the Russian Federation that is not owned or controlled, directly or indirectly, by a Russian person.

This determination shall take effect beginning at 12:01 a.m. eastern daylight time on June 7, 2022.

Andrea M. Gacki,
Director, Office of Foreign Assets Control.

[FR Doc. 2022–11606 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0389]

Safety Zone; Fireworks Displays Within the Fifth Coast Guard District

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for holiday fireworks at The Wharf DC on June 11, 2022, to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District identifies the safety zone for this event in Washington, DC. During the enforcement period, the operator of any vessel in the safety zone must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

DATES: The regulation in 33 CFR 165.506 will be enforced for the location identified as item 1 of table 2 to paragraph (h)(2) from 8 p.m. until 10 p.m. on June 11, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email MST2 Courtney Perry, Sector Maryland-NCR, Waterways Management Division, U.S. Coast Guard: telephone 410–576–2596, email *Courtney.E.Perry@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone regulation for holiday fireworks at The Wharf DC from 8 p.m. to 10 p.m. on June 11, 2022. This action is being taken to provide for the safety of life on navigable waterways during this event. Our regulation for Fireworks Displays within the Fifth Coast Guard District, § 165.506, specifies the location of the safety zone for the fireworks show which encompasses portions of the Washington Channel in the Upper Potomac River as item 1 to table 2 to paragraph (h)(2). During the enforcement period, as reflected in § 165.506(d), if you are the operator of a vessel in the safety zone you must comply with directions from the Patrol Commander or any Official Patrol displaying a Coast Guard ensign.

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

Dated: May 20, 2022.

David E. O'Connell,
Captain, U.S. Coast Guard, Captain of the Port Maryland-National Capital Region.

[FR Doc. 2022–11513 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0425]

RIN 1625–AA00

Safety Zone; Corte Madera Channel, Larkspur, CA

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

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within 150-feet of the overhead electrical transmission lines crossing Corte Madera Channel in Larkspur, CA. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by the transfer of overhead transmission lines, which cross the channel, from one tower to another. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port San Francisco or a designated representative.

EFFECTIVE DATES: This rule is effective from 9 a.m. on May 31, 2022, through 12:30 p.m. on June 10, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0425 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant William Harris, Sector San Francisco Waterways Management Division, U.S. Coast Guard; telephone 415–399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive final details for this project until May 17, 2022. It is impracticable to go through the full notice and comment rule making process because the Coast Guard must establish this safety zone by May 31, 2022, and lacks sufficient time to provide a reasonable comment period and to consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because action is necessary to protect personnel, vessels, and the marine environment from the potential safety hazards created by the transfer of electrical transmission lines, which cross the Corte Madera Channel, from one tower to a newly constructed one beginning on May 31, 2022.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port San Francisco (COTP) has determined that potential hazards associated with the transfer of the overhead electrical transmission lines, which cross the Corte Madera Channel from one tower to a newly constructed one starting May 31, 2022, will be a safety concern for anyone within a 150-feet on either side of the overhead transmission lines. For this reason, this temporary safety zone is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the overhead lines are being transferred.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 a.m. until 10 a.m., 10:15 a.m. until 11:15 a.m., and 11:30 a.m. until 12:30 p.m. on each day from May 31, 2022, through June 3, 2022, and each day from June 6, 2022, through June 10, 2022. The safety zone will cover all navigable waters within 150-feet of a line connecting the following points: 37°56′30.6″ N by 122°30′19.7″ W to 37°56′38.1″ N by 122°30′16.8″ W. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the overhead lines are being transferred. No vessel or person will be permitted to enter into, transit through, or remain in the safety zone without obtaining permission from the COTP or a designated representative. A ''designated representative'' means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or other officer operating a Coast Guard vessel, or a Federal, State, or local officer designated by or assisting the COTP in the enforcement of the safety zone.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the limited size, location, duration, and time-of-day of the safety zone. This safety zone will impact a small designated area of the Corte Madera Channel for three, one-hour periods over eight days, with 24 fifteen-minute windows designated to allow the safe transit of vessels, including ferries, through the safety zone. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone. Any vessels or persons desiring to transit through or around the temporary safety zone may do so upon express permission from the COTP or the COTP's designated representative.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their

fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone lasting only three one-hour periods, daily over eight days that will prohibit entry within 150-feet of a line connecting the following points: 37°56′30.6″ N by 122°30′19.7″ W to 37°56′38.1″ N by 122°30′16.8″ W. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T11–097 to read as follows:

§ 165.T11–097 Safety Zone; Corte Madera Channel, Larkspur, CA.

(a) *Location.* The following area is a safety zone: All navigable waters of the Corte Madera Channel, from surface to bottom, 150-feet on either side of a line connecting the following points beginning at 37°56′30.6″ N, 122°30′19.7″ W, thence to 37°56′38.1″ N, 122°30′16.8″ W or as announced via Broadcast Notice to Mariners. These coordinates are based on North American Datum 83 (NAD 83).

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

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

(2) During the enforcement periods, the safety zone is closed to all vessel traffic, except as may be permitted by the COTP or the COTP's designated representative.

(3) Vessel operators desiring to enter or operate within the safety zone must contact the COTP or the COTP's designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative. Persons and vessels may request permission to enter the safety zone on VHF–23A or through the 24-hour Command Center at telephone (415) 399–3547.

(d) *Enforcement periods.* This section will be enforced from 9 a.m. until 10 a.m., 10:15 a.m. until 11:15 a.m., and

11:30 a.m. until 12:30 p.m. on each day from May 31, 2022, through June 3, 2022, and each day from June 6, 2022, through June 10, 2022.

(e) *Information broadcasts.* The COTP or the COTP's designated representative will notify the maritime community of periods during which this zone will be enforced, in accordance with § 165.7.

Dated: May 24, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–11551 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SAFETY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0288]

RIN 1625–AA00

Safety Zone; Movie Production; Buzzards Bay, New Bedford, MA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 150-yard radius of movie production vessels filming near the hurricane barrier in New Bedford, Massachusetts. The safety zone is needed to protect cast members in the water and vessels operating in the area during movie production operations. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Southeastern New England or a designated representative.

DATES: This rule is effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2022–0288 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Joshua Herriott, Sector Southeastern New England, U.S. Coast Guard; telephone (401) 435–2342, email *SENEWWM@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port Sector Southeastern New England
DHS Department of Homeland Safety
FR Federal Register
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a Notice of Proposed Rulemaking (NPRM) with respect to this rule because the safety zone must be established by June 1, 2022. Any delay encountered in this regulation's effective date by publishing a NPRM would be contrary to public interest since immediate action is needed to provide for the safety of life and property on navigable waters from the hazards created by the movie production including people and equipment in the water and numerous support vessels.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to protect the safety of life and property on the navigable waters from the hazards created by the movie production including people and equipment in the water and numerous support vessels.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The movie production company requested that the Coast Guard establish a safety zone within a 150-yard radius near the hurricane barrier in New Bedford, Massachusetts, approximate position, 41° 37.460 N, 070° 54.350 W. The purpose of the temporary safety zone is to facilitate the safety of the cast and production crew within the safety zone during movie production operations.

IV. Discussion of the Rule

For the reasons above, the Captain of the Port, Sector Southeastern New England (COTP) is establishing a temporary safety zone within a 150-yard radius near the hurricane barrier in New Bedford, Massachusetts, approximate position, 41° 37.460 N, 070° 54.350 W. No vessel or person will be permitted to enter the safety zone from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions. Entry into the safety zone is prohibited unless specifically authorized by the COTP or their designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeastern New England.

Requests for entry will be considered and reviewed on a case-by-case basis. The COTP may be contacted by telephone at 508–457–3211 or can be reached by VHF–FM channel 16. Persons and vessels permitted to enter these safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, duration, and time-of-year of the safety zone. This safety zone will minimally impact the New Bedford Harbor entrance. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule allows vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Safety Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a temporary safety zone effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This rule will only be subject to enforcement from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions. This rule prohibits entry of persons or vessels on the navigable waters within a 150-yard radius of movie production vessels filming near the hurricane barrier in New Bedford, Massachusetts. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T01–0288 to read as follows:

§ 165.T01–0288 Safety zone; Movie Production; Buzzards Bay, New Bedford, Massachusetts.

(a) *Location.* The following area is a safety zone: All navigable waters of the Buzzards Bay, MA, from surface to bottom, within a 150-yard radius around 41° 37.460 N, 070° 54.350 W, near the hurricane barrier in New Bedford, Massachusetts.

(b) *Enforcement period.* This section will be effective from 8 a.m. June 1, 2022 through 6 p.m. June 5, 2022. This section will be enforced from 8 a.m. through 6 p.m. on one of these dates dependent on weather conditions.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart D of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative. A designated representative is a commissioned, warrant, or petty officer of the U.S. Coast Guard assigned to units under the operational control of U.S. Coast Guard Sector Southeastern New England.

(2) Vessels requiring entry into the safety zone described in paragraph (a) of this section must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 508–457–3211 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter these safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Information broadcasts.* The COTP or a designated representative will inform the public through Broadcast Notice to Mariners of any changes in the planned schedule.

Dated: May 24, 2022.

C.J. Prindle,

Captain, U.S. Coast Guard, Captain of the Port Sector Southeastern New England.

[FR Doc. 2022–11578 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0353]

RIN 1625–AA00

Safety Zone; Spokane Street Bridge; Duwamish Waterway, Seattle, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by repair work on the Spokane Street Bridge. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Puget Sound.

DATES: This rule is effective from 11 p.m. on June 3, 2022, until 7 a.m. on August 27, 2022. This rule is subject to enforcement on four occasions: From 11 p.m. on June 3, 2022 until 7 a.m. on June 4, 2022; 11 p.m. on June 10, 2022 until 7 a.m. on June 11, 2022; 11 p.m. on August 19, 2022 until 7 a.m. on August 20, 2022; and 11 p.m. on August 26, 2022 until 7 a.m. on August 27, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0353 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant Commander Samud Looney, Sector Puget Sound Waterways Management Division, U.S. Coast Guard; telephone 206–217–6051, email *SectorPugetSoundWWM@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Spokane Street Bridge requires immediate action to respond to the potential safety hazards associated with emergency bridge inspection and repair work. It is impracticable to publish an NPRM because we must establish this safety zone by June 3, 2022.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because immediate action is needed to respond to the potential safety hazards associated with emergency stability inspection and repair of the Spokane Street Bridge.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Puget Sound has determined that potential hazards associated with bridge repairs starting June 3, 2022, will be a safety concern for anyone navigating on the West Duwamish Waterway in the vicinity of the Spokane Street Bridge Light List Number 16870.1. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being inspected and repaired.

IV. Discussion of the Rule

This rule establishes a safety zone from 11 p.m. on June 3, 2022 until 7 a.m. on August 27, 2022. It is subject to enforcement on four occasions: from 11 p.m. on June 3, 2022 until 7 a.m. on June 4, 2022; 11 p.m. on June 10, 2022 until 7 a.m. on June 11, 2022; 11 p.m. on August 19, 2022 until 7 a.m. on August 20, 2022; and 11 p.m. on August 26, 2022 until 7 a.m. on August 27, 2022.The safety zone will cover all navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Spokane Street Bridge is being inspected and potentially repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, duration, and time-of-day of the safety zone. Vessel traffic will not be able to safely transit around this safety zone which would impact a small designated area of the Duwamish Waterway. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 4 days that will prohibit entry within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1 to ensure the safety of all vessels navigating in the vicinity of inspection and repair work on the Spokane Street Bridge. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0353 to read as follows:

§ 165.T13–0353 Safety Zone; Spokane Street Bridge; Duwamish Waterway, Seattle, WA.

(a) *Location.* The following area is a safety zone: All navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1 on the Duwamish Waterway to ensure the safety of all vessels navigating in the vicinity of inspection and repair work on the Spokane Street Bridge.

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

(c) *Regulations.* In accordance with the general regulations in Part 165, Subpart C, no persons or vessels may enter or remain in the safety zone in paragraph (a) of this section unless authorized by the Captain of the Port or their designated representative. For permission to enter the safety zone, contact the on-scene designated representative or Joint Harbor Operations Center via VHF CH16 or at 206–217–6002. Those in the safety zone must comply with all lawful orders or directions given to them by the Captain of the Port or their designated representative.

(d) *Enforcement periods.* This section will be subject to enforcement from 11 p.m. on June 3, 2022 until 7 a.m. on June 4, 2022; 11 p.m. on June 10, 2022 until 7 a.m. on June 11, 2022; 11 p.m. on August 19, 2022 until 7 a.m. on August 20, 2022; and 11 p.m. on August

26, 2022 until 7 a.m. on August 27, 2022.

Dated: May 20, 2022.

P.M. Hilbert,

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

[FR Doc. 2022–11264 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0329]

RIN 1625–AA00

Safety Zone; Station Camp Creek, Gallatin, TN

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for all navigable waters of Station Camp Creek located south of the Gallatin Marina in Gallatin, TN. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created by Gallatin Marina Fireworks. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sector Ohio Valley or a designated representative.

DATES: This rule is effective on July 3, 2022 from 9 p.m. through 9:30 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0329 in the search box and click ''Search.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Petty Officer Third Class Joshua Rehl Marine Safety Detachment Nashville, U.S. Coast Guard; telephone 615–736–5421, email *Joshua.M.Rehl@uscg.mil*.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. The Coast Guard must establish this safety zone by July 3, 2022 and will not have ample time to allow for a reasonable comment period and then consider those comments before issuing the rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to the public interest because action is needed on July 3, 2022 to ensure the safety of the participants in the Gallatin Marina Fireworks.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sector Ohio Valley (COTP) has determined that potential hazards associated with the fireworks, will be a safety concern from 36.340966 N, −86.478265 W to 36.344847 N, −86.478330 W on Station Camp Creek. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the duration of the event.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 to 9:30 p.m. on July 3, 2022. The safety zone covers all navigable waters within 120 yards of 3 floating platforms in Station Camp Creek located south of the Gallatin Marina in Gallatin, TN. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 9 to 9:30 p.m. fireworks display. No vessel or person is permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the size, location, and duration of the safety zone. The safety zone will be 30 minutes during nighttime hours in Gallatin, TN. The safety zone will only encompass from 36.340966 N, −86.478265 W to 36.344847 N, −86.478330 W of the Station Camp Creek. Vessel traffic will be unable to safely transit around this safety zone which would impact the width of Station Camp Creek. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone, and the rule would allow vessels to seek permission to enter the zone.

B. Impact on Small Entities

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

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

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

compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 30 minutes that would prohibit entry within 120 yards of the floating platforms. It is categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T08–0329 to read as follows:

§ 165.T08–0329 Safety Zone; Station Camp Creek, Gallatin, TN.

(a) *Location.* The following area is a safety zone: all navigable waters of Station Camp Creek from 36.340966 N, −86.478265 W to 36.344847 N, −86.478330 W.

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

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

(2) Vessels requiring entry into this safety zone must request permission from the COTP or a designated representative. To seek entry into the safety zone, contact the COTP or the COTP's representative by telephone at 502–779–5422 or on VHF–FM channel 16.

(3) Persons and vessels permitted to enter this safety zone must transit at their slowest safe speed and comply with all lawful directions issued by the COTP or the designated representative.

(d) *Enforcement period.* This section will be enforced from 9 p.m. to 9:30 p.m. on July 3, 2022.

Dated: May 19, 2022.

A.M. Beach,

Captain, U.S. Coast Guard, Captain of the Port Sector Ohio Valley.

[FR Doc. 2022–11216 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2017–0443; FRL–9876–01–R1]

Air Plan Approval; Rhode Island; Infrastructure State Implementation Plan Requirements for the 2012 $PM_{2.5}$ NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving most elements of a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision addresses the infrastructure requirements of the Clean Air Act (CAA or Act) for the 2012 annual fine particle ($PM_{2.5}$) National Ambient Air Quality Standard (NAAQS). We are not taking action on three elements of this submittal in sections 110(a)(2)(C), (D)(i)(II), and (J) that relate to requirements for the State's Prevention of Significant Deterioration

(PSD) program. These will be addressed in a separate action. In addition, EPA is disapproving the submission with respect to section 110(a)(2)(H) (future SIP revisions). However, because a Federal implementation plan (FIP) has been in place for section 110(a)(2)(H) since 1973, no further action by EPA or the State is required. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective June 30, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0443. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at *https://www.regulations.gov* or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID–19.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square—Suite 100, (Mail code 05–2), Boston, MA 02109—3912, tel. (617) 918–1684, email *simcox.alison@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Table of Contents

I. Background and Purpose

On December 6, 2017, Rhode Island submitted a SIP submission to address the ''infrastructure'' SIP requirements of the Clean Air Act (CAA or Act)—including the interstate transport requirements—for the 2012 annual $PM_{2.5}$ [1] NAAQS. EPA refers to this type of SIP submission as an ''infrastructure SIP.'' On February 1, 2019 (84 FR 1025), EPA published a notice of proposed rulemaking (NPRM) proposing to approve most elements of the State's infrastructure SIP submission and to conditionally approve certain other elements of the submission. The infrastructure SIP requirements are designed to ensure that the structural components of each state's air quality management program are adequate to meet the state's responsibilities under the CAA for implementation of the NAAQS. The rationale for EPA's proposed action is given in the NPRM and will not be restated here.

II. Response to Comments

During the comment period, EPA received one set of germane comments, which addressed two issues: (1) EPA's proposed conditional approval of certain portions of Rhode Island's infrastructure SIP submission related to the State's PSD program and (2) the impact on this infrastructure SIP action of EPA's 2015 Startup, Shutdown and Malfunction (SSM) SIP Action. In that action, EPA found that certain existing SIP provisions governing periods of SSM in 45 states and local jurisdictions, including one such provision in Rhode Island's SIP, were substantially inadequate to meet CAA requirements. EPA issued a SIP call on June 12, 2015, directing those states to submit SIP revisions to address the specific inadequacies. *See* 80 FR 33839.

Regarding the first issue, the commenter stated that a conditional approval of the PSD-related elements of Rhode Island's December 6, 2017, infrastructure SIP submission is ''not appropriate,'' because the State had already made a SIP submission to EPA in March 2018 purporting to address those elements, although EPA had not yet acted on that submission. The commenter stated that the March 2018 submittal is not in the docket for this action and that this ''prevent[s] the public from being able to assess whether it does in fact cure the PSD-related deficiencies in the December 2 [sic], 2017, submission [and] prevents the public from being able to fully assess and comment on EPA's proposed conditional approval.''

As EPA noted in the NPRM, Rhode Island's SIP lacked certain provisions [2] required for EPA to find that the SIP contained a complete PSD permitting program meeting applicable requirements, which is required by CAA section 110(a)(2)(C), (D)(i)(II), and (J) and which are relevant in the context of an infrastructure SIP submission. The Rhode Island Department of Environmental Management's (RIDEM) December 2017 infrastructure SIP submittal acknowledged these deficiencies and indicated that RIDEM would amend its regulations to address them and submit revised regulations to EPA for inclusion in the SIP. As EPA also noted, RIDEM submitted a SIP revision to EPA on March 26, 2018, that included changes to address the PSD-related deficiencies. We stated in the NPRM that we were currently reviewing that submittal to verify whether it resolved the identified infrastructure SIP deficiencies. The NPRM did not include any substantive assessment of the March 2018 submittal because we had not completed a review of that submittal.

In this action, we are not finalizing the proposed conditional approvals of these PSD-related requirements of section 110(a)(2)(C), (D)(i)(II), and (J) for purposes of the infrastructure SIP requirements of the 2012 annual $PM_{2.5}$ NAAQS. EPA acknowledges that the timing of the proposed conditional approvals was confusing and unusual given that the State had already made a SIP submission purporting to satisfy these requirements by the time EPA proposed the conditional approvals. Therefore, EPA has decided to withdraw the proposed conditional approvals. EPA will issue a separate proposed rule at a future date in which EPA will provide an evaluation of whether Rhode Island's March 2018 SIP satisfies these PSD-related requirements of section 110(a)(2)(C), (D)(i)(II), and (J) for the 2012 annual $PM_{2.5}$ NAAQS. The public will have an opportunity to provide comments to EPA on this proposed rule.

Regarding the second issue, the commenter stated that it is ''inappropriate'' for EPA to rely on the ''outsider theory'' in approving Rhode Island's infrastructure SIP submission

[1] $PM_{2.5}$ refers to particulate matter of 2.5 microns or less in diameter, often referred to as ''fine'' particles.

[2] In particular, EPA noted that Rhode Island's SIP did not yet incorporate: (1) A requirement to identify NO_X as a precursor to ozone in the definition of ''major stationary source'' from EPA's ''Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as They Apply in Carbon Monoxide, Particulate Matter, and Ozone NAAQS; Final Rule for Reformulated Gasoline,'' 70 FR 71612 (November 29, 2005); and (2) definitional changes required under an EPA rule entitled ''Prevention of Significant Deterioration (PSD) for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)—Increments, Significant Impact Levels (SILs) and Significant Monitoring Concentration,'' 75 FR 64864 (October 20, 2010); *see* 84 FR 1025 at 1027–28 (February 1, 2019).

for the 2012 annual $PM_{2.5}$ NAAQS where the state has not yet responded to the 2015 SSM SIP Action. In that action, EPA found that a provision approved as a part of Rhode Island's existing approved SIP (25–4–13 R.I. Code R. section 16.2) was substantially inadequate to meet CAA requirements and issued a SIP call to Rhode Island to address the inadequacy. 80 FR 33839 (June 12, 2015). The commenter stated that, until Rhode Island has corrected its SIP as directed by EPA in the 2015 SSM SIP Action, EPA should either not approve the infrastructure SIP submission for the 2012 annual $PM_{2.5}$ NAAQS or should condition any approval on submission by Rhode Island of a revision within 12 months that adequately addresses the 2015 SSM SIP Action.[3]

EPA disagrees with the commenter. EPA has explained that its review of a state's infrastructure SIP submission focuses on assuring that a state's SIP meets basic structural requirements for the new or revised NAAQS. In this context, EPA does not consider it appropriate to review a state's existing approved SIP for all potential deficiencies in existing provisions, and thus has excluded certain types of potentially deficient provisions from this process. EPA considers this approach to infrastructure SIPs reasonable based on the specific statutory language of sections 110(a)(1) and 110(a)(2). The CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs that allow EPA to take appropriately tailored action. EPA has used one of these other mechanisms in this instance to address the SSM deficiency in Rhode Island's SIP.

EPA's 2015 SSM SIP Action included, among other things, a finding that Rhode Island's SIP contained an insufficiently bounded ''director's discretion'' provision related to emissions during periods of SSM. *See* 80 FR 33840–33959. However, in the NPRM for this infrastructure SIP action, we stated that the rulemaking would ''not cover three substantive areas that are not integral to acting on a state's infrastructure SIP submission,'' including ''[e]xisting provisions related to excess emissions during periods of start-up, shutdown, or malfunction at sources (''SSM'' emissions) that may be contrary to the CAA and EPA's policies addressing such excess emissions [and] existing provisions related to 'director's variance' or 'director's discretion' that purport to permit revisions to SIP-approved emissions limits with limited public process or without requiring further approval by EPA, that may be contrary to the CAA.''

In response to the commenter's argument, EPA reiterates its view that it generally considers existing provisions in these substantive areas to be outside the scope of its review of a state's infrastructure SIP submittal. The commenter did not provide any specific argument based on the statutory language for its assertion that EPA cannot move forward with finalizing approval of this infrastructure SIP action in light of EPA's position.

As EPA explained in the NPRM, *see* 84 FR 1026 (citing 79 FR 27241 at 24242–45), an action on a state's infrastructure SIP submission is not the appropriate type of action in which to address deficiencies in a given state's SIP regarding existing provisions related to excess emissions from sources during periods of SSM that may be contrary to the CAA and EPA's policies addressing such excess emissions. EPA may approve an infrastructure SIP submission without scrutinizing the totality of the existing SIP for such deficient provisions and may approve the submission even if it is aware of such existing provisions.[4] As relevant here, EPA has separate mechanisms for addressing deficient provisions and has used one of those mechanisms here by issuing a SIP call to Rhode Island for its problematic SSM provision. It is important to note that EPA's approval of a state's infrastructure SIP submission should not be construed as explicit or implicit re-approval of any existing deficient provisions that relate to the specific issue just described.

EPA's approach to evaluation of infrastructure SIP submissions is to identify the CAA requirements that are logically applicable to that submission. This approach is appropriate because it would not be reasonable to read the general requirements of section 110(a)(1) and the list of elements in 110(a)(2) as requiring EPA review of each and every provision of a state's existing SIP against all requirements in the CAA and EPA regulations merely for purposes of assuring that the state in question has the basic structural elements for a functioning SIP for a new or revised NAAQS. Because SIPs have grown by accretion over the decades as statutory and regulatory requirements under the CAA have evolved, they may include some outmoded provisions and historical artifacts.

These existing provisions, while not fully up to date, nevertheless may not pose a significant problem for the purposes of ''implementation, maintenance, and enforcement'' of a new or revised NAAQS when EPA evaluates adequacy of the infrastructure SIP submission. A better approach is for states and EPA to focus attention on those elements of section 110(a)(2) of the CAA most likely to warrant a specific SIP revision due to the promulgation of the new or revised NAAQS or other factors. For example, EPA's 2013 Guidance gives simpler recommendations with respect to carbon monoxide than other NAAQS pollutants to meet the visibility requirements of section 110(a)(2)(D)(i)(II) because carbon monoxide does not affect visibility. As a result, an infrastructure SIP submission for any future new or revised NAAQS for carbon monoxide need only state this fact in order to address the visibility prong of section 110(a)(2)(D)(i)(II).

This approach is also a reasonable reading of sections 110(a)(1) and 110(a)(2) in the context of an infrastructure SIP submission because the CAA provides other avenues and mechanisms to address specific substantive deficiencies in existing SIPs. These other statutory tools allow EPA to take appropriately tailored action, depending upon the nature and severity of the alleged SIP deficiency. Section 110(k)(5) authorizes EPA to issue a ''SIP call'' whenever the Agency determines that a state's SIP is substantially inadequate to attain or maintain the NAAQS, to mitigate interstate transport, or to otherwise comply with the CAA.[5] Section 110(k)(6) authorizes EPA to correct errors in past actions, such as past approvals of SIP submissions.[6]

[3] The 2015 SSM SIP Action referenced in the comment addressed how provisions in a number of States' SIPs treat excess emissions during periods of SSM. 80 FR 33840 (June 12, 2015). While the comment states that Rhode Island must correct SIP ''provisions,'' EPA notes that it issued the SIP Call to Rhode Island with respect to just one provision. *Id.* at 33959.

[4] By contrast, EPA notes that if a state were to include a new provision in an infrastructure SIP submission that contained a legal deficiency, such as a new exemption for excess emissions during SSM events, then EPA would need to evaluate that provision for compliance against the rubric of applicable CAA requirements in the context of the action on the infrastructure SIP.

[5] For example, EPA issued a SIP call to Utah to address specific existing SIP deficiencies related to the treatment of excess emissions during SSM events. See ''Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revisions,'' 74 FR 21639 (April 18, 2011).

[6] EPA has used this authority to correct errors in past actions on SIP submissions related to PSD programs. See ''Limitation of Approval of Prevention of Significant Deterioration Provisions Concerning Greenhouse Gas Emitting-Sources in State Implementation Plans; Final Rule,'' 75 FR 82536 (December 30, 2010). EPA has previously

Significantly, EPA's determination that an action on a state's infrastructure SIP submission is not the appropriate time and place to address all potential existing SIP deficiencies does not preclude EPA's subsequent reliance on provisions in section 110(a)(2) as part of the basis for action to correct those deficiencies at a later time. For example, although it may not be appropriate to require a state to eliminate all existing inappropriate director's discretion provisions in the course of acting on an infrastructure SIP submission, section 110(a)(2)(A) may be among the statutory bases that EPA relies upon in the course of addressing such deficiency in a subsequent action.[7]

As noted earlier, EPA has already taken steps through the SIP Call mechanism to address the deficiency identified in Rhode Island's SIP and has taken further steps to ensure that separate process is followed as envisioned and consistent with legal requirements. Under the 2015 SSM SIP Action, Rhode Island was required to revise its SIP to address the SSM provision identified as substantially inadequate within 18 months. Rhode Island failed to meet that deadline, so on January 12, 2022, EPA issued a Finding of Failure to Submit (FFS) to Rhode Island. *See* 87 FR 1680. If the State has not made the required SIP submittal within 18 months of the effective date of the FFS, then, pursuant to CAA section 179(a) and (b) and 40 CFR 52.31, the 2-to-1 emission offset sanction identified in CAA section 179(b)(2) will apply in the State for all new and modified major sources subject to the nonattainment new source review program.

The sanction will not take effect if, within 18 months after the effective date of the FFS, EPA affirmatively determines that the State has made a complete SIP submittal addressing the deficiency in accordance with the 2015 SSM Action. Additionally, a finding that Rhode Island has failed to submit a required SIP submission triggers an obligation under CAA section 110(c) for EPA to promulgate a FIP no later than 2 years after issuance of the FFS. If the State makes the required SIP submittal and EPA takes final action to approve the submittal within 2 years of the effective date of the FFS, EPA is not required to promulgate a FIP.

Based on the above rationale, we are finalizing the action as described above.

III. Final Action

EPA is approving most elements of Rhode Island's December 6, 2017, infrastructure SIP submission for the 2012 annual $PM_{2.5}$ NAAQS. EPA is disapproving Rhode Island's infrastructure SIP submission for section 110(a)(2)(H), for which Federal regulations through a FIP are already in place. The disapproval with respect to section 110(a)(2)(H) does not start a sanctions clock because the disapproval relates neither to a submission required under CAA title I part D nor to one required in response to a SIP call under CAA section 10(k)(5). No further action by EPA or the State is required with respect to this disapproval.

We are finalizing the action as proposed, except that, for the reasons provided above, we are not finalizing our proposal to conditionally approve the infrastructure SIP submission with respect to the PSD-related requirements of section 110(a)(2)(C), 110(a)(2)(D)(i)(II) and 110(a)(2)(J) for the annual 2012 $PM_{2.5}$ NAAQS. EPA is withdrawing the proposed conditional approvals and will address those PSD-related requirements in a separate action.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735; October 4, 1993) and 13563 (76 FR 3821; January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide 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 Clean Air Act, petitions for judicial review of this action must be filed in the United

used its authority under CAA section 110(k)(6) to remove numerous other SIP provisions that the Agency determined it had approved in error. See, *e.g.,* 61 FR 38664 (July 25, 1996) and 62 FR 34641 (June 27, 1997) (corrections to American Samoa, Arizona, California, Hawaii, and Nevada SIPs); 69 FR 67062 (November 16, 2004) (corrections to California SIP); and 74 FR 57051 (November 3, 2009) (corrections to Arizona and Nevada SIPs).

[7] See, *e.g.,* EPA's disapproval of a SIP submission from Colorado on the grounds that it would have included a director's discretion provision inconsistent with CAA requirements, including section 110(a)(2)(A). *See, e.g.,* 75 FR 42342 at 42344 (July 21, 2010) (proposed disapproval of director's discretion provisions); 76 FR 4540 (Jan. 26, 2011) (final disapproval of such provisions).

States Court of Appeals for the appropriate circuit by August 1, 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 22, 2022.

David Cash,

Regional Administrator, EPA Region 1.

Part 52 of chapter I, title 40 of the Code of Federal Regulations 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 OO—Rhode Island

■ 2. In § 52.2070(e), amend the table by adding an entry for ''Infrastructure SIP and Transport SIP for the 2012 $PM_{2.5}$ NAAQS'' at the end of the table to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(e) * * *

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
*	*	*	*	* * *
Infrastructure SIP and Transport SIP for the 2012 $PM_{2.5}$ NAAQS.	Statewide	12/6/2017	May 31, 2022, [Insert **Federal Register** citation].	This submittal is approved with respect to the following CAA elements: 110(a)(2) (A); (B); (C); (D) ; (E); (F); (G); (J); (K); (L); and (M), except for certain PSD-related requirements in (C), (D)(i)(II), and (J). This submittal is disapproved for (H). This approval includes the Transport SIP for the 2012 $PM_{2.5}$ NAAQS, which shows that Rhode Island does not significantly contribute to $PM_{2.5}$ nonattainment or maintenance in any other state.

■ 3. In § 52.2077, add paragraph (b)(7) to read as follows:

§ 52.2077 Identification of plan—conditional approvals and disapprovals.

* * * * *

(b) * * *

(7) 2012 $PM_{2.5}$ NAAQS: The 110(a)(2) infrastructure SIP submitted on December 6, 2017, is disapproved for Clean Air Act element 110(a)(2)(H). A Federal Implantation Plan is already in place at § 52.2080.

[FR Doc. 2022–11456 Filed 5–27–22; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 102–117 and 102–118

[FMR Case 2018–102–5; Docket No. GSA–FMR–2018–0014, Sequence No. 1]

RIN 3090–AJ97

Federal Management Regulation; Technical Amendments

AGENCY: Office of Government-wide Policy (OGP), General Services Administration (GSA).

ACTION: Direct final rule.

SUMMARY: GSA is issuing a direct final rule amending the Federal Management Regulation (FMR) to effectuate editorial and technical changes including updating authorities, agency contact information, website and email addresses, simplifying requirements, and removing provisions that are no longer applicable. These changes are needed to provide accurate information for agencies to properly manage their Transportation Management and Transportation Payment and Audit programs.

DATES: Effective August 29, 2022 without further action, unless adverse comment is received by June 30, 2022. If adverse comment is received, GSA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Submit comments in response to FMR Case 2018–102–5 to the Federal eRulemaking portal at *https://www.regulations.gov* by searching for ''FMR Case 2018–102–5''. Select the link ''Comment Now'' that corresponds with ''FMR Case 2018–102–5''. Follow the instructions provided at the ''Comment Now'' screen. Please include your name, company name (if any), and ''FMR Case 2018–102–5'' on your attached document. If your comment cannot be submitted using *https://www.regulations.gov,* call or email the points of contact in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

Instructions: Please submit comments only and cite ''FMR Case 2018–102–5'' in all correspondence related to this case. Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *https://www.regulations.gov,* approximately two to three days after submission to verify posting.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Mr. Ron Siegel, Program Analyst, Office of Government-wide Policy, at 202–702–0840. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FMR Case 2018–102–5.

SUPPLEMENTARY INFORMATION:

A. Background

Pursuant to 40 United States Code (U.S.C.) 501, the Administrator of General Services (Administrator) has the authority to procure and supply personal property and nonpersonal services for executive agencies including transportation and traffic management services. This statute also provides the Administrator with the authority to prescribe policies and methods for the procurement of transportation and traffic management services. These policies and methods for managing transportation and traffic management programs are codified in 41 CFR part 102–117 (FMR part 102–117).

The Travel and Transportation Reform Act of 1998 (Pub. L. 105–264) established agency statutory requirements for prepayment audits of Federal agency transportation expenses and established GSA's statutory authority for audit oversight to protect the financial interests of the Government (31 U.S.C. 3726). GSA has codified these requirements in 41 CFR part 102–118, Transportation Payment and Audit (FMR part 102–118).

GSA amended FMR part 102–117 in 2015 (80 FR 57102), and again in 2016 (81 FR 65298) along with FMR part 102–118. Since then, numerous technological changes have automated processes; GSA consolidated properties which eliminated physical addresses; and statutory changes require regulatory modifications such as references to legal citations.

This rule updates contact information including phone numbers, email, website, and mailing addresses. It corrects hyperlinks, form numbers, and legal references. It also clarifies conditions for using forms and revises outdated and inaccurate administrative procedures. Furthermore, this rule will remove references to outdated information, eliminate references to both GSA's obsolete eLearning Transportation Officer training site and its web-based reporting tool, Federal Interagency Transportation System.

This rule clarifies when the Standard Form 1113, Public Voucher for Transportation Charges, is required to be submitted by a transportation service provider and when it is optional. The rule also eliminates references to the U.S. Government Bill of Lading—Privately Owned Personal Property (PPGBL) form number, Optional Form 1203. The form was canceled in 2002 (67 FR 35113). The Department of Defense continues to use this form but refers to it only by its name, U.S. Government Bill of Lading—Privately Owned Personal Property (PPGBL), therefore the FMR is being updated to address the form by its name. Furthermore, agencies were instructed in 2002 to use the Government Bill of Lading (GBL), SF 1103, in place of the PPGBL. This rule also removes the references to the Memorandum Copies of the GBL (1103A) and PPGBL (1203A) since the forms are no longer maintained by GSA and the GBL is available online as a fillable form which enables agencies to print multiple copies.

GSA is removing the unnecessary procedures for agencies to request the GBL and the Government Transportation Request (GTR) forms and their corresponding control numbers. Both forms are available online in the GSA Forms Library. FMR § 102–118.245 instructs agencies to request document control numbers for these forms from the GSA Inventory Management Branch in Fort Worth, Texas; however that office was closed in 2015. The Technical Services and Commodity Branch was assigned the duty of providing control numbers for the documents but no longer provides these numbers to agencies. Since an agency is required to create a unique numbering system to track transportation documents, it should already include any GBLs and GTRs it issues in that numbering scheme. Removing GSA from this process does not change an agency's accountability or responsibility for these documents and does not change how or when the forms can be used. Agencies are still required to use commercial forms and payment practices except in the limited circumstances as specified in these FMR parts.

Agencies that participate in a GSA rate tender program no longer pay an administrative service charge to GSA. Therefore, this rule will update FMR § 102–117.35 to remove the reference that it is a disadvantage for an agency to use a GSA rate tender program because the participating agency is charged an administrative service charge. Any fees assessed by GSA are addressed in GSA procurement documents, are not necessarily a disincentive for an agency, and are generally not regulatory.

Additionally, in 2008, Public Law 110–246 amended Title 31 of the U.S. Code to include the elimination of the statute of limitations applicable to collection of debt by administrative offset. This amendment removes the obsolete requirement that imposed a 10-year limitation on agencies to collect ordinary debts and it updates the references in FMR part 102–118 to provide agencies with the proper information.

Finally, this rule corrects the reference to the Department of State's website for Civil Air Transport Agreements, clarifies the deadlines for Federal agencies to submit documents to the United States Maritime Administration (MARAD), and corrects inaccurate information for contacting MARAD. The intended effect of this rule is to enhance accuracy, decrease workload, and reduce misunderstandings of the regulations.

B. Analysis of Costs and Benefits

The changes presented in this rule are predominantly administrative and are expected to create little or no additional cost and insignificant savings to Federal and non-Federal entities that are required to comply with either or both of these FMR parts. Implementing this rule will decrease confusion for agencies, streamline invoicing procedures for transportation vendors, and reduce time lost going to outdated links or attempting to use inaccurate references.

C. Executive Orders 12866 and 13563

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

D. Congressional Review Act

The Office of Information and Regulatory Affairs has determined that this rule is not a ''major rule'' as defined by 5 U.S.C. 804(2). Additionally, this rule is excepted from the Congressional Review Act (CRA) reporting requirements prescribed under 5 U.S.C. 801 since it relates to agency management or personnel under 5 U.S.C. 804(3).

E. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.,* because it

applies to agency management or personnel.

Therefore, an Initial Regulatory Flexibility Analysis has not been performed. GSA invites comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

GSA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C 610 (FMR Case 2018–102–5), in correspondence.

F. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects

41 CFR Part 102–117

Freight, Government property management, Moving of household goods, Reporting and recordkeeping requirements, Transportation.

41 CFR Part 102–118

Accounting, Claims, Government property management, Reporting and recordkeeping requirements, Transportation.

Robin Carnahan,

Administrator.

For reasons set forth in the preamble, GSA is amending 41 CFR parts 102–117 and 102–118 as set forth below:

PART 102–117—TRANSPORTATION MANAGEMENT

■ 1. The authority citation for part 102–117 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.;* 46 U.S.C. 55305; 49 U.S.C. 40118.

§ 102–117.20 [Amended]

■ 2. Amend § 102–117.20(a) by removing ''(40 U.S.C. 481 *et seq.*)'' and adding ''(40 U.S.C. 501 *et seq.*)'' in its place.

■ 3. Amend § 102–117.25 by removing the definition ''Governmentwide Transportation Policy Council (GTPC)'' and adding the definition of ''Government-wide Transportation Policy Council (GTPC)'' in its place to read as follows:

§ 102–117.25 What definitions apply to this part?

* * * * *

Government-wide Transportation Policy Council (GTPC) is an interagency forum to help GSA formulate policy. It provides agencies managing transportation programs a forum to exchange information and ideas to solve common problems. For further information on this council, see website: *https://gsa.gov/transportationpolicy*.

* * * * *

§ 102–117.35 [Amended]

■ 4. Amend § 102–117.35 by:

■ a. Adding ''and'' to the end of paragraph (b)(2);

■ b. Removing paragraph (b)(3); and

■ c. Redesignating paragraph (b)(4) as paragraph (b)(3).

■ 5. Amend § 102–117.65 by revising paragraph (f) to read as follows:

§ 102–117.65 What terms and conditions must all rate tenders or contracts include?

* * * * *

(f) Other terms and conditions that may be specific to your agency or the TSP such as specialized packaging requirements or HAZMAT. For further information see the ''U.S. Government Freight Transportation Handbook,'' available at *https://gsa.gov/transaudits*.

■ 6. Amend § 102–117.80 by revising paragraph (b) to read as follows:

§ 102–117.80 How are rate tenders filed?

* * * * *

(b) You must send two copies of the rate tender to: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405, or email:

(1) *SDDCRates@gsa.gov* subject line SDDC OTO Tenders (DoD only); or

(2) *TEAL-Library@gsa.gov* subject line GSA Rate Quotes, Tenders/Rate Quotes/Tariffs (all agencies except DoD).

§ 102–117.85 [Amended]

■ 7. Amend § 102–117.85(a) by removing ''Optional Forms 1103 or 1203, is a controlled document'' and adding ''Standard Form 1103, is a document'' in its place.

■ 8. Amend § 102–117.135 by:

■ a. Removing from paragraph (a)(1)(i) ''*http://www.state.gov/e/eb/tra/ata/index.htm*'' and adding ''*https://www.state.gov/civil-air-transport-agreements*'' in its place; and

■ b. Revising paragraph (b).

The revision reads as follows:

§ 102–117.135 What are the international transportation restrictions?

* * * * *

(b) *Ocean cargo.* International movement of property by water is subject to the Cargo Preference Act of 1954, as amended, 46 U.S.C. 55305, and the implementing regulations found at 46 CFR part 381, which require the use of a U.S. flag carrier for at least 50% of the tonnage shipped by each department or agency when service is available (see 46 CFR 381.7). The Maritime Administration (MARAD) monitors agency compliance with these laws. All departments or agencies shipping Government-impelled cargo must comply with the reporting provisions of 46 CFR 381.3. For further information contact MARAD, Tel: 202–366–4610, Email: *cargo.marad@dot.gov*. For further information on international ocean shipping, go to: *https://www.maritime.dot.gov/ports/cargo-preference/cargo-preference*.

■ 9. Revise § 102–117.140 to read as follows:

§ 102–117.140 What is cargo preference?

Cargo preference is the statutory requirement that all, or a portion of all, U.S. Government owned, procured, furnished, or financed ocean-borne cargo that moves internationally be transported on U.S. flag vessels.

§ 102–117.145 [Amended]

■ 10. Amend § 102–117.145 by removing ''46 App. U.S.C. 883'' from the second sentence and adding ''46 U.S.C. Chapter 551'' in its place.

■ 11. Amend § 102–117.150 by revising paragraph (c) to read as follows:

§ 102–117.150 What do I need to know about coastwise laws?

* * * * *

(c) The Commissioner of United States Customs and Border Protection, by delegation of the Secretary of the Department of Homeland Security, and the Secretary of the Treasury are authorized to impose monetary penalties against agencies that violate the coastwise laws.

§ 102–117.155 [Amended]

■ 12. Amend § 102–117.155 by removing ''46 App. U.S.C. 883'', ''800–987–3524'', and ''U.S. Customs Service'' and adding ''46 U.S.C. Chapter 551'', ''202–336–4610'', and ''U.S. Customs and Border Protection'' in their places, respectively.

■ 13. Revise § 102–117.170 to read as follows:

§ 102–117.170 What reference materials are available to ship freight?

(a) Information and guidance on shipping Government-owned freight is available at *https://gsa.gov/transportationpolicy*.

(b) Information on transportation programs is available at *https://gsa.gov/transportation*.

(c) Transportation handbooks are available at *https://gsa.gov/transaudits*.

(d) Resources related to the transportation of freight are available on the Acquisition Gateway (*https://hallways.cap.gsa.gov/*). See the Transportation and Logistics Services Hallway for information specific to shipping freight.

■ 14. Revise § 102–117.185 to read as follows:

§ 102–117.185 Where must I send a copy of the transportation documents?

(a) You must forward an original copy of all transportation documents to: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405, or email:

(1) *SDDCRates@gsa.gov*—subject line SDDC OTO Tenders (DOD only).

(2) *TEAL-Libray@gsa.gov*—subject line GSA Rate Quotes, Tenders/Rate Quotes/Tariffs (all agencies except DOD).

(b) For all property shipments subject to cargo preference laws (see § 102–117.140), a copy of the ocean carrier's bill of lading, showing all freight charges, must be sent to MARAD within 20 working days of the date of loading for shipments originating in the United States, the District of Columbia, its territories or possessions and within 30 working days for shipments originating outside the United States, the District of Columbia, its territories or possessions.

§ 102–117.220 [Amended]

■ 15. Amend § 102–117.220 by:

■ a. Removing from paragraph (a)(3) ''(see § 102–117.35)'' and adding ''(see § 102–117.30)'' in its place; and

■ b. Removing the Note to § 102–117–220.

■ 16. Revise § 102–117.235 to read as follows:

§ 102–117.235 How do I get a cost comparison?

(a) You may calculate a cost comparison internally according to 41 CFR part 302–7.

(b) You may request GSA to perform the cost comparison if you participate in the CHAMP program by sending GSA the following information as far in advance as possible:

(1) Name of employee;

(2) Origin city, county, and State;

(3) Destination city, county, and State;

(4) Date of household goods pick up;

(5) Estimated weight of shipments;

(6) Number of days storage-in-transit (if applicable); and

(7) Other relevant data.

(c) For more information on cost comparisons contact the Employee Relocation Resource Center at *errc@gsa.gov*.

§ 102–117.240 [Amended]

■ 17. Amend § 102–117.240 by:

■ a. Designating the Note to § 102–117.240 as Note 1 to § 102–117.240; and

■ b. In newly designated Note 1 to § 102–117.240, removing ''Transportation and Temporary Storage of Household Goods and Professional Books, Papers, and Equipment (PBP&E)'' and adding ''Transportation and Temporary Storage of Household Goods, Professional Books, Papers, and Equipment, (PBP&E) and Baggage Allowance'' in its place.

■ 18. Amend § 102–117.250 by revising paragraph (b) to read as follows:

§ 102–117.250 What are my responsibilities after shipping the household goods?

* * * * *

(b) Under the CHAMP program, you must counsel employees to fill out their portion of the GSA Form 3080, Household Goods Carrier Evaluation Report. This form reports the quality of the TSP's performance. TSPs generate the GSA Form 3080 within GSA's Transportation Management Services Solution (TMSS) system and send the employee a link to complete the form.

§ 102–117.260 [Amended]

■ 19. Amend § 102–117.260(c) by removing ''(41 CFR 302–8.2(f))'' and adding ''(41 CFR 302–7.12)'' in its place.

§ 102–117.270 [Amended]

■ 20. Amend § 102–117.270(a) by removing from the third sentence ''Government Performance and Results Act (GPRA) of 1993'' and adding ''GPRA Modernization Act of 2010'' in its place.

§ 102–117.300 [Amended]

■ 21. Amend § 102–117.300(b) by removing ''on the Excluded Parties Lists System (EPLS) maintained by GSA at *http://www.epls.gov*'' and adding ''on the System for Award Management (SAM) maintained by GSA at *https://sam.gov/*'' in its place.

§ 102–117.315 [Amended]

■ 22. Amend § 102–117.315 by removing ''to the Excluded Parties List System: *http://www.epls.gov*''.

§ 102–117.325 [Amended]

■ 23. Amend § 102–117.325 by removing ''(40 U.S.C. 481(a)(4))'' and adding ''(40 U.S.C. 501(c)(1)(B))'' in its place.

■ 24. Revise § 102–117.335 to read as follows:

§ 102–117.335 How does my agency ask for a delegation of authority to represent itself in a regulatory body proceeding?

You must email your request with enough detail to explain the circumstances surrounding the need for a delegation of authority for representation to *GSA-OGP-Transportationpolicy@gsa.gov*.

§ 102–117.340 [Amended]

■ 25. Amend § 102–117.340(b) by revising the last sentence to read as follows:

§ 102–117.340 What other types of assistance may GSA provide agencies in dealing with regulatory bodies?

* * * * *

(b) * * * For further information email *transportation.programs@gsa.gov* or contact: General Services Administration, Federal Acquisition Service, Office of Travel, Employee Relocation and Transportation, 1800 F Street NW, Washington, DC 20405.

§ 102–117.345 [Removed and Reserved]

■ 26. Remove and reserve § 102–117.345.

■ 27. Revise § 102–117.350 to read as follows:

§ 102–117.350 Do I have to report transportation data?

No, however all agencies are strongly encouraged to report data by October 31 for the preceding fiscal year to GSA at *GSA-OGP-Transportationpolicy@gsa.gov*.

§ 102–117.360 [Removed and Reserved]

■ 28. Remove and reserve § 102–117.360.

■ 29. Revise the heading of subpart L to read as follows:

Subpart L—Government-wide Transportation Policy

■ 30. Amend § 102–117.361 by revising the section heading, introductory text, and paragraph (b) to read as follows:

§ 102–117.361 What is the Government-wide Transportation Policy Council (GTPC)?

The Office of Government-wide Policy sponsors a Government-wide Transportation Policy Council (GTPC) to help agencies establish, improve, and maintain effective transportation

management policies, practices and procedures. The council:

* * * * *

(b) Provides assistance to your agency with reporting your transportation activity to GSA.

■ 31. Revise § 102–117.362 to read as follows:

§ 102–117.362 Where can I get more information about the GTPC?

For more information about the GTPC, email *GSA-OGP-Transportationpolicy@gsa.gov* or visit *https://www.gsa.gov/transportationpolicy*.

■ 32. Revise § 102–117.385 to read as follows:

§ 102–117.385 Is there a standard format for a Transportation Officer warrant?

No. Agencies may model the Transportation Officer warrant after the Contracting Officer warrant, or they may establish their own format.

■ 33. Revise § 102–117.390 to read as follows:

§ 102–117.390 What are the recommended Transportation Officer training and/or experience levels?

The following are recommended agency transportation officer training and/or experience baselines:

(a) For a Basic (Level 1) Transportation Officer Warrant:

(1) Twenty-four (24) hours of training in Federal transportation; or

(2) Two (2) years of Federal, public, and/or commercial experience in acquiring transportation through rate tenders.

(b) For an Experienced (Level 2) Transportation Officer Warrant:

(1) Thirty-two (32) hours of training in transportation, including twenty (20) hours of training in Federal transportation; or

(2) Three (3) years of Federal, public, and/or commercial experience in acquiring transportation through rate tenders.

(c) For a Senior (Level 3) Transportation Officer Warrant:

(1) Sixty (60) hours of training in transportation, including forty (40) hours of training in Federal transportation; or

(2) Five (5) years of Federal, public, and/or commercial experience in acquiring transportation through rate tenders.

PART 102–118—TRANSPORTATION PAYMENT AND AUDIT

■ 34. The authority citation for part 102–118 continues to read as follows:

Authority: 31 U.S.C. 3726; 40 U.S.C. 121(c); 40 U.S.C. 501, *et seq.*; 46 U.S.C. 55305; 49 U.S.C. 40118.

§ 102–118.35 [Amended]

■ 35. Amend § 102–118.35 by:

■ a. In the definition of ''Government Transportation Request (GTR) (Optional Form 1169)'', removing ''charge card is not'' and adding ''charge card is not accepted by the TSP'' in its place; and

■ b. In the definition of ''Privately Owned Personal Property Government Bill of Lading'', removing '', Optional Form 1203,''.

■ 36. Amend § 102–118.40(b) by revising the last sentence to read as follows:

§ 102–118.40 How does my agency order transportation and transportation services?

* * * * *

(b) * * * See the ''U.S. Government Passenger Transportation Handbook,'' available at *https://www.gsa.gov/transaudits*.

§ 102–118.65 [Amended]

■ 37. Amend § 102–118.65 by removing ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

■ 38. Amend § 102–118.80 by revising the second and third sentences to read as follows:

§ 102–118.80 Who is responsible for keeping my agency's electronic commerce transportation billing records?

* * * In addition, the GSA Transportation Audits Division keeps a central repository of electronic transportation billing records for legal and auditing purposes. Therefore, your agency must forward all relevant electronic transportation billing documents to *audit.policy@gsa.gov* or: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405.

■ 39. Amend § 102–118.90 by revising the third and fourth sentences to read as follows:

§ 102–118.90 If my agency orders transportation and/or transportation services with a Government contractor issued charge card or charge account citation, is this subject to prepayment audit?

* * * As with all prepayment audit programs, the charge card prepayment audit must be approved by the GSA Transportation Audits Division prior to implementation. If the charge card contract does not provide for a prepayment audit, your agency must submit the transportation line items on the charge card to the GSA Transportation Audits Division for a postpayment audit.

§ 102–118.92 [Amended]

■ 40. Amend § 102–118.92 by:

■ a. Removing from the fourth sentence ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place; and

■ b. Removing the last sentence.

■ 41. Amend § 102–118.95 by:

■ a. Revising paragraphs (b) and (d); and

■ b. Removing the Note to § 102–118.95.

The revisions read as follows:

§ 102–118.95 What forms can my agency use to pay transportation bills?

* * * * *

(b) Standard Form (SF) 1103, Government Bill of Lading (used for movement of things, both privately owned and Government property for official uses);

* * * * *

(d) Privately Owned Personal Property Government Bill of Lading (used by the Department of Defense to move private property for official transfers).

■ 42. Revise § 102–118.100 to read as follows:

§ 102–118.100 What must my agency ensure is on each SF 1113?

Your agency must ensure during its prepayment audit of a TSP bill that, when required, the TSP filled out the Public Voucher for Transportation Charges, SF 1113, completely including the taxpayer identification number (TIN) and standard carrier alpha code (SCAC).

■ 43. Amend § 102–118.105 by revising the last sentence to read as follows:

§ 102–118.105 Where can I find the rules governing the use of a Government Bill of Lading?

* * * This handbook is available at *https://www.gsa.gov/transaudits.*

■ 44. Amend § 102–118.110 by revising the last sentence to read as follows:

§ 102–118.110 Where can I find the rules governing the use of a Government Transportation Request?

* * * This handbook is available at *https://www.gsa.gov/transaudits.*

§ 102–118.115 [Amended]

■ 45. Amend § 102–118.115 by removing ''Optional Forms 1103 and 1203'' from the second sentence and adding ''GBL'' in its place.

■ 46. Amend § 102–118.140 by adding a sentence to the end of paragraph (a) and revising the last sentence in paragraph (d) to read as follows:

§ 102–118.140 What are the major mandatory terms and conditions governing the use of GBLs and bills of lading?

* * * * *

(a) * * *. An agency may choose not to require that an SF 1113 be attached to the bill of lading and invoice if the TSP submits invoices using the agency's approved third-party payment system (TPPS);

* * * * *

(d) * * * Only with the written concurrence of the Government official responsible for making the shipment is the deletion of this item considered to be valid;

* * * * *

■ 47. Revise § 102–118.170 to read as follows:

§ 102–118.170 Will GSA continue to maintain a centralized numbering system for Government transportation documents?

No. For GTRs, GBLs, and commercial TDs, each agency must create a unique numbering system to account for and prevent duplicate numbers.

■ 48. Amend § 102–118.195 by revising the first sentence to read as follows:

§ 102–118.195 What documents must a transportation service provider (TSP) send to receive payment for a transportation billing?

For shipments bought on a TD, the TSP must submit an original properly certified GBL, PPGBL, or bill of lading and, when appropriate, an SF 1113, Public Voucher for Transportation Charges. * * *

§ 102–118.230 [Amended]

■ 49. Amend § 102–118.230 by removing ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

■ 50. Revise § 102–118.240 to read as follows:

§ 102–118.240 How does my agency get GBL and GTR forms?

The GBL (SF 1103) and GTR (OF 1169) are available in the GSA Forms Library at *https://www.gsa.gov/forms.*

■ 51. Revise § 102–118.245 to read as follows:

§ 102–118.245 How does my agency get an assigned set of GBL or GTR numbers?

GSA no longer assigns numbers to GBLs or GTRs. Pursuant to § 102–118.55(g) you must establish administrative procedures including creating a unique numbering system to prevent and detect duplicate payments. These procedures should include agency assigned unique numbers for GBLs and GTRs.

■ 52. Amend § 102–118.260 by:

■ a. Revising paragraph (a); and

■ b. Removing paragraphs (d) and (e).

The revision reads as follows:

§ 102–118.260 Must my agency send all quotations, tenders, or contracts with a TSP to GSA?

(a) Yes, your agency must send copies of each quotation, tender, or contract of special rates, fares, charges, or concessions with TSPs including those authorized by 49 U.S.C. 10721 and 13712, upon execution to—*audit.policy@gsa.gov* or General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405.

* * * * *

■ 53. Amend § 102–118.275 by revising paragraphs (c)(3) and (4) to read as follows:

§ 102–118.275 What must my agency consider when developing a transportation prepayment audit program?

* * * * *

(c) * * *

(3) Use the services of a prepayment audit contractor under GSA's multiple award schedule covering audit services, including transportation prepayment audit services (541211 Auditing Services); or

(4) Use a third-party payment system (TPPS) or charge card company that includes prepayment audit functions.

* * * * *

■ 54. Amend § 102–118.280 by revising paragraph (a)(1) to read as follows:

§ 102–118.280 Must all transportation payment records, whether they are electronic or paper, undergo a prepayment audit?

* * * * *

(a) * * *

(1) Within the specified limits established by the Comptroller General (31 U.S.C. 3521(b)); and

* * * * *

§ 102–118.285 [Amended]

■ 55. Amend § 102–118.285 by:

■ a. Removing from paragraph (e)(2) ''General Records Schedule 9, Travel and Transportation (36 CFR 1228.22)'' and adding ''General Records Schedule 1.1 *et seq.* (36 CFR chapter XII, part 1220)'' in its place; and

■ b. Removing from paragraph (i) ''3726(b)'' and adding ''3726(d)'' in its place.

■ 56. Amend § 102–118.415 by revising the last sentence to read as follows:

§ 102–118.415 Can the Administrator of General Services exempt the transportation postpayment audit requirement?

* * * The Administrator can also exempt a particular mode or modes of transportation (31 U.S.C. 3726).

■ 57. Amend § 102–118.470 by revising the section heading and introductory text to read as follows:

§ 102–118.470 Are there statutory time limits for a TSP on filing an administrative claim with the GSA Transportation Audits Division?

Yes, an administrative claim must be received by the GSA Transportation Audits Division or its designee (the agency where the claim arose) within 3 years beginning the day after the latest of the following dates (except in time of war):

* * * * *

■ 58. Revise § 102–118.490 to read as follows:

§ 102–118.490 What if my agency fails to settle a dispute within 30 days?

(a) If your agency fails to settle a dispute within 30 days, the TSP may appeal to: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405; or electronically at: *https://tams.gsa.gov.*

(b) If the TSP disagrees with the administrative settlement by the GSA Transportation Audits Division, the TSP may appeal to the Civilian Board of Contract Appeals.

■ 59. Revise § 102–118.500 to read as follows:

§ 102–118.500 How does my agency handle a voluntary refund submitted by a TSP?

(a) An agency must report all voluntary refunds to the GSA Transportation Audits Division (so that no Notice of Overcharge or financial offset occurs), unless other arrangements are made (*e.g.,* charge card refunds, etc.). These reports must be addressed to: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405; or via email to: *audits.policy@gsa.gov.*

(b) Once a Notice of Overcharge is issued by the GSA Transportation Audits Division, then any refund is no longer considered voluntary and the agency must forward the refund to the GSA Transportation Audits Division.

§ 102–118.505 [Amended]

■ 60. Amend § 102–118.505 by removing ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

§ 102–118.510 [Amended]

■ 61. Amend § 102–118.510 by removing from the last sentence ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

§ 102–118.520 [Amended]

■ 62. Amend § 102–118.520 by removing ''Comptroller General'' and adding ''Secretary of the Treasury'' in its place.

■ 63. Amend § 102–118.530 by revising the second sentence and adding a third sentence to read as follows:

§ 102–118.530 Will GSA instruct my agency's disbursing offices to offset unpaid TSP billings?

* * * A 3-year limitation applies on the deduction of overcharges from amounts due a TSP (31 U.S.C. 3726). For ordinary debt there is no limitation on the period within which an offset may be initiated or taken (31 U.S.C. 3716).

■ 64. Revise § 102–118.535 to read as follows:

§ 102–118.535 Are there principles governing my agency's TSP debt collection procedures?

Yes, the principles governing your agency collection procedures for reporting debts to the Government Accountability Office (GAO) or the Department of Justice are found in 31 CFR chapter IX and in the GAO Policy and Procedures Manual for Guidance of Federal Agencies (*https://www.gao.gov/products/149099*).

§ 102–118.540 [Amended]

■ 65. Amend § 102–118.540 by removing from the first sentence ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

■ 66. Revise § 102–118.550 to read as follows:

§ 102–118.550 How does a TSP file an administrative claim using EDI or other electronic means?

A TSP should file a claim using GSA Transportation Audits Management System (TAMS) *https://tams.gsa.gov.*

■ 67. Revise § 102–118.560 to read as follows:

§ 102–118.560 What is the required format that a TSP must use to file an administrative claim?

There is no required format for filing claims. TSPs should file a claim through TAMS or by sending the required information and documentation (see §§ 102–118.545 and 102–118.565) to GSA Transportation Audits Division—*qmcadocrequest@gsa.gov* or mail to: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405.

■ 68. Revise § 102–118.575 to read as follows:

§ 102–118.575 If a TSP disagrees with the decision of my agency, can the TSP appeal?

Yes, the TSP may file a claim with the GSA Transportation Audits Division, which will review the TSP's appeal of your agency's final full or partial denial of a claim. The TSP may also appeal to the GSA Transportation Audits Division if your agency has not responded to a challenge within 30 days.

■ 69. Amend § 102–118.580 by:

■ a. Revising the section heading;

■ b. Removing ''The TSP must address requests:'' and adding a sentence in its place in the introductory text; and

■ c. Removing paragraphs (a), (b), (c), and (d).

The revision and addition read as follows:

§ 102–118.580 May a TSP appeal a prepayment audit decision of the GSA Transportation Audits Division?

* * * Filing instructions including where and how to file are available at *cbca.gov/howto/rules/transportation.html#transportation.*

§ 102–118.590 [Amended]

■ 70. Amend § 102–118.590 by removing ''GSA Audit Division'' everywhere it appears and adding ''GSA Transportation Audits Division'' in its place.

■ 71. Revise § 102–118.600 to read as follows:

§ 102–118.600 When a TSP disagrees with a Notice of Overcharge resulting from a postpayment audit, what are the appeal procedures?

A TSP who disagrees with the Notice of Overcharge may submit a written request for reconsideration to the GSA Transportation Audits Division at: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405; or via email to *audits.policy@gsa.gov.*

§ 102–118.605 [Amended]

■ 72. Amend § 102–118.605 by removing from paragraph (b) ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

§ 102–118.610 [Amended]

■ 73. Amend § 102–118.610 by removing from the first sentence ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

§ 102–118.615 [Amended]

■ 74. Amend § 102–118.615 by removing ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

§ 102–118.620 [Amended]

■ 75. Amend § 102–118.620 by removing ''GSA Audit Division'' everywhere it appears and adding ''GSA Transportation Audits Division'' in its place.

■ 76. Revise § 102–118.630 to read as follows:

§ 102–118.630 How must a TSP refund amounts due to GSA?

(a) TSPs must promptly refund amounts due to GSA, preferably by EFT. If an EFT is not used, checks must be made payable to ''General Services Administration'', including the document reference number, TSP name, bill number(s), taxpayer identification number and standard carrier alpha code, then mailed to: General Services Administration, Government Lock Box 9006, 1005 Convention Plaza, St. Louis, MO 63101.

(b) If an EFT address is needed, please contact the GSA Transportation Audits Division at: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405; or via email to *audits.policy@gsa.gov.*

Note 1 to § 102–118.630: Amounts collected by GSA are returned to the Treasurer of the United States (31 U.S.C. 3726).

§ 102–118.635 [Amended]

■ 77. Amend § 102–118.635 by removing ''(4 CFR parts 101 through 105)'' and adding ''(31 CFR chapter IX)'' in its place.

§ 102–118.640 [Amended]

■ 78. Amend § 102–118.640 by:

■ a. Removing from paragraphs (a) and (d) ''4 CFR parts 101 through 105'' and adding ''31 CFR chapter IX'' in its place; and

■ b. Removing from the last sentence in paragraph (b) ''and a 10-year limitation applies on the deduction of ordinary debt (31 U.S.C. 3716)''.

■ 79. Revise § 102–118.645 to read as follows:

§ 102–118.645 Can a TSP file an administrative claim on collection actions?

Yes, a TSP may file an administrative claim involving collection actions resulting from the transportation audit performed by the GSA directly with the GSA Transportation Audits Division. Any claims submitted to GSA will be considered ''disputed claims'' under section 4(b) of the Prompt Payment Act (31 U.S.C. 3901, *et seq.*). The TSP must file all other transportation claims with the agency out of whose activities they arose. If this is not feasible (*e.g.,* where the responsible agency cannot be determined or is no longer in existence) claims may be sent to the GSA Transportation Audits Division for forwarding to the responsible agency or for direct settlement by the GSA Transportation Audits Division. Submit claims using Transportation Audits Management System (TAMS) at *https://tams.gsa.gov* or via mail: General Services Administration, Office of Travel, Employee Relocation and Transportation, Attn: Transportation Audits Division, 1800 F Street NW, 3rd Floor, Mail Hub 3400, Washington, DC 20405.

■ 80. Amend § 102–118.655 by—

■ a. Removing ''Address requests:'' and adding a sentence in its place in the introductory text; and

■ b. Removing paragraphs (a), (b), (c), and (d).

The addition reads as follows:

§ 102–118.655 Are there time limits on a TSP request for an administrative review by the Civilian Board of Contract Appeals (CBCA)?

* * * Details regarding where and how to file are available at *cbca.gov/howto/rules/transportation.html#transportation.*

§ 102–118.670 [Amended]

■ 81. Amend § 102–118.670 by removing ''GSA Audit Division'' and adding ''GSA Transportation Audits Division'' in its place.

[FR Doc. 2022–11050 Filed 5–27–22; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 211217–0262; RTID 0648–XC046]

Fisheries of the Northeastern United States; Summer Flounder Fishery; Quota Transfer From VA to RI

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

ACTION: Notification of quota transfer.

SUMMARY: NMFS announces that the Commonwealth of Virginia is transferring a portion of its 2022 commercial summer flounder quota to the State of Rhode Island. This adjustment to the 2022 fishing year quota is necessary to comply with the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan quota transfer provisions. This announcement informs the public of the revised 2022 commercial quotas for Virginia and Rhode Island.

DATES: Effective May 27, 2022, through December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Laura Deighan, Fishery Management Specialist, (978) 281–9184.

SUPPLEMENTARY INFORMATION: Regulations governing the summer flounder fishery are found in 50 CFR 648.100 through 648.110. These regulations require annual specification of a commercial quota that is apportioned among the coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state is described in § 648.102 and final 2022 allocations were published on December 23, 2021 (86 FR 72859).

The final rule implementing Amendment 5 to the Summer Flounder Fishery Management Plan (FMP), as published in the **Federal Register** on December 17, 1993 (58 FR 65936), provided a mechanism for transferring summer flounder commercial quota from one state to another. Two or more states, under mutual agreement and with the concurrence of the NMFS Greater Atlantic Regional Administrator, can transfer or combine summer flounder commercial quota under § 648.102(c)(2). The Regional Administrator is required to consider three criteria in the evaluation of requests for quota transfers or combinations: The transfer or combinations would not preclude the overall annual quota from being fully harvested; the transfer addresses an unforeseen variation or contingency in the fishery; and the transfer is consistent with the objectives of the FMP and the Magnuson-Stevens Fishery Conservation and Management Act. The Regional Administrator has determined these three criteria have been met for the transfer approved in this notification.

Virginia is transferring 6,111 lb (2,772 kg) to Rhode Island through mutual agreement of the states. This transfer was requested to repay landings made by an out-of-state permitted vessel under a safe harbor agreement. The revised summer flounder quotas for 2022 are: Virginia, 2,781,620 lb (1,261,722 kg) and Rhode Island, 2,244,327 lb (1,018,010 kg).

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR 648.162(e)(1)(i) through (iii), which was issued pursuant to section 304(b), and is exempted from review under Executive Order 12866.

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

Dated: May 24, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–11509 Filed 5–27–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 87, No. 104
Tuesday, May 31, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1212

[Doc. No. AMS–SC–21–0094]

Honey Packers and Importers Research, Promotion, Consumer Education, and Industry Information Order; Continuance Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of referendum.

SUMMARY: This document directs that a referendum be conducted among eligible first handlers and importers of honey or honey products to determine whether they favor continuance of the Agriculture Marketing Service's regulations regarding a national honey packers and importers research and promotion program.

DATES: This referendum will be conducted by express mail and electronic ballot from August 8, 2022 through August 26, 2022. To be eligible to vote, first handlers and importers must have handled or imported 250,000 or more pounds of honey or honey products during the representative period from January 1 through December 31, 2021, are subject to assessments under the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order (Order), and excluding those exempt from assessment under the Order. Ballots delivered via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. Eastern Time (ET) on August 26, 2022 to be counted.

ADDRESSES: Copies of the Honey Packers and Importers Research, Promotion, Consumer Education and Industry Information Order may be obtained from: Referendum Agent, Market Development Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244, telephone: (202) 720–9915; or contact Katie Cook at (202) 617–4760 or via electronic mail: *Katie.Cook@usda.gov.*

FOR FURTHER INFORMATION CONTACT: Katie Cook, Marketing Specialist, MDD, SCP, AMS, USDA, 1400 Independence Avenue SW, Room 1406–S, Stop 0244, Washington, DC 20250–0244; telephone: (202) 617–4760; or electronic mail: *Katie.Cook@usda.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Commodity Promotion, Research and Information Act of 1996 (7 U.S.C. 7411–7425) (Act), it is hereby directed that a referendum be conducted to ascertain whether continuance of the Order (7 CFR part 1212) is favored by eligible first handlers and importers of honey or honey products covered under the program. The Order is authorized under the Act.

The representative period for establishing voter eligibility for the referendum shall be the period from January 1 through December 31, 2021. Persons who handled or imported 250,000 or more pounds of honey or honey products during the representative period and are subject to assessments under the Order are eligible to vote. Persons who received an exemption from assessments for the entire representative period are ineligible to vote. The U.S. Department of Agriculture (USDA) will provide the option for electronic balloting. The referendum will be conducted by express mail and electronic ballot from August 8, 2022 through August 26, 2022. Further details will be provided in the ballot instructions.

Section 518 of the Act authorizes continuance referenda. Under § 1212.81 of the Order, USDA must conduct a referendum every 7 years to determine whether persons subject to assessment favor continuance of the Order. The last referendum was held in 2015. USDA would continue the Order if continuance is favored by a majority of the first handlers and importers voting in the referendum, and a majority of volume voting in the referendum who, during the period from January 1 through December 31, 2021, have been engaged in the handling or importation of honey or honey products.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the referendum ballot has been approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581–0093. It has been estimated that there are approximately 40 first handlers and 55 importers who will be eligible to vote in the referendum. It will take an average of 15 minutes for each voter to read the voting instructions and complete the referendum ballot.

Referendum Order

Katie Cook, Marketing Specialist, and Heather Pichelman, Acting Director, Market Development Division, SCP, AMS, USDA, Stop 0244, Room 1406–S, 1400 Independence Avenue SW, Washington, DC 20250–0244, are designated as the referendum agents to conduct this referendum. The referendum procedures at 7 CFR 1212.100 through 1212.108, which were issued pursuant to the Act, shall be used to conduct the referendum.

The referendum agent will express mail or provide access electronically to the ballots to be cast in the referendum and voting instructions to all known, eligible honey first handlers and importers prior to the first day of the voting period. Persons who handled or imported 250,000 or more pounds of honey or honey products during the representative period and are subject to assessments under the Order are eligible to vote. Persons who received an exemption from assessments during the entire representative period, from January 1 through December 31, 2021, are ineligible to vote. Any eligible first handler or importer who does not receive a ballot should contact the referendum agent no later than three days before the end of the voting period. Ballots delivered via express mail or electronic ballot must show proof of delivery by no later than 11:59 p.m. ET on August 26, 2022, to be counted.

List of Subjects in 7 CFR Part 1212

Administrative practice and procedure, Advertising, Agricultural research, Honey, Labeling, Marketing agreements, Reporting and recordkeeping requirements.

Authority: 7 U.S.C. 7411–7425; 7 U.S.C. 7401.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–11294 Filed 5–27–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0030]

RIN 1904–AE40

Energy Conservation Program: Energy Conservation Standards for General Service Fluorescent Lamps

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

ACTION: Notice of proposed determination and request for comment.

SUMMARY: The Energy Policy and Conservation Act, as amended (''EPCA''), prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including general service fluorescent lamps (''GSFLs''). EPCA also requires the U.S. Department of Energy (''DOE'') to periodically determine whether more-stringent, amended standards would be technologically feasible and economically justified, and would result in significant energy savings. In this notice of proposed determination (''NOPD''), DOE has initially determined that amended energy conservation standards for GSFLs do not need to be amended and requests comment on this proposed determination and the associated analyses and results.

DATES:

Meeting: DOE will hold a webinar on Monday, July 11, 2022, from 1:00 p.m. to 4:00 p.m. See section VII, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: Written comments and information are requested and will be accepted on or before August 1, 2022.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov,* under docket number EERE–2019–BT–STD–0030. Follow the instructions for submitting comments. Alternatively, comments may be submitted by email to: *ApplianceStandardsQuestions@ee.doe.gov*. Include docket number EERE–2019–BT–STD–0030 in the subject line of the message.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section VII of this document.

Although DOE has routinely accepted public comment submissions through a variety of mechanisms, including the Federal eRulemaking Portal, email, postal mail and hand delivery/courier, the Department has found it necessary to make temporary modifications to the comment submission process in light of the ongoing coronavirus 2019 (''COVID–19'') pandemic. DOE is currently suspending receipt of public comments via postal mail and hand delivery/courier. If a commenter finds that this change poses an undue hardship, please contact Appliance Standards Program staff at (202) 586–1445 to discuss the need for alternative arrangements. Once the COVID–19 pandemic health emergency is resolved, DOE anticipates resuming all of its regular options for public comment submission, including postal mail and hand delivery/courier.

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

The docket web page can be found at *www.regulations.gov/#!docketDetail;D=EERE-2019-BT-STD-0030.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section VII, ''Public Participation,'' for further information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Dr. Stephanie Johnson, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1943. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Celia Sher, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–6122. Email: *Celia.Sher@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Synopsis of the Proposed Determination

Title III, Part B [1] of EPCA,[2] established the Energy Conservation Program for Consumer Products Other Than Automobiles. (42 U.S.C. 6291–6309) These products include GSFLs, the subject of this NOPD.

DOE is issuing this NOPD pursuant to the EPCA requirement that not later than 6 years after issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m))

For this proposed determination, DOE analyzed GSFLs subject to standards specified in 10 of the Code of Federal Regulations (''CFR'') part 430, subpart A, § 430.2.

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

Based on the results of the analyses, summarized in section V of this document, DOE has tentatively determined that current standards for GSFLs do not need to be amended.

II. Introduction

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

A. Authority

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. Title III, Part B of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include GSFLs, the subject of this document. (42 U.S.C. 6292(a)(14)) EPCA prescribed energy conservation standards for these products (42 U.S.C. 6295(i)(1)(B)), and directs DOE to conduct future rulemaking to determine whether to amend these standards. (42 U.S.C. 6295(i)(3)–(5))

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

Subject to certain criteria and conditions, DOE is required to develop test procedures to measure the energy efficiency, energy use, or estimated annual operating cost of each covered product. (42 U.S.C. 6295(o)(3)(A) and 42 U.S.C. 6295(r)) Manufacturers of covered products must use the prescribed DOE test procedure as the basis for certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA and when making representations to the public regarding the energy use or efficiency of those products. (42 U.S.C. 6293(c) and 42 U.S.C. 6295(s)) Similarly, DOE must use these test procedures to determine whether the products comply with standards adopted pursuant to EPCA. (42 U.S.C. 6295(s)) The DOE test procedures for GSFLs appear at 10 CFR part 430, subpart B, appendix R.

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

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

DOE must periodically review its already established energy conservation standards for a covered product no later than 6 years from the issuance of a final rule establishing or amending a standard for a covered product. (42 U.S.C. 6295(m)) This 6-year look-back provision requires that DOE publish either a determination that standards do not need to be amended or a NOPR, including new proposed standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) EPCA further provides that, not later than 3 years after the issuance of a final determination not to amend standards, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B)) DOE must make the analysis on which a determination is based publicly available and provide an opportunity for written comment. (42 U.S.C. 6295(m)(2))

A determination that amended standards are not needed must be based on consideration of whether amended standards will result in significant conservation of energy, are technologically feasible, and are cost effective. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) Additionally, any new or amended energy conservation standard prescribed by the Secretary for

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

[2] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Among the factors DOE considers in evaluating whether a proposed standard level is economically justified includes whether the proposed standard at that level is cost effective, as defined under 42 U.S.C. 6295(o)(2)(B)(i)(II). Under 42 U.S.C. 6295(o)(2)(B)(i)(II), an evaluation of cost effectiveness requires DOE to consider savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard. (42 U.S.C. 6295(n)(2) and 42 U.S.C. 6295(o)(2)(B)(i)(II)) DOE is publishing this NOPD in satisfaction of the 6-year review requirement in EPCA.

B. Background

1. Current Standards

In a final rule published on January 26, 2015, DOE prescribed the current energy conservation standards for GSFLs. 80 FR 4042 (''January 2015 final rule''). These standards are set forth in DOE's regulations at 10 CFR 430.32(n) and repeated in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR GSFLS

Lamp type	Correlated color temperature	Minimum average lamp efficacy *lumens per watt* (''lm/W'')
Four-Foot Medium Bipin (''MBP'')	≤4,500 Kelvin (''K'')	92.4
>4,500 K and ≤7,000 K	88.7.	
Two-Foot U-Shaped	≤4,500 K	85.0
>4,500 K and ≤7,000 K	83.3.	
Eight-Foot Single Pin (''SP'') Slimline	≤4,500 K	97.0
>4,500 K and ≤7,000 K	93.0.	
Eight-Foot Recessed Double Contact (''RDC'') High Output	≤4,500 K	92.0
>4,500 K and ≤7,000 K	88.0.	
Four-Foot Miniature Bipin Standard Output	≤4,500 K	95.0
>4,500 K and ≤7,000 K	89.3.	
Four-Foot Miniature Bipin High Output	≤4,500 K	82.7
>4,500 K and ≤7,000 K	76.9.	

2. History of Standards Rulemakings for GSFLs

Amendments to EPCA in the Energy Policy Act of 1992 (''EPAct 1992''; Pub. L. 102–486), established energy conservation standards for certain classes of GSFLs and incandescent reflector lamps (''IRLs''), and authorized DOE to conduct two rulemaking cycles to determine whether these standards should be amended. (42 U.S.C. 6295(i)(1) and (3)–(4)) EPCA also authorized DOE to adopt standards for additional GSFLs, if such standards were warranted. (42 U.S.C. 6295(i)(5)). DOE completed the first of these rulemaking cycles in a final rule published on July 14, 2009, that adopted amended performance standards for GSFLs and IRLs manufactured on or after July 14, 2012. 74 FR 34080. That rule adopted standards for additional GSFLs, amended the definition of ''colored fluorescent lamp'' and ''rated wattage,'' and also adopted test procedures applicable to the newly covered GSFLs. *Id.* DOE completed a second rulemaking cycle to amend the standards for GSFLs and IRLs by publishing a final rule on January 26, 2015. 80 FR 4042. In this rule DOE amended standards for GSFLs; and concluded that amending standards for IRLs would not be economically justified. *Id.* The current energy conservation standards for GSFLs are located in 10 CFR 430.32(n). The currently applicable DOE test procedures appear at 10 CFR part 430, subpart B, appendix R.

In support of the present review of the GSFL energy conservation standards, DOE published a request for information (''RFI''), which identified various issues on which DOE sought comment to inform its determination of whether amended standards for GSFLs and IRLs are warranted. 85 FR 25326 (''May 2020 RFI'').

Subsequently, on May 9, 2022, DOE published a final rule expanding the definition of general service lamp (''GSL'') to include IRLs. 87 FR 27461 May 2022 Final Rule. On that same day, DOE also published a final rule implementing a statutory backstop requirement applicable to GSLs which prohibits the sale of any GSL that is less than 45 lm/W. 87 FR 27439. Because IRLs, a newly covered GSL, cannot meet the 45 lm/W backstop requirement, DOE is no longer evaluating amended standards for IRLs and is only considering GSFLs in this NOPD.

DOE received comments in response to the May 2020 RFI from the interested parties listed in Table II.2.

TABLE II.2—WRITTEN COMMENTS RECEIVED IN RESPONSE TO THE MAY 2020 RFI

Commenter(s)	Reference in this NOPD	Commenter type
Appliance Standards Awareness Project, American Council for an Energy-Efficient Economy, Consumer Federation of America, National Consumer Law Center, Natural Resources Defense Council, Northeast Energy Efficiency Partnerships, Northwest Energy Efficiency Alliance.	ASAP et al	Efficiency Organizations
Attorneys General	Attorneys General	State Official/Agency
California Energy Commission	CEC	State Official/Agency
Pacific Gas and Electric Company, San Diego Gas & Electric Company, Southern California Edison.	CA IOUs	Utilities
Consumer Federation of America, Environment America, National Consumer Law Center, Natural Resources Defense Council, Sierra Club, U.S. Public Interest Research Group, Earthjustice.	CFA et al	Consumer Advocacy Organizations
Institute for Policy Integrity at NYU School of Law	IPI	Think Tank
National Electrical Manufacturers Association	NEMA	Trade Association

A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[3]

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430 subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the comment period for a notice of proposed rulemaking. Section 6(f)(2) of appendix A specifies that the length of the public comment period for a NOPR will not be less than 75 days. For this proposed determination, DOE has opted to instead provide a 60-day comment period. As stated previously, DOE requested comment in the May 2020 RFI on the technical and economic analyses that would be used to determine whether a more stringent standard would result in significant conservation of energy and is technologically feasible and economically justified. DOE has determined that a 60-day comment period, in conjunction with the prior May 2020 RFI, provides sufficient time for interested parties to review the proposed rule and develop comments.

III. General Discussion

DOE developed this proposed determination after considering comments, data, and information from interested parties that represent a variety of interests. This notice addresses issues raised by these commenters.

A. Product Classes and Scope of Coverage

When evaluating and establishing energy conservation standards, DOE divides covered products into product classes by the type of energy used or by capacity or other performance-related features that justify differing standards. In making a determination whether a performance-related feature justifies a different standard, DOE must consider such factors as the utility of the feature to the consumer and other factors DOE determines are appropriate. (42 U.S.C. 6295(q)) The product classes for this proposed determination are discussed in further detail in section IV.B.4 of this document. This proposed determination covers GSFLs defined as any fluorescent lamp which can be used to satisfy the majority of fluorescent lighting applications, but does not include any lamp designed and marketed for the following nongeneral application: (1) Fluorescent lamps designed to promote plant growth; (2) Fluorescent lamps specifically designed for cold temperature applications; (3) Colored fluorescent lamps; (4) Impact-resistant fluorescent lamps; (5) Reflectorized or aperture lamps; (6) Fluorescent lamps designed for use in reprographic equipment; (7) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum; and (8) Lamps with a Color Rendering Index of 87 or greater. 10 CFR 430.2. The scope of coverage is discussed in further detail in section IV.B.1 of this document.

B. Test Procedure

EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. (42 U.S.C. 6293) Manufacturers of covered products must use these test procedures to certify to DOE that their product complies with energy conservation standards and to quantify the efficiency of their product. (42 U.S.C. 6295(s) and 42 U.S.C. 6293(c)). DOE's current energy conservation standards for GSFLs are expressed in terms of lumens per watt (''lm/W''). (*See* 10 CFR part 430, subpart B, appendix R)

On July 6, 2009, DOE published a final rule that updated citations to industry standards and made several other modifications to the GSFL test procedure. 74 FR 31829. DOE further amended the test procedures to update references to industry standards for GSFLs in a final rule published on January 27, 2012. 77 FR 4203. On August 8, 2017, DOE published a RFI seeking comments on the current test procedures for GSFLs, IRLs, and general service incandescent lamps (''GSILs''). 82 FR 37031. On June 3, 2021, DOE published a NOPR proposing amendments to DOE's GSFL, IRL and GSIL test procedures. 86 FR 29888. (''June 2021 NOPR'') With regards to GSFLs, in the June 2021 NOPR, DOE proposed to update to the latest versions of the referenced industry test standards and provide cites to specific sections of these standards; clarify definitions, test conditions and methods, and measurement procedures; clarify test frequency and inclusion of cathode power in measurements; allow manufacturers to make voluntary (optional) representations of GSFLs at high frequency settings; revise the sampling requirements; and align sampling and certification requirements with proposed test procedure terminology and with the Federal Trade Commission's labeling program. 86 FR 29888. DOE continues to review comments received in response to the June 2021 NOPR.

The current test procedures for GSFLs are codified in appendix R to subpart B of 10 CFR part 430.

[3] The parenthetical reference provides a reference for information located in the docket. (Docket No. EERE–2019–BT–STD–0030, which is maintained at *www.regulations.gov/).* The references are arranged as follows: (Commenter name, comment docket ID number at page of that document).

C. Technological Feasibility

1. General

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

After DOE has determined that particular technology options are technologically feasible, it further evaluates each technology option in light of the following additional screening criteria: (1) Practicability to manufacture, install, and service; (2) adverse impacts on product utility or availability; (3) adverse impacts on health or safety; and (4) unique-pathway proprietary technologies. Sections 6(b)(3)(ii)–(v) and 7(b)(2)–(5) of appendix A. Section IV.B.3 of this document discusses the results of the screening analysis for GSFLs, particularly the designs DOE considered, those it screened out, and those that are the basis for the standards considered in this proposed determination. For further details on the screening analysis for this proposed determination, see chapter 4 of the NOPD technical support document (''TSD'').

2. Maximum Technologically Feasible Levels

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

D. Energy Savings

1. Determination of Savings

For each efficiency level (''EL'') evaluated, DOE projected energy savings from application of the EL to the GSFLs purchased in the 30-year period that begins in the assumed year of compliance with the potential standards (2026–2055). The savings are measured over the entire lifetime of the GSFLs purchased in the previous 30-year period. In order to account for wider market dynamics, DOE also modeled the purchases and energy consumption of tubular LEDs (''TLEDs'') over the same period that would compete for GSFL demand. DOE quantified the energy savings attributable to each EL as the difference in energy consumption of both GSFLs and TLEDs between each standards case and the no-new-standards case. The no-new-standards case represents a projection of energy consumption that reflects how the market for a product would likely evolve in the absence of amended energy conservation standards. DOE used its NIA spreadsheet model [4] to estimate national energy savings (''NES'') from potential amended or new standards for GSFLs. The NIA spreadsheet model (described in section IV.G of this document) calculates energy savings in terms of site energy, which is the energy directly consumed by products at the locations where they are used. For electricity, DOE reports NES in terms of primary energy savings, which is the savings in the energy that is used to generate and transmit the site electricity. DOE also calculates NES in terms of full-fuel-cycle (''FFC'') energy savings. The FFC metric includes the energy consumed in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus presents a more complete picture of the impacts of energy conservation standards.[5] DOE's approach is based on the calculation of an FFC multiplier for each of the energy types used by covered products or equipment. For more information on FFC energy savings, see section IV.G of this document.

2. Significance of Savings

In determining whether amended standards are needed, DOE must consider whether such standards will result in significant conservation of energy. (42 U.S.C. 6295(m)(1)(A)) The significance of energy savings offered by a new or amended energy conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking. For example, the United States has now rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing GHG emissions in order to limit the rise in mean global temperature.[6] As such, energy savings that reduce GHG emission have taken on greater importance. Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the energy infrastructure can be more pronounced than products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in primary energy and FFC effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and thus present a more complete picture of the impacts of energy conservation standards. Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

E. Cost Effectiveness

Under EPCA's six-year-lookback review provision for existing energy conservation standards at 42 U.S.C. 6295(m)(1), cost-effectiveness of potential amended standards is a relevant consideration both where DOE proposes to adopt such standards, as well as where it does not. In considering cost-effectiveness when making a determination of whether amended energy conservation standards do not need to be amended, DOE considers the savings in operating costs throughout the estimated average life of the covered product compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered product that are likely to result from a standard. (42 U.S.C. 6295(m)(1)(A) (*referencing* 42 U.S.C. 6295(n)(2))) Additionally, any new or amended

[4] A model coded in the Python programming language to estimate lamp purchases, energy consumption, and national energy savings.

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

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

energy conservation standard prescribed by the Secretary for any type (or class) of covered product shall be designed to achieve the maximum improvement in energy efficiency which the Secretary determines is technologically feasible and economically justified. 42 U.S.C. 6295(o)(2(A) Cost-effectiveness is one of the factors that DOE considers under 42 U.S.C. 6295(o)(2)(B) in determining whether new or amended standards are economically justified. (42 U.S.C. 6295(o)(2)(B)(i)(II)))

In determining cost effectiveness of amending standards for GSFLs, DOE conducted LCC and PBP analyses that estimate the costs and benefits to users from standards. To further inform DOE's consideration of the cost effectiveness of amended standards, DOE considers the NPV of total costs and benefits estimated as part of the NIA. The inputs for determining the NPV of the total costs and benefits experienced by consumers are (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings.

F. Further Considerations

Pursuant to EPCA, absent DOE publishing a notification of determination that energy conservation standards for GSFLs do not need to be amended, DOE must issue a NOPR that includes new proposed standards. (42 U.S.C. 6295(m)(1)(B)). The new proposed standards in any such NOPR must be based on the criteria established under 42 U.S.C. 6295(o) and follow the procedures established under 42 U.S.C. 6295(p). (42 U.S.C. 6295(m)(1)(B)). The criteria in 42 U.S.C. 6295(o) require that standards be designed to achieve the maximum improvement in energy efficiency, which the Secretary determines is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)). In deciding whether a proposed standard is economically justified, DOE must determine whether the benefits of the standard exceed its burdens. (42 U.S.C. 6295(o)(2)(B)(i)). DOE must make this determination after receiving comments on the proposed standard, and by considering, to the greatest extent practicable, the following seven statutory factors:

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

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

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

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

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

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

(7) Other factors the Secretary considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

IV. Methodology and Discussion of Related Comments

This section addresses the analyses DOE has performed for this proposed determination with regard to GSFLs. Separate subsections address each component of DOE's analyses. DOE used several analytical tools to estimate the impact of potential energy conservation standards. The first tool is a spreadsheet that calculates the LCC savings and PBP of potential energy conservation standards. The NIA uses a second spreadsheet set that provides shipments projections, and calculates NES and net present value of total consumer costs and savings expected to result from potential energy conservation standards. These spreadsheet tools are available on the website: *www.regulations.gov/docket?D=EERE-2019-BT-STD-0030.*

A. Overall

DOE received several comments from stakeholders in response to the May 2020 RFI regarding whether DOE should amend standards for GSFLs. NEMA stated that sales of GSFLs have been in a decline which is expected to continue as light-emitting diode (''LED'') replacement products (including integrated LED fixtures and LED replacement lamps) continue to replace GSFLs through naturally occurring market adoption without regulation. NEMA noted that based on the current rate of market decline, there is very limited, meaningful energy savings that can be economically justified through revised energy conservation standards for GSFLs. (NEMA, No. 6 at p. 2)

NEMA also stated that slightly increasing the efficacy of fluorescent lamps will not achieve the desired energy savings DOE seeks and will only make lighted areas brighter. NEMA notes that because new construction and renovations are shifting to cost-competitive LED lighting, DOE's calculations in the previous rulemaking that show brighter fluorescent lamps will allow for fewer lamps, fixtures, and ballasts, are no longer realistic. As a result, NEMA notes that fluorescent lamps would not be used in fewer numbers and will still be driven at the rated wattage of the ballasts in existing fixtures, using the same amount of energy. (NEMA, No. 6 at p. 2)

CEC agreed with DOE's findings in the May 2020 RFI that indicated that GSFLs on the market are more energy efficient than current federal standards. CEC noted that setting higher efficiency levels is cost effective and can be achieved using either fluorescent or LED lighting sources. Additionally, CEC pointed out that manufacturing costs and retail prices of TLED lamps are dropping while their market share is increasing and that this trend is expected to continue. CEC determined that more stringent standards will result in significant conservation of energy, are technologically feasible, and are cost effective. CEC asserted that DOE should increase the minimum energy efficiency of GSFLs and consider the technology-neutral utility of replacement lamps by including TLED lamps as a feasible replacement option in its cost analysis. (CEC, No. 9 at p. 3)

ASAP et al. and CA IOUs noted that new GSFLs on the market that are currently certified in DOE's compliance certification database are more energy efficient than current federal standards and asserted that DOE should conduct a full analysis to determine whether standards for GSFLs should be amended as the market for GSFLs has changed substantially since the last rulemaking. (ASAP et al., No. 5 at p. 2; CA IOUs, No. 8 at p. 2) ASAP et al. added that the new GSFL standards that required compliance in 2018 eliminated many lamp options and forced manufacturers to overhaul their product offerings. As a result, TLEDs have seen an increase in market supply, at a reduced price. (ASAP et al., No. 5 at p. 2) ASAP et al. added that raising the existing standards for GSFLs will affect their prices, resulting in a market shift to LED technology. ASAP et al. urged DOE to consider the economic and energy saving impacts in its evaluation of higher standards. (ASAP et al., No. 5 at p. 5)

As discussed in section II.A of this document, DOE is required to periodically review its already established energy conservation standards for a covered product no later than 6 years from the issuance of a final rule establishing or amending a standard for a covered product. (42 U.S.C. 6295(m)) This proposed

determination represents the mandatory 6-year review of standards for GSFLs. DOE discusses the methodology used to analyze potential standards in the following subsections of this section IV and the results of the analysis in section V of this document. DOE discusses the tentative conclusion regarding amended standards for GSFLs in section V.C of this document.

ASAP et al. highlighted two potential market failures that may hinder adoption of energy efficient products. One of the market failures was a lack of information about potential savings causing consumers to focus on lower first costs. The other market failure was a scenario where the entity making the purchase decision, such as the landlord, is not incentivized to purchase slightly more expensive energy efficient products over the lowest cost products. (ASAP et al., No. 5 at pp. 5–6) DOE appreciates the feedback regarding potential market failures in the context of amended energy conservation standards for GSFLs. More efficient substitutes for GSFLs and their associated product prices are discussed in section IV.C of this document. The shipments analysis and life-cycle cost analysis are discussed in sections IV.F and IV.E of this document.

B. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including the purpose of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment for this proposed determination include (1) a determination of the scope and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of GSFLs. The key findings of DOE's market assessment are summarized in the following sections. See chapter 3 of the NOPD TSD for a complete discussion of the market and technology assessment.

1. Scope of Coverage

In this analysis, DOE relied on the definition of fluorescent lamp and general service fluorescent lamp in 10 CFR 430.2. A fluorescent lamp is a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following: (1) Any 4-foot medium bipin lamp with a rated wattage of 25 or more; (2) any 2-foot U-shaped lamp with a rated wattage of 25 or more; (3) any 8-foot high output (''HO'') lamp; (4) any 8-foot slimline lamp with a rated wattage of 49 or more; (5) any 4-foot miniature bipin (''miniBP'') standard output (''SO'') lamp with a rated wattage of 25 or more; and (6) any 4-foot miniature bipin high output (''HO'') lamp with a rated wattage of 44 or more. 10 CFR 430.2. GSFL is defined as any fluorescent lamp which can be used to satisfy the majority of fluorescent lighting applications, but does not include any lamp designed and marketed for the following nongeneral application: (1) Fluorescent lamps designed to promote plant growth; (2) fluorescent lamps specifically designed for cold temperature applications; (3) colored fluorescent lamps; (4) impact-resistant fluorescent lamps; (5) reflectorized or aperture lamps; (6) fluorescent lamps designed for use in reprographic equipment; (7) lamps primarily designed to produce radiation in the ultra-violet region of the spectrum; and (8) lamps with a color rendering index (''CRI'') of 87 or greater. 10 CFR 430.2. Any product meeting the definition of GSFL is included in DOE's scope of coverage, though all products within the scope of coverage may not be subject to standards.

In response to the May 2020 RFI, DOE received several comments regarding extending coverage to currently exempt lamp types. ASAP et al., CA IOUs and CEC agreed that DOE should expand the GSFL definition to include impact-resistant fluorescent lamps, lamps with a CRI of 87 or greater, and lamps less than 4-foot in length. ASAP et al., CA IOUs and CEC noted that excluding these lamp types from the current definition of GSFL has created a significant loophole in the GSFL standard resulting in increased sales of inefficient T12 lamps mainly comprised of impact-resistant fluorescent lamps and lamps with a CRI of 87 or greater. (ASAP et al., No. 5 at pp. 2–4; CA IOUs, No. 8 at pp. 2–3; CEC, No. 9 at pp. 1–2) NEMA stated that majority of the lamps with a CRI of 87 or greater are 4-foot T12 lamps and are mainly used in residential applications, while 8-foot T12 lamps are mainly deployed in commercial spaces. (NEMA, No. 6 at p. 12) NEMA commented that DOE could consider including less than 4-foot fluorescent lamps in the scope, however, this lamp category exhibits significantly lower energy use per lamp relative to 4-foot linear fluorescent lamps. NEMA added that it is unaware of any new fluorescent lamp or incandescent reflector lamp products coming to the market. (NEMA, No. 6 at p. 3)

Regarding exempt GSFLs, CEC supports two final rules DOE published on January 19, 2017, amending the definitions of GSL and GSIL[7], which included a revised definition for ''designed and marketed'' that would require markings to be prominently displayed. CEC asserted that DOE should reinstate the revised definition for ''designed and marketed'' in its evaluation of standards for GSFLs. CEC noted that the reinstated definition would require exempt GSFLs to be designed and marketed for their specialty application, limiting their use in general lighting applications. (CEC, No. 9 at pp. 3–4) ASAP et al. added that if DOE decides to not set standards for impact-resistant fluorescent lamps, DOE should add a definition for these lamps to prevent potential loopholes. (ASAP et al., No. 5 at p. 5)

Based on information collected during manufacturer interviews, DOE determined that less than 4-foot fluorescent lamps are a small portion of the market and are decreasing in shipments. Therefore, DOE tentatively determined that standards for less than 4-foot lamps were unlikely to result in significant energy savings. Further, because these lamps are not regulated and yet are decreasing in shipments, DOE tentatively concluded that continuing to exclude these lamp types from the GSFL definition would likely not create a loophole in current standards for GSFLs. Regarding lamps with a CRI of 87 or greater and impact-resistant fluorescent lamps, these are exemptions stated in the statutory definition of ''general service fluorescent lamp'' (42 U.S.C. 6291(30)(B)) and it is not within the scope of DOE's authority in this rulemaking to modify these exemptions for GSFLs. Given that EPCA's statutory definition of ''general service fluorescent lamp'' contains a number of express exclusions for certain categories

[7] On January 19, 2017, DOE published two related final rules amending the definitions of GSL and GSIL by discontinuing certain exemptions for some lamps that Congress originally excluded from those definitions. 82 FR 7276; 82 FR 7322 (''January 2017 Final Rules''). DOE subsequently issued a final rule withdrawing the January 2017 final rules. 84 FR 46661, 46664 (Sep. 5, 2019). The May 2022 Final Rule discussed in section II.B.2 of this document reinstated the amendments to the definitions of GSL and GSIL in the January 2017 Final Rules. 87 FR 27461.

of fluorescent lamps, DOE finds no basis in the language of EPCA to support assertions that the agency's authority to act under section 325(i)(5) of EPCA is unlimited. DOE believes section 325(i)(5) covers additional GSFL *that are not one of the enumerated specialized products that EPCA excludes from coverage* (*See* 42 U.S.C. 6291(30)(B)). 73 FR 13620, 13629 (Mar. 13, 2008). (emphasis added). For these reasons, and for the additional reasons set forth in the March 2008 ANOPR, DOE views ''additional'' GSFL, as that term is used in 42 U.S.C. 6295(i)(5), as lamps that: (1) Meet the technical portion of the statutory definition of ''fluorescent lamp'' . . . (2) can be used to satisfy the majority of fluorescent lighting applications . . . ; (3) *are not within the exclusions from the definition of GSFL specified in 42 U.S.C. 6291(30)(B);* and (4) are ones for which EPCA does not prescribe standards. 74 FR 16920, 16926–16928 (emphasis added).

ASAP et al. commented that DOE should consider adopting a technology-agnostic approach that groups together all products that provide the same general lighting service. ASAP et al. pointed out that TLEDs have gained market share at the expense of GSFLs over time and are marketed as suitable substitutes for GSFLs. ASAP et al. noted that DOE has the broad authority to cover electric lights (42 U.S.C. 6311(2)(B)(v)) and any products that meet certain minimum consumption thresholds (42 U.S.C. 6295(l)(1)). (ASAP et al, No. 5 at p. 3)

DOE agrees with ASAP et al. that TLEDs have gained market share at the expense of GSFLs over time and are marketed as suitable substitutes for GSFLs. However, this proposed determination addresses only GSFLs defined in 10 CFR 430.2. DOE is not authorized to consider any product not meeting this definition, such as TLEDs, as a part of this proposed determination.

2. Technology Options

In the May 2020 RFI, DOE identified several technology options that would be expected to improve the efficiency (*i.e.,* efficacy or lumens per watt) of GSFLs, as measured by the DOE test procedure. To develop a list of technology options, DOE reviewed manufacturer catalogs, recent trade publications, technical journals, and the January 2015 final rule.

In response to the May 2020 RFI, ASAP et al. commented that lamps currently covered by standards include technology options that can be applied to the lamp types that can be added to scope, and DOE should evaluate these technology options for potential scope additions. (ASAP et al., No. 5 at p. 5) As discussed in section IV.B.1 of this NOPD, DOE has tentatively determined that modifications to the scope of lamps included as GSFLs are either not possible or not likely to result in significant energy savings.

DOE conducted research for this NOPD to identify new technology options for GSFLs. DOE identified mercury isotopes as a technology option that can be implemented to improve the efficiency of GSFLs. Mercury used in GSFLs is composed of seven different isotopes, each having a distinct excited state that provides ultraviolet (''UV'') light. The abundance of these isotopes can be altered to optimize the amount of UV light emitted and increase the efficiency of the lamp. For more detail on this technology option see chapter 3 of the NOPD TSD. In summary, for this analysis, DOE considers the technology options shown in Table IV.1 of this document. These options are the same ones presented in the May 2020 RFI with the addition of mercury isotopes. Detailed descriptions of these technology options can be found in chapter 3 of the NOPD TSD.

TABLE IV.1—GSFL TECHNOLOGY OPTIONS

Technology option	Description
Highly Emissive Electrode Coatings	Improved electrode coatings allow electrons to be more easily removed from electrodes, reducing lamp power and increasing overall efficacy.
Higher Efficiency Lamp Fill Gas Composition	Fill gas compositions improve cathode thermionic emission or increase mobility of ions and electrons in the lamp plasma.
Higher Efficiency Phosphors	Phosphors increase the conversion of UV light into visible light.
Glass Coatings	Coatings on inside of bulb enable the phosphors to absorb more UV energy, so that they emit more visible light.
Higher Efficiency Lamp Diameter	Optimal lamp diameters improve lamp efficacy.
Multi-Photon Phosphors	Phosphors emit more than one visible photon for each incident UV photon.
Mercury Isotopes	The abundance of mercury isotopes can be altered to optimize the amount of UV light emitted and increase the efficiency of the lamp.

3. Screening Analysis

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

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

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

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

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

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

Sections 6(b)(3) and 7(b) of appendix A. In summary, if DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be

excluded from further consideration in the engineering analysis.

a. Screened-Out Technologies

For this analysis, DOE found that multi-photon phosphors are still not used in working prototypes or in commercially available products. DOE did not receive any comments on the screening analysis for GSFLs. In this NOPD, as it did in the January 2015 final rule (80 FR 4042, 4061), DOE continues to screen out multi-photon phosphors. Regarding the new technology option identified for this NOPD, DOE was not able to find mercury isotopes utilized in working prototypes or in commercially available products. Therefore, in this NOPD, DOE has screened out mercury isotopes based on technological feasibility. See chapter 4 of the NOPD TSD for further details on the GSFL screening analysis.

b. Remaining Technologies

After reviewing each technology, DOE did not screen out the following technology options and considers them as design options in the engineering analysis:

(1) Highly Emissive Electrode Coatings

(2) Higher Efficiency Lamp Fill Gas Composition

(3) Higher Efficiency Phosphors

(4) Glass Coatings

(5) Higher Efficiency Lamp Diameter

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

4. Product Classes

In general, when evaluating and establishing energy conservation standards, DOE divides the covered product into classes by (1) the type of energy used, (2) the capacity of the product, or (3) any other performance-related feature that affects energy efficiency and justifies different standard levels, considering factors such as consumer utility. (42 U.S.C. 6295(q))

a. Existing Product Classes

For GSFLs, the current energy conservation standards specified in 10 CFR 430.32(n)(4) are based on 12 product classes, separated according to the following three factors: (1) Correlated color temperature (''CCT''); (2) physical constraints of lamps (*i.e.,* lamp shape and length); and (3) lumen package (*i.e.,* standard output (''SO'') versus high output (''HO'')).

NEMA and CA IOUs commented that there is no need for any changes to product classes or groupings, as the GSFL category is a mature and well-established technology and the current GSFL product classes adequately cover the GSFL products on the market today. NEMA commented that separating or combining any GSFL product classes would eliminate some features. (NEMA, No. 6 at p. 3) CA IOUs stated that any new GSFL product classes could create additional loopholes in the GSFL standards. (CA IOUs, No. 8 at p. 3) DOE agrees that the existing product classes sufficiently cover the GSFLs on the market. Therefore, DOE is not proposing any amendments to the existing GSFL product classes.

b. Summary

In this analysis, DOE proposes to maintain separate product classes for GSFLs based on the following three factors: (1) CCT (*i.e.,* less than or equal to versus greater than 4,500 K); (2) physical constraints of lamps (*i.e.,* lamp shape and length); and (3) lumen package (*i.e.,* standard output versus high output). In summary, DOE assesses the product classes shown in Table IV.2 in its analysis.

TABLE IV.2–GSFL PRODUCT CLASSES

Lamp Type	CCT
4-foot medium bipin	≤ 4,500 K
	>4,500 K
2-foot U-shaped	≤ 4,500 K
	>4,500 K
8-foot single pin slimline	≤ 4,500 K
	>4,500 K
8-foot recessed double contact high output	≤ 4,500 K
	>4,500 K
4-foot T5, miniature bipin standard output	≤ 4,500 K
	>4,500 K
4-foot T5, miniature bipin high output	≤ 4,500 K
	>4,500 K

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between efficiency and cost for GSFLs. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the baseline cost, as well as the incremental cost for the product at efficiency levels above the baseline. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

1. Efficiency Analysis

DOE typically uses one of two approaches to develop energy efficiency levels for the engineering analysis: (1) Relying on observed efficiency levels in the market (*i.e.,* the efficiency-level approach), or (2) determining the incremental efficiency improvements associated with incorporating specific design options to a baseline model (*i.e.,* the design-option approach). Using the efficiency-level approach, the efficiency levels established for the analysis are determined based on the market distribution of existing products (in other words, based on the range of efficiencies and efficiency level ''clusters'' that already exist on the market). Using the design option approach, the efficiency levels established for the analysis are determined through detailed engineering calculations and/or computer simulations of the efficiency improvements from implementing specific design options that have been identified in the technology assessment. DOE may also rely on a combination of these two approaches. For example, the efficiency-level approach (based on actual products on the market) may be extended using the design option approach to interpolate to define ''gap fill'' levels (to bridge large gaps between other identified efficiency levels) and/or to extrapolate to the max-tech level (particularly in cases where the max-tech level exceeds the maximum efficiency level currently available on the market).

In this proposed determination, DOE is adopting an efficiency-level approach for GSFLs. In this NOPD, efficiency levels are referred to as efficacy levels (''ELs'') because GSFL efficiency is reported in terms of lumens per watt, which is known as the lamp's efficacy. DOE derives efficacy levels in the efficiency analysis and end-user prices in the cost analysis. DOE estimates the end-user price of GSFLs directly because reverse-engineering a lamp is impractical as the lamps are not easily disassembled. By combining the results of the efficiency analysis and the cost analysis, DOE derives typical inputs for

use in the LCC and NIA. Section IV.C.2 discusses the cost analysis (*see* chapter 5 of the NOPD TSD for further details).

The methodology for the efficiency analysis consists of the following steps: (1) Select representative product classes, (2) select baseline lamps, (3) identify more efficacious substitutes, (4) develop efficacy levels by directly analyzing representative product classes, and (5) scale efficacy levels to non-representative product classes. The details of the efficiency analysis are discussed in chapter 5 of the NOPD TSD.

NEMA commented that since GSFL technologies are fully mature, the previous analytical conclusions continue to be accurate when it comes to use of certain combinations of design options. NEMA strongly opposed any amendments to the current GSFL efficiency levels, stating that since any new research in this market segment is unlikely, the increase in efficiency levels threatens to significantly reduce the product offerings. (NEMA, No. 6 at pp. 7–8)

DOE agrees with NEMA that fluorescent is a more mature technology than LED, meaning that the rates of product development for the former are much slower than the rate for the latter. In the efficiency analysis, DOE reviews products certified in DOE's compliance certification database and offered in manufacturer catalogs and on retailer websites. DOE bases its more efficient substitutes on products currently or formerly offered for sale on the market. The more efficient substitutes and corresponding efficacy levels are discussed in more detail in the following sections.

a. Representative Product Classes

In the case where a covered product has multiple product classes, DOE identifies and selects certain product classes as ''representative'' and concentrates its analytical effort on those classes. DOE chooses product classes as representative primarily because of their high market volumes. DOE then scales its analytical findings for those representative product classes to other product classes that are not directly analyzed. Based on its assessment of product offerings, DOE analyzed as representative all GSFLs with CCTs less than or equal to 4,500 K with the exception of the 2-foot U-shaped lamps, as shown in gray in Table IV.3 of this document. DOE did not directly analyze GSFLs with CCTs greater than 4,500 K or GSFLs that are 2-foot U-shaped lamps of any CCT due to low shipment volumes.

TABLE IV.3—GSFL REPRESENTATIVE PRODUCT CLASSES

Lamp type	CCT
4-foot medium bipin	≤ 4,500 K
	>4,500 K
2-foot U-shaped	≤ 4,500 K
	>4,500 K
8-foot single pin slimline	≤ 4,500 K
	>4,500 K
8-foot recessed double contact high output	≤ 4,500 K
	>4,500 K
4-foot T5, miniature bipin standard output	≤ 4,500 K
	>4,500 K
4-foot T5, miniature bipin high output	≤ 4,500 K
	>4,500 K

b. Baseline Lamps

For each representative product class, DOE generally selects a baseline model as a reference point for each class, and measures changes resulting from potential energy conservation standards against the baseline. The baseline model in each product class represents the characteristics of a product typical of that class (*e.g.,* capacity, physical size). Generally, a baseline model is one that just meets current energy conservation standards, or, if no standards are in place, the baseline is typically the most common or least efficient unit on the market. Typically, the baseline lamp is the most common, least efficacious lamp that meets existing standards. In this analysis, DOE selected as baselines the least efficacious lamps meeting standards that have common attributes for lamps in each product class such as diameter, wattage, CCT, lumen output, and lifetime.

NEMA commented that any review of reported lamp efficiencies for determining baseline models in each product class should start with DOE's compliance certification database. (NEMA, No. 6 at p. 7).

To identify baseline lamps for this analysis, DOE reviewed data in the compliance certification database, product offerings in catalogs and on retailer websites, and manufacturer feedback obtained during interviews. DOE used the efficacy values of lamps in the compliance certification database to select baseline lamps. For representative product classes without certification data at the baseline, DOE used catalog and retailer data to select a baseline lamp. Specifically, DOE selected a baseline lamp from a retailer for the 8-foot single pin (''SP'') slimline product class because DOE was unable to identify any lamp in the compliance certification database that just meets the existing standards with common attributes for lamps in the product class.

DOE is proposing the GSFL baseline lamps specified in Table IV.4. See chapter 5 of the NOPD TSD for more detail.

TABLE IV.4—GSFL BASELINE LAMPS

Representative product class	Lamp diameter	Nominal wattage W	Efficacy ** lm/W	Initial lumen output lm	Mean lumen output lm	Rated life *** hr	CRI
4-foot MBP	T8	32	92.4	3,050	2,910	24,000	85
8-foot SP slimline	T8	59	98.2	5,900	5,430	15,000	82
8-foot RDC HO	T8	86	94.6	8,000	7,520	18,000	78
4-foot T5 MiniBP SO *	T5	28	95.9	2,610	2,453	24,000	85
4-foot T5 MiniBP HO *	T5	54	83	4,500	4,140	30,000	85

* 4-foot T5 MiniBP SO and HO initial lumen output, and mean lumen output given at 25 °C. Initial and mean lumens are calculated from catalog lumens at 35 °C by applying a 10 percent lumen reduction.

** Efficacy is from the compliance certification database, if available, or catalog initial lumen output divided by the American National Standards Institute (''ANSI'') rated wattage if the lamp does not have certification data.

*** Rated life is based on an instant start ballast with 3 hour starts for the 4-foot MBP and 8-foot SP slimline product classes and a programmed start ballasts with 3 hour starts for all other product classes.

c. More Efficacious Substitutes

As part of DOE's analysis, the maximum available efficiency level is the highest efficiency unit currently available on the market. DOE also defines a ''max-tech'' efficiency level to represent the maximum possible efficiency for a given product. DOE selects more efficacious replacements for the baseline lamps considered within each representative product class. DOE considers only design options identified in the screening analysis. More efficacious substitutes were selected such that, where possible, potential substitutions maintained light output within 10 percent of the baseline lamp's light output. DOE also sought to keep characteristics of substitute lamps, such as CCT, CRI, and lifetime, as similar as possible to the baseline lamps. DOE used efficacy data from the compliance certification database to identify more efficacious substitutes in all product classes. DOE ensured that all more efficacious substitutes selected showed an improvement in efficacy of at least one percent from the previous level. DOE identified more efficacious substitutes that typically represent a group of lamps in the compliance certification database with similar efficacy data. The GSFL representative lamps analyzed in the NOPR are shown in Table IV.5 of this document.

The CA IOUs commented that DOE should consider new information regarding the energy efficiency of available GSFLs. The CA IOUs pointed out that new and more efficient fluorescent lamps exceed the max-tech efficiency levels established in January 2015 final rule (*e.g.,* 4-foot T8 lamps can achieve 97 to 100 lm/W compared to the 2015 max-tech value of 92.4 lm/W). (CA IOUs, No. 8 at p. 2)

However, NEMA pointed out in its comments that DOE, while in pursuit of higher efficiencies, should be aware of newer test procedures for fluorescent lamps and the possibility of incorrectly testing efficiency by using a high frequency ballast, thus yielding an inflated efficiency level. If DOE did decide to pursue a new, higher baseline efficiency, then NEMA strongly recommended that DOE verify selected representative products to ensure that the efficiency levels are not inadvertently inflated. (NEMA, No. 6 at pp. 7–8)

NEMA concluded, upon review of the compliance certification database, that only T5 products have any opportunity for minimal efficiency gain and that although the T8 category may appear to have some room for improvement NEMA warns that efficiency gain opportunities may exist but at the expense of dimming functionality. (NEMA, No. 6 at pp. 12–13) Regarding dimming, NEMA stated that the fill gas in reduced wattage fluorescent lamps, krypton, adversely affects dimming capability and thus only 32 W 4-foot T8 lamps are recommended for dimming applications. Although the demand for fluorescent lamps continues a downward trend, an amended standard that eliminates the 32 W category would leave consumers with little choice other than converting to dimmable solid-state lighting. NEMA states that this scenario must be included in the cost-benefit analysis. (NEMA, No. 6 at p. 4)

For this analysis, DOE did consider new information regarding the efficacy of currently available GSFLs as compared to GSFLs available at the time of the January 2015 final rule. As described previously, DOE gathered recent product information from DOE's compliance certification database, manufacturer catalogs, and retailer websites. As shown in Table IV.5, DOE did identify max-tech levels in certain product classes that are higher than the max-tech levels identified in the January 2015 final rule. Regarding 4-foot T8 lamps, reduced wattage lamps available at the max-tech level are around the 100 lm/W value cited by the CA IOUs. However, as pointed out by NEMA, reduced wattage lamps do not maintain full dimming functionality due to the krypton fill gas. Therefore, DOE has established the efficacy level at the efficacy achieved by the most efficient 32 W lamp. DOE notes that the max-tech value for the 32 W 4-foot T8 lamp in this NOPD is higher than the max-tech value for the same product class in the January 2015 final rule.

TABLE IV.5—GSFL MORE EFFICACIOUS SUBSTITUTES

Product classes	EL	Lamp diameter	Nominal wattage W	Efficacy ** lm/W	Initial light output lm	Mean light output lm	Rated life *** hr	CRI
4-foot MBP	EL 1	T8	32	93.6	3,200	3,010	24,000	85
	EL 2	T8	32	94.6	3,100	2,915	24,000	85
	EL 2	T8	25	100.8	2,300	2,230	32,000	85
	EL 2	T8	28	100.3	2,725	2,560	24,000	85
8-foot SP slimline	EL 1	T8	59	99.6	5,900	5,430	18,000	82
	EL 2	T8	59	102.8	6,100	5,730	24,000	85
	EL 2	T8	49	105.4	5,000	4,700	24,000	82
8-foot RDC HO	EL 1	T8	86	99.0	8,200	7,800	18,000	85
	EL 2	T8	86	108.4	8,200	7,710	18,000	85
T5 MiniBP SO *	EL 1	T5	28	97.0	2,610	2,394	30,000	85
	EL 2	T5	28	98.8	2,610	2,427	36,000	85
	EL 3	T5	28	100.8	2,610	2,408	24,000	82
	EL 3	T5	26	101.0	2,610	2,394	25,000	85
T5 MiniBP HO *	EL1	T5	54	85.6	4,500	4,185	30,000	85
	EL 1	T5	49	88.8	4,365	4,140	36,000	85
	EL 2	T5	54	89.8	4,500	4,050	30,000	82
	EL 2	T5	47	90	4,320	3,969	30,000	84
	EL 3	T5	54	96.4	4,365	4,140	36,000	85
	EL 3	T5	49	96.5	4,500	4,005	30,000	85

* 4-foot T5 MiniBP SO and HO rated efficacy, initial lumen output, and mean lumen output given at 25 °C. Initial and mean lumens are calculated from catalog lumens at 35°C by applying a 10 percent lumen reduction.

** Efficacy is from the compliance certification database, if available, or catalog/retailer initial lumen output divided by the ANSI rated wattage if the lamp does not have certification data.

*** Rated life is based on an instant start ballast with 3 hour starts for the 4-foot MBP and 8-foot SP slimline product classes and a programmed start ballasts with 3 hour starts for all other product classes.

d. Efficacy Levels

After identifying more efficacious substitutes for each of the baseline lamps, DOE develops ELs based on the consideration of several factors, including: (1) The design options associated with the specific lamps being studied (*e.g.,* grades of phosphor); (2) the ability of lamps across wattages to comply with the standard level of a given product class; and (3) max-tech level. Although fluorescent lamps are a component of a system that often includes ballasts and fixtures, DOE based its ELs only on lamp performance because GSFLs are the subject of this proposed determination. DOE acknowledges, however, that the energy consumption of fluorescent lamps is related to the ballast on which they operate. Therefore, DOE pairs each lamp with an appropriate ballast to better approximate real-world conditions (see section IV.C.1.e of this document for more information).

To determine appropriate ELs, DOE used efficacy values of lamps certified in its compliance certification database. DOE considered only ELs at which a full wattage version of the lamp type was available because reduced wattage lamps have limited dimming capability.

Table IV.6 summarizes the ELs developed by the engineering analysis for GSFLs in this NOPD.

TABLE IV.6—SUMMARY OF ELS FOR GSFL REPRESENTATIVE PRODUCT CLASSES

CCT	Lamp type	Efficacy level (lm/W)		
		1	2	3
≤4,500 K	4-foot MBP	93.6	94.6	N/A
	8-foot SP slimline	99.6	102.8	N/A
	8-foot RDC HO	99.0	108.4	N/A
	4-foot T5 MiniBP SO	97.0	98.8	100.8
	4-foot T5 MiniBP HO	85.6	89.8	96.4

e. Lamp-and-Ballast Systems

Because fluorescent lamps operate on a ballast in practice, DOE analyzed lamp-and-ballast systems in the engineering analysis. DOE determined that pairing a lamp with a ballast more accurately captures real-world energy use and light output.

DOE considered two different scenarios in the engineering analysis: (1) A lamp replacement scenario in which the consumer selects a replacement lamp that can operate on the installed ballast and (2) a lamp-and-ballast replacement scenario in which the consumer selects a new lamp and also selects a new ballast with potentially different performance characteristics, such as ballast factor [8] (''BF'') or ballast luminous efficiency [9] (''BLE''). DOE only selected replacement systems that do not have higher energy consumption than the baseline system.

For both substitution scenarios, DOE determined energy consumption by calculating the system input power of the lamp-and-ballast system. The system input power represents the energy consumption rate of both the lamp and ballast, and therefore is greater than the rated power of the lamp alone. In addition to the rated lamp power, the system input power is also affected by the number of lamps operated per ballast, BLE of ballast used, starting method, and the BF of that ballast.

f. Scaling to Other Product Classes

As noted previously, DOE analyzes the representative product classes directly. DOE then scales the levels developed for the representative product classes to determine levels for product classes not analyzed directly. For GSFLs, the representative product classes analyzed were all lamp types with CCTs ≤ 4,500 K, with the exception of 2-foot U-shaped lamps. For the 2-foot U-shaped product class, DOE scaled from the efficacy levels developed for the 4-foot MBP product class.

Efficacy levels developed for lamp types with CCTs less than or equal to 4,500 K were scaled to obtain levels for higher CCT product classes not analyzed. DOE found variation in the percent reduction in efficacy associated with increased CCT among product classes and therefore chose to develop a separate scaling factor for each product class. DOE developed scaling factors by identifying pairs and comparing the efficacies between the same lamp type from the same manufacturer within the same product class but that differed by CCT.

For 2-foot U-shaped lamps, DOE compared catalog and certification data for 2-foot U-shaped lamps with equivalent 4-foot MBP lamps, and determined an average efficacy reduction of 6 percent from the 4-foot MBP lamps was appropriate. For the higher CCT product classes, DOE determined a 4 percent scaling factor for the 4-foot MBP product class, 2 percent scaling factor for the 2-foot U-shaped product class, 3 percent scaling factor for the 8-foot SP slimline product class, 3 percent scaling factor for the 8-foot RDC HO product class, 6 percent scaling factor for the T5 SO product class, and 6 percent scaling factor for the T5 HO product class were appropriate.

Regarding the max efficacy achievable by 2-foot U-shaped lamps, NEMA commented that the information outlined in DOE's compliance certification database is available and that the sales of U-shaped 1 5/8'' lamps are lower than U-shaped 6'' lamps sales. (NEMA, No. 6 at p. 4) NEMA further added that the scaling factors developed in the prior rulemaking pertaining to the average efficacy difference between 2-foot MBP and 4-foot MBP lamps, and between lamps with CCT less than 4,500 K and CCT greater than 4,500 K, are still adequate and do not require any revision. (NEMA, No. 6 at p. 8)

As described previously in this section, DOE has calculated scaling factors for each product class to scale from lamps with CCTs less than 4,500 K to lamps with CCTs greater than 4,500 K. These scaling factors are the same as those used in the January 2015 final rule with the exception of the scaling factors for the 8-foot RDC HO (3 percent instead of 4 percent) and T5 HO (6 percent instead of 7 percent) product classes. DOE also calculated a scaling factor for 2-foot U-shaped lamps and found it to be 6 percent instead of the 8 percent

[8] BF is defined as the output of a ballast delivered to a reference lamp in terms of power or light divided by the output of the relevant reference ballast delivered to the same lamp (ANSI C82.13–2002). Because BF affects the light output of the system, manufacturers design ballasts with a range of ballast factors to allow consumers to vary the light output, and thus power consumed, of a fluorescent system. See the fluorescent lamp ballast (''FLB'') final determination (published on October 22, 2019, 85 FR 81558) TSD Chapter 3. The FLB ECS final determination materials are available at *www.regulations.gov/docket?D=EERE-2015-BT-STD-0006*.

[9] BLE is the ratio of the total lamp arc power to ballast input power, multiplied by the appropriate frequency adjustment factor.

used in the January 2015 final rule. DOE determined the updated scaling factors by considering efficacy data for lamps in the compliance certification database and catalog data. DOE updated the scaling factor in cases where both data sources indicated that the existing scaling factors do not capture the difference in efficacy of the scaled lamp types. DOE determined that the updated scaling factors more accurately represent lamps currently on the market. Regarding the different leg spacings of 2-foot U-shaped lamps, DOE compared the scaled ELs to available certification data and confirmed that 2-foot U-shaped lamps with both 6-inch and 1 5/8-inch leg spacings can meet the analyzed ELs. Table IV.7 summarizes the ELs for all GSFL product classes.

TABLE IV.7—SUMMARY OF ALL EFFICACY LEVELS FOR GSFLS

CCT	Lamp type	Efficacy level		
		1	2	3
≤4,500 K	4-foot medium bipin	93.6	94.6	
	2-foot U-shaped	88.0	88.9	
	8-foot single pin slimline	99.6	102.8	
	8-foot recessed double contact HO	99.0	108.4	
	4-foot T5 miniature bipin SO	97.0	98.8	100.8
	4-foot T5 miniature bipin HO	85.6	89.8	96.4
>4,500 K	4-foot medium bipin	89.9	90.8	
	2-foot U-shaped	86.2	87.1	
	8-foot single pin slimline	96.6	99.7	
	8-foot recessed double contact HO	96.0	105.1	
	4-foot T5 miniature bipin SO	91.2	92.9	94.8
	4-foot T5 miniature bipin HO	80.5	84.4	90.6

2. Cost Analysis

The cost analysis portion of the Engineering Analysis is conducted using one or a combination of cost approaches. The selection of cost approach depends on a suite of factors, including the availability and reliability of public information, characteristics of the regulated product and the availability and timeliness of purchasing the GSFLs on the market. The cost approaches are summarized as follows:

- *Physical teardowns:* Under this approach, DOE physically dismantles a commercially available product, component-by-component, to develop a detailed bill of materials for the product.
- *Catalog teardowns:* In lieu of physically deconstructing a product, DOE identifies each component using parts diagrams (available from manufacturer websites or appliance repair websites, for example) to develop the bill of materials for the product.
- *Price surveys:* If neither a physical nor catalog teardown is feasible (for example, for tightly integrated products such as fluorescent lamps, which are infeasible to disassemble and for which parts diagrams are unavailable) or cost-prohibitive and otherwise impractical (*e.g.,* large commercial boilers), DOE conducts price surveys using publicly available pricing data published on major online retailer websites and/or by soliciting prices from distributors and other commercial channels.

In the present case, DOE conducted the analysis using the price survey approach. Typically, DOE develops manufacturing selling prices (''MSPs'') for covered products and applies markups to create end-user prices to use as inputs to the LCC analysis and NIA. Because GSFLs are difficult to reverse-engineer (*i.e.,* not easily disassembled), DOE directly derives end-user prices for the lamps covered in this proposed determination. The end-user price refers to the product price a consumer pays before tax and installation. Because GSFLs operate with a ballast in practice, DOE also incorporated prices for ballasts that operate those lamps.

In its review of publicly available prices for GSFLs, DOE observed a range of end-user prices paid for a lamp, depending on the distribution channel through which the lamp was purchased. DOE identified the following three main distribution channels: Small consumer-based distributors (*i.e.,* internet retailers, drug stores); large retail distributors: (*i.e.,* home centers, mass merchants, hardware stores, and electrical distributors); and state procurement.

For each distribution channel, DOE calculated an average price for the representative lamp unit at each EL using prices for the representative lamp unit and similar lamp models at the same level. Because the lamps included in the calculation were equivalent to the representative lamp unit in terms of performance and utility (*i.e.,* had similar wattage, CCT, shape, base type, CRI, and technology), DOE considered the pricing of these lamps to be representative of the technology of the EL. DOE developed average end-user prices for the representative lamp units sold in each of the three main distribution channels analyzed. DOE then calculated an average weighted end-user price using estimated shipments through each distribution channel. Table IV.8 summarizes the weightings used for the GSFL main distribution channels. Table IV.9 summarizes the weightings within the large retail distributors. The cost analysis methodology is explained in more detail in chapter 5 of the NOPD TSD.

TABLE IV.8—WEIGHTINGS FOR GSFL DISTRIBUTION CHANNELS

Main Channels	Weighting (%)
State Procurement	10
Large retail distributors	70
Online Retailers	20

TABLE IV.9—WEIGHTINGS WITHIN LARGE RETAIL DISTRIBUTOR CHANNEL

Main channels	Description	GSFL weighting (%)
Large Retail Distributors	Mass merchants and Home centers	11

TABLE IV.9—WEIGHTINGS WITHIN LARGE RETAIL DISTRIBUTOR CHANNEL—Continued

Main channels	Description	GSFL weighting (%)
	Hardware stores	1
	Electrical distributors	88

D. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of GSFLs at different efficiencies in representative U.S. single-family homes, multi-family residences, and commercial buildings, and to assess the energy savings potential of increased GSFL efficiency. The energy use analysis estimates the range of energy use of GSFLs in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Tables 6.4.1 through 6.4.10 in section 6.4 of the January 2015 final rule TSD present the average energy consumption for each GSFL product class and efficiency level. DOE has tentatively concluded that the current average energy consumption for these products is comparable to the estimates developed in the January 2015 final rule, as the wattage options have not changed substantially for most products classes. Max-tech parameters, including system arc power, BF, and BLE have been updated to account for the max-tech levels described in section IV.C of this proposed determination. NEMA suggested that the 2015 DOE Lighting Market Characterization Report [10] (2015 LMC) should be used for operating hours for GSFLs. (NEMA, No. 6 at pp.8–9). DOE agrees that the operating hours in the 2015 LMC are appropriate. The 8.1 average daily operating hours in the commercial sector from the 2015 LMC translate to lower energy use and thus lower potential energy savings from GSFLs compared to the estimated 11.1 average daily operating hours in the commercial sector in the January 2015 final rule.

Chapter 6 of the NOPD TSD provides details on DOE's energy use analysis for GSFLs.

E. Life-Cycle Cost and Payback Period Analysis

DOE conducts LCC and PBP analyses to evaluate the economic impacts on individual consumers of potential energy conservation standards for GSFLs. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE typically uses the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Based on the rapidly declining shipments of GSFLs, limited and uncertain energy savings opportunity, and potential impacts on manufacturers, as discussed in sections IV.D, IV.F, and V.C of this NOPD, DOE did not conduct LCC and PBP analyses to evaluate the economic impacts on individual consumers of amended GSFL energy conservation standards.

F. Shipments Analysis

DOE uses projections of annual product shipments to calculate the national impacts of potential amended or new energy conservation standards on energy use, NPV, and future manufacturer cash flows.[11] The shipments model takes an accounting approach in tracking market shares of each product class and the vintage of units in the stock. Stock accounting uses product shipments as inputs to estimate the age distribution of in-service product stocks for all years. The age distribution of in-service product stocks is a key input to calculations of both the NES and NPV, because operating costs for any year depend on the age distribution of the stock. DOE used a model coded in the Python programming language to compute an estimate of shipments and stock in each projection year up through the end of the analysis period (2021–2055). DOE included 4-foot T8, 4-foot T5 standard output and 4-ft T5 high output representative lamps in its shipments model. While T8 lamps represent the largest part of the GSFL market, the T5 product classes have engineering options with lower wattage options at higher ELs that may result in energy savings for consumers. The 8-foot recessed double-contact high-output product class does not include any lamp options at higher ELs that reduce energy compared to the baseline lamp, and the only lamp option in the 8-foot slimline product class that would reduce energy consumption does not offer the same utility as the other representative lamp options because its lumen output is more than 10 percent lower. These lamp categories with smaller markets and without potential energy savings at higher efficiency levels were excluded from analysis due to the fact that there would be either no or miniscule savings.

DOE seeded this model with estimates of total historical shipments derived from the January 2015 final rule (up through data year 2015) and sales indices of the linear lamp market published by NEMA[1] (for data years 2015—2020). These indices show a steep decline of GSFL sales for lamps of all types over this five year period. In order to account for LED competition for GSFL applications, DOE included representative T8 and T5 LED replacement lamps in the shipments model (see the chapter 8 of the NOPD TSD for details). DOE assumed that in each shipments projection year, demand for replacements would be the only source of demand for new lamp purchases. Demand for replacement

[10] 2015 U.S. Lighting Market Characterization. U.S. Department of Energy, available at *www.energy.gov/eere/ssl/2015-us-lighting-market-characterization*.

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

lamps in each year is allotted among available replacement options using a consumer choice model that derives market share based on the features of available representative lamps. This model includes consumer sensitivity to price, lifetime, energy savings, and mercury content as measured in a market study [12] of consumer preference for lamps. Though these parameters represent the preference of residential consumers, DOE adopted them for the linear lamp market in the absence of available alternatives. DOE expects that because these parameters place more weight on first-cost than other attributes, the model results in a conservative estimate of LED adoption since commercial and industrial consumers are more likely to weigh decreases in operating costs in purchasing decisions.

DOE assumes that the purchase price of TLED lamp options will drop over the course of the analysis period due to price learning associated to cumulative shipments of LED lamps of all types (consistent with the price learning analysis detailed in a LBNL report on the impact of the GSL backstop [13]). Further, DOE assumes that while consumers may replace fluorescent lamps with either a fluorescent or TLED lamp option, those with failing LEDs will only opt for an LED replacement. Lastly, DOE applies an efficiency trend, based on a fit to projections of linear fixture efficiency from the 2019 Solid State Lighting Report,[14] to the most efficient LEDs available. Over the course of the shipments projection period, the application of this trend expands the range of available LED efficiencies and attempts to account for increases in LED market share that would occur as a result of this shift. Due in part to these assumptions, the shipments model projects that the linear lamp market continues to shift quickly towards LED over the analysis period in the no-new-standards case. See the chapter 8 of the NOPD TSD for more details.

DOE also assumed that a fixed fraction of all tubular lamp stock in each year will leave the market due to retrofits or renovation with integrated LED fixtures. This assumption has the effect of reducing the number of lamps that might retire, and therefore the size of the market, in each year.

NEMA commented that their data shows a much more aggressive decline than the assumption in the January 2015 final rule which accounts for the penetration of LED lighting into GSFL markets. (NEMA, No. 6 at p. 10). Additionally, during manufacturer interviews, manufacturers commented that the market is shifting to LED technology in the GSFL markets. Most manufacturers commented that there has been a 20 to 40 percent decline in shipments for GSFLs each year that is expected to continue absent new standards for GSFLs. This decline is greater than that projected in the January 2015 final rule, and more in line with the projected market share estimated in this proposed determination.

G. National Energy Savings

The NIA assesses the NES and the NPV from a national perspective of total consumer costs and savings that would be expected to result from new or amended standards at specific efficiency levels.[15] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data estimated or provided from other sources. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of GSFLs sold from 2026 through 2055.

DOE evaluates the effects of new or amended standards by comparing a case without such standards with standards-case projections. The no-new-standards case characterizes energy use and consumer costs for each GSFL class in the absence of new or amended energy conservation standards. The efficiency distribution is projected using a consumer-choice model, as discussed in section IV.F, and takes into account competition from TLED substitutes. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels (*i.e.,* the ELs or standards cases) for that class. For the standards cases, consistent with the approach in the no-new-standards case, DOE considers how a given standard would likely affect the market shares of GSFLs with efficiencies greater than the standard and TLED substitutes using the consumer-choice model discussed previously.

The only potential standard for which NES and NPV were calculated was the max-tech levels, where the standard for each GSFL product class is set at the maximum available level. NES and NPV at this candidate standard define an upper bound on how much savings could be realized at any lower standard.

Because a LCC analysis was not performed for consumers of lamps covered under this analysis, DOE estimated the per-unit annual energy use of available GSFL options based on nominal wattages derived during the engineering analysis (described in section IV.C) and separate average hours-of-use (HOU) estimates for individual sectors.

To estimate the HOU for linear lamps in the residential sector, DOE scaled the average HOU estimated for A-type medium screw-base lamps in DOE's 2016 GSL NOPR analysis. 81 FR 14528 (Mar. 16, 2016) The national-average HOU for A-type lamps in the residential sector was estimated to be 2.3 hours/day based on DOE's 2016 GSL NOPR analysis, which considered a number of field metering studies conducted across the U.S. DOE developed a scaling factor for linear lamps using the distribution of room types that linear lamps are typically installed in and the HOU associated with those room types, relative to the distribution of room types and associated HOU for A-type lamps. Room-specific average HOU data came from NEEA's 2014 Residential Building Stock Assessment Metering Study (RBSAM) [16] and room distribution data by lamp type came from a 2010 KEMA report.[17] DOE estimated the national weighted-average HOU of linear lamps to be 2.1 hours per day in the residential sector. See chapter 9 of this NOPD TSD for more detail.

In order to estimate HOU for linear lamps in the commercial sector, DOE took HOU estimates from the 2015 LMC of linear fluorescent lamps for the commercial buildings present in that report. The building-specific HOU for

[12] Steven Krull and Dan Freeman, ''Next Generation Light Bulb Optimization'' (Pacific Gas and Electric Company, February 10, 2012), *https://www.etcc-ca.com/sites/default/files/OLD/images/stories/Lighting_Conjoint_Study_v020712f.pdf.*

[13] C.L.S. Kantner et al., ''Impact of the EISA 2007 Backstop Requirement on General Service Lamps'' (Berkeley, CA: Lawrence Berkeley National Laboratory, December 2021), *https://eta.lbl.gov/publications/impact-eisa-2007-backstop-requirement.*

[14] Navigant Consulting, Inc., ''Energy Savings Forecast of Solid-State Lighting in General Illumination Applications'' (Washington, DC: U.S. Department of Energy, December 2019), *https://www.energy.gov/eere/ssl/downloads/2019-ssl-forecast-report.*

[15] The NIA accounts for impacts in the 50 states and Washington, DC.

[16] Ecotope Inc. *Residential Building Stock Assessment: Metering Study.* 2014. Northwest Energy Efficiency Alliance: Seattle, WA. Report No. E14–283. (Last accessed December 5, 2019.) *https://neea.org/data/residential-building-stock-assessment.*

[17] KEMA, Inc. *Final Evaluation Report: Upstream Lighting Program: Volume 2.* 2010. California Public Utilities Commission, Energy Division: Sacramento, CA. Report No. CPU0015.02. (Last accessed March 14, 2016.) *https://www.calmac.org/publications/FinalUpstreamLightingEvaluationReport_Vol2_CALMAC.pdf.*

these lamps was weighted by the relative floor space of each building type as reported in the 2015 LMC. The national weighted-average HOU for linear lamps GSLs in the commercial sector were estimated at 8.1 hours per day.

DOE derived LED alternatives to the T8 GSFL lamps represented in this analysis by looking at the efficiency and estimated cost of TLED lamps found in manufacturer catalogs and retailer websites (in order of data priority). DOE chose seven total TLED lamps ranging from 120 to 177 lumens per watt, and an estimated pre-tax price of $8.78 to $14.20 in 2021 USD. DOE assumed that the efficiency of T5 and 8-foot TLED lamps would be the same as LED T8 lamps, and estimated their wattage by assuming they would have the same lumen output of their GSFL competitors described in the engineering analysis. Like with the GSFLs, the annual energy use of TLED lamps was estimated using average hours of use and wattage. The price of any given T5 or 8-foot LED alternative is estimated as the sum of (a) the cost of the least efficient GSFL option of that lamp type, and (b) the incremental cost between the least efficient T8 GSFL and the LED T8 with the same efficiency as the given lamp. See the chapter 8 and chapter 9 of the NOPD TSD for more details.

DOE uses a model written in the python programming language to calculate the energy savings and the national consumer costs and savings from each EL.

Table IV.10 summarizes the inputs and methods DOE used for the NIA analysis for the NOPD.

TABLE IV.10—SUMMARY OF INPUTS AND METHODS FOR THE NATIONAL IMPACT ANALYSIS

Inputs	Method
Shipments	Annual shipments from shipments model.
Modeled Compliance Date of Standard	2026.
Annual Energy Consumption per Unit	Energy consumption values of modeled representative lamps are a function of EL.
Total Installed Cost per Unit	Purchase price of modeled representative lamps.
Electricity Prices	AEO2021 projections (to 2050) and extrapolation through 2055.
Energy Site-to-Primary and FFC Conversion	A time-series conversion factor based on AEO2021.
Discount Rate	3 percent and 7 percent.
Present Year	2022 (the year to which NPV is discounted).

1. Product Efficiency Trends

A key component of the NIA is the trend in energy efficiency projected for the no-new-standards case and each of the standards cases. DOE uses a shipments model that implements consumer choice over available lamp options in each year in order to compute the efficiency distribution. At each standard level and the no-new-standards case, the consumer choice model uses consumer sensitivity to price, relative energy savings, lamp lifetime, and mercury content to estimate the efficiency distribution of purchases in each year.

2. National Energy Savings

The NES analysis involves a comparison of national energy consumption of the considered products between each potential standards case and the case with no new or amended energy conservation standards. DOE calculated the national energy consumption by multiplying the number of units (stock) of each product (by vintage or age) by the unit energy consumption (also by vintage). DOE calculated annual NES based on the difference in national energy consumption for the no-new-standards case and for each higher efficiency standard case. DOE estimated energy consumption and savings based on site energy and converted the electricity consumption and savings to primary energy (*i.e.,* the energy consumed by power plants to generate site electricity) using annual conversion factors derived from *AEO2021.* Cumulative energy savings are the sum of the NES for each year over the timeframe of the analysis.

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

3. Net Present Value Analysis

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

DOE assumed that the price of TLED lamps would decrease over the analysis period due to price learning, as described in section IV.F of this document, which affected the market share projected by the shipments model. The gradual decrease in LED prices also affects the total installed cost over the analysis period, and has the effect of reducing lamp costs in both the standards- and no-new-standards cases as well as the incremental cost of a standard.

The operating cost savings are energy cost savings, which are calculated using

[18] For more information on NEMS, refer to *The National Energy Modeling System: An Overview 2009,* DOE/EIA–0581(2009), October 2009. Available at *www.eia.gov/analysis/pdfpages/0581(2009)index.php* (last accessed March 4, 2022).

the estimated energy savings in each year and the projected price of the appropriate form of energy. To estimate energy prices in future years, DOE multiplied the average regional energy prices by the projection of annual national-average residential energy price changes in the Reference case from *AEO2021,* which has an end year of 2050. To estimate price trends after 2050, DOE assumed that prices would remain constant after 2050.

In calculating the NPV, DOE multiplies the net savings in future years by a discount factor to determine their present value. For this NOPD, DOE estimated the NPV of consumer benefits using both a 3-percent and a 7-percent real discount rate. DOE uses these discount rates in accordance with guidance provided by the Office of Management and Budget (''OMB'') to Federal agencies on the development of regulatory analysis.[19] The discount rates for the determination of NPV are in contrast to the discount rates used in the LCC analysis, which are designed to reflect a consumer's perspective. The 7-percent real value is an estimate of the average before-tax rate of return to private capital in the U.S. economy. The 3-percent real value represents the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.

V. Analytical Results and Conclusions

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

A. Economic Impacts on Individual Consumers

Based on the lack of energy savings and declining shipments of GSFLs, as discussed in sections IV.D and IV.F of this NOPD, DOE did not conduct LCC and PBP analyses to evaluate the economic impacts on individual consumers of amended GSFL energy conservation standards.

B. National Impact Analysis

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

1. Significance of Energy Savings

To estimate the energy savings attributable to potential amended standards for GSFLs, DOE compared their energy consumption under the no-new-standards case to their anticipated energy consumption under the max-tech levels for 4-foot T8 and 4-foot standard and high output T5 GSFL product classes. The savings are measured over the entire lifetime of products purchased in the 30-year period that begins in the year of anticipated compliance with amended standards (2026–2055).

The NIA model projected relatively low potential savings from a max-tech standard level and that the majority of savings realized by setting a GSFL standard are the result of incurring quicker market shift to LED alternatives, rather than the reduction in energy consumption of a constant GSFL market share. Further, because the entire tubular lamp market is projected to decline over the analysis period, most savings occur in the first decade of a potential standard. For more details, see chapters 9 and 10 of the NOPD TSD.

Table V.1 presents DOE's projections of the NES the max-tech levels considered for GSFLs. The savings were calculated using the approach described in section IV.G of this document.

TABLE V.1—CUMULATIVE NATIONAL ENERGY SAVINGS FOR GSFLS (QUADS); 9 YEARS OF SHIPMENTS (2026–2034) AND 30 YEARS OF SHIPMENTS (2026–2055)

	Max tech savings	
	9 years shipments (2026–2034)	30 years shipments (2026–2055)
Site Energy	0.01	0.01
FFC Energy	0.03	0.03

OMB Circular A–4 [20] requires agencies to present analytical results, including separate schedules of the monetized benefits and costs that show the type and timing of benefits and costs. Circular A–4 also directs agencies to consider the variability of key elements underlying the estimates of benefits and costs. For this proposed determination, DOE undertook a sensitivity analysis using 9 years, rather than 30 years, of product shipments. The choice of a 9-year period is a proxy for the timeline in EPCA for the review of certain energy conservation standards and potential revision of and compliance with such revised standards.[21] The review timeframe established in EPCA is generally not synchronized with the product lifetime, product manufacturing cycles, or other factors specific to GSFLs. Thus, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology. The NES sensitivity analysis results based on a 9-year analytical period are presented in Table V.1. The impacts are counted over the

[19] United States Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Section E. Available at *www.whitehouse.gov/omb/memoranda/m03-21.html* (last accessed March 4, 2022).

[20] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Available at *obamawhitehouse.archives.gov/omb/circulars_a004_a-4/* (last accessed March 4, 2022).

[21] Section 325(m) of EPCA requires DOE to review its standards at least once every 6 years, and requires, for certain products, a 3-year period after any new standard is promulgated before compliance is required, except that in no case may any new standards be required within 6 years of the compliance date of the previous standards. If DOE makes a determination that amended standards are not needed, it must conduct a subsequent review within three years following such a determination. As DOE is evaluating the need to amend the standards, the sensitivity analysis is based on the review timeframe associated with amended standards. While adding a 6-year review to the 3-year compliance period adds up to 9 years, DOE notes that it may undertake reviews at any time within the 6-year period and that the 3-year compliance date may yield to the 6-year backstop. A 9-year analysis period may not be appropriate given the variability that occurs in the timing of standards reviews and the fact that for some products, the compliance period is 5 years rather than 3 years.

lifetime of GSFLs purchased in 2026–2034.

2. Net Present Value of Consumer Costs and Benefits

DOE estimated the cumulative NPV of the total costs and savings for consumers that would result from the max-tech levels considered for GSFLs. In accordance with OMB's guidelines on regulatory analysis,[22] DOE calculated NPV using both a 7-percent and a 3-percent real discount rate. Table V.2 shows the consumer NPV results with impacts counted over the lifetime of products purchased in 2026–2055.

TABLE V.2—CUMULATIVE NET PRESENT VALUE OF CONSUMER BENEFITS FOR GSFLS (BILLIONS OF 2021 USD); 9 YEARS OF SHIPMENTS (2026–2034) AND 30 YEARS OF SHIPMENTS (2026–2055)

Discount rate	Maximum tech standard	
	9 Years of shipments (2026–2034)	30 Years of shipments (2026–2055)
3 percent	0.21	0.26
7 percent	0.15	0.18

The NPV results based on the aforementioned 9-year analytical period are also presented in Table V.2. The impacts are counted over the lifetime of GSFLs purchased in 2026–2034. As mentioned previously, such results are presented for informational purposes only and are not indicative of any change in DOE's analytical methodology or decision criteria.

C. Proposed Determination

As required by EPCA, this NOPD analyzes whether the Secretary should issue a notification of determination not to amend standards for GSFLs based on DOE's consideration of whether amended standards would be technologically feasible, result in significant conservation of energy, and be cost effective. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)) Any new or amended standards issued by the Secretary would be required to comply with the economic justification and other requirements of 42 U.S.C. 6295(o).

1. Technological Feasibility

EPCA mandates that DOE consider whether amended energy conservation standards for GSFLs would be technologically feasible. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(B)) DOE has tentatively determined that there are technology options that would improve the efficacy of GSFLs. These technology options are being used in commercially available GSFLs and therefore are technologically feasible. Hence, DOE has tentatively determined that amended energy conservation standards for GSFLs are technologically feasible.

2. Cost Effectiveness

EPCA requires DOE to consider whether energy conservation standards for GSFLs would be cost effective through an evaluation of the savings in operating costs throughout the estimated average life of the covered GSFLs compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the covered GSFLs which are likely to result from the imposition of an amended standard. (42 U.S.C. 6295(m)(1)(A), 42 U.S.C. 6295(n)(2)(C), and 42 U.S.C. 6295(o)(2)(B)(i)(II)) In the absence of a LCC analysis, DOE considers NPV estimated by the NIA model to estimate the potential monetary benefits of amended standards for GSFLs. (*See* results in Table V.2) The inputs for determining the NPV are (1) total annual installed cost, (2) total annual operating costs (energy costs and repair and maintenance costs), and (3) a discount factor to calculate the present value of costs and savings. DOE observes that most of the estimated NPV resulting from a potential standard comes from operating cost savings associated to a slightly faster market transition to LED alternatives, rather than savings associated to lower energy consumption for GSFL consumers.

3. Significant Conservation of Energy

EPCA also mandates that DOE consider whether amended energy conservation standards for GSFLs would result in significant conservation of energy. (42 U.S.C. 6295(m)(1)(A) and 42 U.S.C. 6295(n)(2)(A)) DOE observed that a max-tech FFC energy savings of 0.03 quads over 30 years of shipments represents an approximately 1 percent decrease in total energy use of lamps shipped in the period 2026–2055. In addition, the model used to estimate these savings projects that most of this reduction comes in incurring a faster market shift to solid state lighting rather than a reduction in energy use among existing GSFL consumers.

DOE also notes that GSFLs are manufactured and sold at standard wattage levels, which restricts the effect of efficiency gains to increasing the amount of light provided by GSFLs rather than directly reducing energy consumption. For 4-foot T8 GSFLs, which represent the bulk of GSFL shipments, the same wattage options are available at the max tech standard level as at the baseline, so there is no reason to believe that GSFL consumers will use less energy as a result of a standard. The 0.02 FFC quads of potential energy savings associated with these lamps is thus uncertain, as consumers may simply continue to purchase a GSFL of the same wattage as their current lamp, rather than shift to a lower wattage lamp or different lighting technology. Consumers who have not already transitioned to LED lighting, once the vast majority of the market has done so, may be less inclined to do so than the typical consumer modeled by the consumer-choice model.

The 8-foot recessed double-contact high-output product class and the 8-foot slimline product class do not include any lamp options at higher ELs that would reduce energy compared to the baseline lamp, with the exception of one lamp option in the 8-foot slimline product class that doesn't offer the same utility as the other representative lamp options because its lumen output is more than 10 percent lower. Thus there is no potential energy savings from more efficient GSFLs for the 8-foot product classes.

[22] U.S. Office of Management and Budget. *Circular A–4: Regulatory Analysis.* September 17, 2003. Available at *obamawhitehouse.archives.gov/omb/circulars_a004_a-4/* (last accessed March 4, 2022).

The potential FFC energy savings from the remaining (4-foot T5 standard and high output) product classes is only 0.01 quads over 30 years of shipments. While these product classes do offer a lower wattage option at max tech, in addition to an option with the same wattage as the baseline lamp, DOE notes that for standard output T5 lamps, the lower wattage lamp costs more than the baseline-equivalent wattage option, and for the high output T5 lamps, the lower wattage lamp costs similar to the baseline-equivalent option, again suggesting uncertainty that consumers will switch to a lower wattage lamp. Additionally, most potential energy savings would come from consumers switching to LEDs, and as with 4-foot T8 GSFLs, there is no guarantee that consumers will switch to LEDs as a result of a standard, rather than continue to purchase GSFLs of the same wattage as their current lamp.

Further, while consumers historically might save energy under a standard by retrofitting their systems with lower ballast factor ballasts to reduce the operating wattage of their lamps (while retaining light output), it appears unlikely in the current market that consumers would retrofit their ballasts in this way as opposed to installing a solid-state lighting solution. This removes the potential lamp-and-ballast replacement approach as a strategy to save energy, and consequently this approach was not modeled in this analysis of potential energy savings.

4. Further Considerations

As discussed previously, any amended standards for GSFLs would be required to comply with the economic justification and other requirements of 42 U.S.C. 6295(o). Based on the: (1) Uncertainty of potential energy savings discussed in detail in section V.C.3 of this document; (2) the fact that an amended standard for GSFLs would require manufacturers to invest in the manufacture of more efficient GSFLs at a time when the market is already rapidly declining, as discussed in section IV.F; and (3) international uncertainty regarding the ability to sell GSFLs in the future following the second segment of the fourth meeting of the Conference of the Parties to the Minamata Convention on Mercury,[23] DOE has tentatively determined that energy conservation standards for GSFLs would not be economically justified.

5. Summary

Based on the reasons stated in the foregoing discussion, DOE has tentatively determined that the energy conservation standards for GSFLs do not need to be amended because amended standards would not be economically justified.

DOE will consider all comments received on this proposed determination in issuing any final determination.

VI. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website (www.*energy.gov/gc/office-general-counsel*).

DOE recently conducted a focused inquiry into small business manufacturers of the products covered by this rulemaking. DOE used the Small Business Administration (''SBA'') size standards to determine whether any small entities would be subject to the requirements of the proposed determination. The small business size standards are listed by North American Industry Classification System (''NAICS'') code as well as by industry description and are available at *www.sba.gov/document/support--table-size-standards.* Manufacturing GSFLs is classified under NAICS code 335110, ''electric lamp bulb and part manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. DOE used the

[23] clasp, ''Convention on Mercury Promises CFLs Phase-Out; Action on LFLs Delayed,'' available at *https://www.clasp.ngo/updates/convention-on-mercury-agrees-to-phase-out-major-category-of-fluorescent-light-bulbs-but-last-minute-interventions-delay-action-on-another/;* UN Environment Programme, ''Minamata COP–4 closes with global commitment to strengthen efforts against toxic mercury,'' available at *https://www.unep.org/news-and-stories/press-release/minamata-cop-4-closes-global-commitment-strengthen-efforts-against;* UN Environment Programme, ''Minamata Convention on Mercury,'' available at *https://www.mercuryconvention.org/en.*

Compliance Certification Database [24] and other publicly available information to create a list of manufacturers. DOE then used market research tools to determine whether any of the potential manufacturers met the SBA's definition of a small entity, based on the total number of employees for each company including parent, subsidiary, and sister entities. DOE additionally screened out companies that are entirely or largely foreign owned and operated. DOE identified a total of 38 distinct potential small businesses that import or manufacturer GSFLs in the United States.

DOE reviewed this proposed determination under the provisions of the Regulatory Flexibility Act and the policies and procedures published on February 19, 2003. Because DOE is proposing not to amend standards for GSFLs, if adopted, the determination would not amend any energy conservation standards. On the basis of the foregoing, DOE certifies that the proposed determination, if adopted, would have no significant economic impact on a substantial number of small entities. Accordingly, DOE has not prepared an IRFA for this proposed determination. DOE will transmit this certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

C. Review Under the Paperwork Reduction Act

Manufacturers of GSFLs must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including microwave ovens. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE has tentatively determined that current standards for GSFLs do not need to be amended. This proposed determination, if made final, would not impact the reporting burden approved under OMB control number 1910–1400.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE is analyzing this proposed action in accordance with the National Environmental Policy Act of 1969 (''NEPA'') and DOE's NEPA implementing regulations (10 CFR part 1021). DOE's regulations include a categorical exclusion for actions which are interpretations or rulings with respect to existing regulations. 10 CFR part 1021, subpart D, appendix A4. DOE anticipates that this action qualifies for categorical exclusion A4 because it is an interpretation or ruling in regards to an existing regulation and otherwise meets the requirements for application of a categorical exclusion. *See* 10 CFR 1021.410. DOE will complete its NEPA review before issuing the final action.

E. Review Under Executive Order 13132

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

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the

[24] U.S. Department of Energy Compliance Certification Database, available at: *www.regulations.doe.gov/certification-data.*

private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *www.energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE examined this proposed determination according to UMRA and its statement of policy and determined that the proposed determination does not contain a Federal intergovernmental mandate, nor is it expected to require expenditures of $100 million or more in any one year by State, local, and Tribal governments, in the aggregate, or by the private sector. As a result, the analytical requirements of UMRA do not apply.

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

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

I. Review Under Executive Order 12630

Pursuant to E.O. 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (Mar. 15, 1988), DOE has determined that this proposed determination, if finalized as proposed, would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

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

K. Review Under Executive Order 13211

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

This proposed determination, which does not propose to amend energy conservation standards for GSFLs, is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under the Information Quality Bulletin for Peer Review

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

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process and the analyses that are typically used and has prepared Peer Review report pertaining to the energy conservation standards rulemaking analyses.[25] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical/scientific/business merit, the actual or anticipated results, and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[26]

VII. Public Participation

DOE invites public participation in this process through participation in the

[25] ''Energy Conservation Standards Rulemaking Peer Review Report.'' 2007. Available at *www.energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peer-review-report-0* (last accessed March 4, 2022).

[26] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

webinar and submission of written comments and information. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses.

A. Participation in the Webinar

The time and date of the webinar are listed in the **DATES** section at the beginning of this document. If no participants register for the webinar then it will be cancelled. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=22.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this NOPD, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit requests to speak to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this proposed determination and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the proposed determination.

The webinar/public meeting will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed determination. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed determination. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the public meeting.

A transcript of the webinar/public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this NOPD. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

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

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

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

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

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

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. With this instruction followed, the cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in

PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE seeks comment on the technology options identified and the ones selected as design options in the screening analysis. See sections IV.B.2 and IV.B.3 of this document.

(2) DOE seeks comment on the performance characteristics of the more efficacious substitutes. See section IV.C of this document.

(3) DOE welcomes any relevant data and comment on the energy use analysis methodology. See section IV.D of this document.

(4) DOE welcomes any relevant data and comment on the shipments analysis methodology. See section IV.F of this document.

VIII. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of proposed determination and request for comment.

Signing Authority

This document of the Department of Energy was signed on May 23, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 24, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–11437 Filed 5–27–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–TP–0021]

RIN 1904–AE75

Energy Conservation Program: Test Procedures for Faucets and Showerheads

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

ACTION: Notice of proposed rulemaking and announcement of public meeting.

SUMMARY: The U.S. Department of Energy (''DOE'') proposes to amend the test procedures for faucets and showerheads to incorporate the current version of the referenced industry standard, American Society of Mechanical Engineers Standard A112.18.1–2018, ''Plumbing Fixture Fittings.'' DOE also proposes to add definitions for low-pressure water dispensers and pot fillers, and exclude them from the faucet definition. Finally, DOE proposes to provide further detail for conducting the flow rate measurement. DOE is seeking comment from interested parties on the proposal.

DATES:

Meeting: DOE will hold a webinar on Wednesday, June 22, 2022, from 1:00 p.m. to 4:00 p.m. See section V, ''Public Participation,'' for webinar registration information, participant instructions, and information about the capabilities available to webinar participants.

Comments: DOE will accept comments, data, and information regarding this proposal no later than August 1, 2022. See section V, ''Public Participation,'' for details.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–TP–0021, by any of the following methods:

1. Federal eRulemaking Portal: www.regulations.gov. Follow the instructions for submitting comments.

2. Email: to FaucetShowerhead2019TP0021. Include docket number EERE–2019–BT–TP–0021 in the subject line of the message.

3. Postal Mail: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

4. Hand Delivery/Courier: Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, Suite 600, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

No telefacsimiles (''faxes'') will be accepted. For detailed instructions on submitting comments and additional information on this process, see section V of this document.

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts (if a public meeting is held), comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket web page can be found at *www.regulations.gov/docket/EERE-2019-BT-TP-0021.* The docket web page contains instructions on how to access all documents, including public

comments, in the docket. See section V for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT:

Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Amelia Whiting, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–2588. Email: *Amelia.Whiting@hq.doe.gov.*

For further information on how to submit a comment, review other public comments and the docket, or participate in a public meeting (if one is held), contact the Appliance and Equipment Standards Program staff at (202) 287–1445 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE proposes to incorporate by reference the following industry standard into 10 CFR part 430:

American Society of Mechanical Engineers (''ASME'') A112.18.1/Canadian Standards Association (''CSA'') B125.1–2018 (with 10/18 Errata), ''Plumbing Supply Fittings,'' approved 2018 (''ASME A112.18.1–2018'').

Copies of ASME A112.18.1–2018 can be obtained from American Society of Mechanical Engineers at Two Park Avenue, New York, NY 10016–5990, or by going to *www.asme.org.*

For a further discussion of this standard, see section IV.M of this document.

Table of Contents

I. Authority and Background

Faucets and showerheads are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(15) and (16)) DOE's test procedures for faucets and showerheads are currently prescribed at title 10 of the Code of Federal Regulations (''CFR''), § 430.23 (s) and (t), respectively, and 10 CFR part 430 subpart B, appendix S (''appendix S''). DOE regulations codify the statutory standards for faucets and showerheads. 10 CFR 430.32(o) and (p). The following sections discuss DOE's authority to establish test procedures for faucets and showerheads and relevant background information regarding DOE's consideration of test procedures for these products.

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy and water efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy or water efficiency. These products include faucets and showerheads, the subject of this document. (42 U.S.C. 6292(a)(15) and (16))

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

The Federal testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s)), and (2) making other representations about the efficiency of those consumer products (42 U.S.C. 6293(c)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

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

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. EPCA requires that any test procedures prescribed or amended under this section be reasonably designed to produce test results which measure energy efficiency, energy use or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

EPCA directs that the test procedures for faucets and showerheads are to be the test procedures specified in American Society of Mechanical Engineers (''ASME'') Standard A112.18.1M–1989, ''Plumbing Fixture

[1] All references to EPCA in this document refer to the statute as amended through the Energy Act of 2020, Public Law 116–260 (Dec. 27, 2020), which reflect the last statutory amendments that impact Parts A and A–1 of EPCA.

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

Fittings.'' (42 U.S.C. 6293(b)(7)(A)) EPCA further directs that, if the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by the American National Standards Institute (''ANSI''), DOE must amend the Federal test procedures to conform to the revised ASME standard, unless DOE determines by rule that to do so would not meet the requirements of EPCA that the test procedures be reasonably designed to produce test results which measure water use during a representative average use cycle as determined by DOE, and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(7)(B); 42 U.S.C. 6293(b)(3))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product, including faucets and showerheads, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(1)(A))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. The comment period on a proposed rule to amend a test procedure shall be at least 60 days and may not exceed 270 days. In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish its determination not to amend the test procedures. (42 U.S.C. 6293(b)(1)(A)(ii))

DOE is publishing this NOPR in satisfaction of its statutory obligations. (42 U.S.C. 6293(b)(1)(A) and (7)(B))

B. Background

DOE's existing test procedures for faucets and showerheads appear at 10 CFR part 430, subpart B, appendix S.

DOE last amended the test procedures for faucets and showerheads on October 23, 2013 (''October 2013 Final Rule''). 78 FR 62970. In that final rule, DOE adopted through reference certain provisions of the 2012 version of ASME A112.18.1 as part of the test procedures for faucets and showerheads. 78 FR 62970, 62982. Since then, the 2012 version of the ASME standard was re-affirmed in 2017, and then updated in 2018 to ASME A112.18.1–2018, which is the current version of the industry standard.

On September 2, 2021, DOE initiated an early assessment review of the showerhead and faucet test procedure through the publication of a request for information (''RFI''). 86 FR 49261 (''September 2021 RFI''). DOE solicited public comments, data, and information on all aspects of, and any issues or problems with, the existing DOE test procedure, including whether the test procedure needs updates or revisions. On September 24, 2021, in response to a stakeholder request,[3] DOE extended the comment period for an additional 15 days. 86 FR 53013 (Sept. 24, 2021).

DOE received comments in response to the September 2021 RFI from the interested parties listed in Table I.I.

TABLE I.I—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE SEPTEMBER 2021 RFI

Commenter(s)	Reference in this NOPR	Commenter type
American Supply Association	ASA	Trade Organization.
Appliance Standards Awareness Project, Natural Resources Defense Council, Northwest Energy Efficiency Alliance.	Efficiency Advocates	Efficiency Organization.
Pacific Gas and Electric Company, Southern California Edison, San Diego Gas & Electric Company; collectively, the California Investor-Owned Utilities.	CA IOUs	Utilities.
Plumbing Manufacturers International	PMI	Trade Organization.
Ziesenheim	Ziesenheim	Individual.

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

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''Appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for a test procedure rulemaking. Section 8(b) of appendix A states that if DOE determines that it is appropriate to continue the test procedure rulemaking after the early assessment process, it will provide further opportunities for early public input through **Federal Register** documents, including notices of data availability and/or RFIs. DOE is opting to deviate from this provision by publishing a NOPR following the early assessment review RFI because, as discussed previously, DOE requested comment on a number of specific topics in the September 2021 RFI, and comments received in response to the September 2021 RFI informed the proposals included in this NOPR.

II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes to:

(1) Include definitions for low-pressure water dispensers and pot fillers;

(2) Update the faucet definition by explicitly excluding low-pressure water dispensers and pot fillers;

(3) Incorporate by reference the latest revision to the applicable industry standard—ASME A112.18.1–2018, ''Plumbing Supply Fittings'' as it pertains to flow rate measurement; and

(4) Add further direction for conducting the flow rate measurement.

DOE's proposed actions are summarized in Table II.1 compared to the current test procedure as well as the reason for the proposed change.

[3] Comment EERE–2019–BT–TP–0021–0002 available at: *www.regulations.gov/comment/EERE-2019-BT-TP-0021-0002*.

[4] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for faucets and showerheads. (Docket No. EERE–2019–BT–TP–0021, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

TABLE II.1—SUMMARY OF CHANGES IN PROPOSED TEST PROCEDURE RELATIVE TO CURRENT TEST PROCEDURE

Current DOE test procedure	Proposed test procedure	Attribution
Does not define low-pressure water dispensers or pot fillers.	Defines the terms low-pressure water dispensers and pot fillers.	Clarifies scope of coverage.
Does not explicitly exclude low-pressure water dispensers or pot fillers from the faucet definition.	Explicitly excludes low-pressure water dispensers and pot fillers from the faucet definition.	Clarifies scope of coverage.
Incorporates the 2012 version of ASME A112.18.1 for measurement of flow rate.	Incorporates the 2018 version of ASME Standard A112.18.1.	Harmonize with updated industry standard.
Aside from referencing ASME A112.18.1, includes limited guidance as to how to conduct the flow measurement test procedure.	Adds additional guidance, in accordance with current industry practices, to ensure appropriate equipment is being used and to ensure repeatability of the industry standards in both the fluid meter and time/volume flow rate test methods.	Response to stakeholder comment; improve repeatability of test results.

DOE has tentatively determined that the proposed amendments described in section III of this NOPR would not alter the measured flow rate of faucets and showerheads, or require retesting or recertification solely as a result of DOE's adoption of the proposed amendments to the test procedures, if made final. DOE has tentatively determined that the proposed amendments to the test procedure are reasonably designed to produce test results which measure energy efficiency, energy use, water use, or estimated annual operating costs during a representative average use cycle, as required by EPCA. Additionally, DOE has tentatively determined that the proposed amendments, if made final, would not increase the cost of testing. Discussion of DOE's proposed actions are addressed in detail in section III of this NOPR.

III. Discussion

In the following sections, DOE proposes certain amendments to its test procedures for faucets and showerheads. For each proposed amendment, DOE provides relevant background information, explains why the amendment merits consideration, discusses relevant public comments, and proposes a potential approach.

A. Scope of Applicability

This proposed rulemaking applies to faucets and showerheads, which are discussed in the following sections.

1. Faucets

EPCA and DOE define ''faucet'' as a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet. (42 U.S.C. 6291(31)(E); 10 CFR 430.2). In the September 2021 RFI, DOE stated that it had identified products characterized in the market as ''low-pressure water dispensers'' and ''pot fillers,'' which appear to be within the scope of the statutory term ''faucet.'' 86 FR 49261, 49263. DOE stated that it did not consider low-pressure water dispensers or pot fillers when establishing the current test procedure and standards for faucets. 86 FR 49261, 49264. Further, the purpose of these products is typically to fill a vessel and as such, the water usage associated with these products is directly related to the size of the vessel and is independent of the flow rate of these products. *Id.* at 86 FR 49263. As such, application of a maximum flow rate [5] to these products would not save any water and could diminish the usefulness of such products by taking longer to fill a given vessel. *Id.* Therefore, DOE stated that although low-pressure water dispensers appear to meet the DOE definition of a faucet, there is currently no applicable DOE test procedure for testing low-pressure water dispensers or pot fillers because the DOE test procedure requires testing faucets at 60 psi whereas low-pressure water dispensers operate at 15 psi. *Id.*

DOE received comments regarding low-pressure water dispensers and pot fillers.

ASA explained that it agrees with DOE's understanding of the differences between ''low-pressure water dispensers'' and ''pot fillers'' compared to conventional kitchen faucets. These products are specifically intended and marketed by manufacturers for filling operations only and not for tasks associated with conventional kitchen faucets. (ASA, No. 6 at p.1) ASA asserted that nothing would be gained by regulating low-pressure water dispensers or pot fillers since the primary purpose is filling vessels, which is independent of flow rate. ASA stated that regulating such devices would have an undesirable effect of extending filling time for pot fillers. (ASA, No. 6 at p. 2)

The Efficiency Advocates similarly commented that application of flow rate standards to low-pressure water dispensers and pot fillers would not yield water savings, since the volume of water used by such products would be determined by the volume of the vessel being filled. The Efficiency Advocates did not recommend establishing test procedures for low-pressure water dispensers and pot fillers. (Efficiency Advocates, No. 8 at p. 1) The Efficiency Advocates commented, however, that it is possible that pot fillers could be marketed for installation over a sink as a high-flow alternative to a covered kitchen faucet and recommended that DOE consider amending the definition of a kitchen faucet to encompass any terminal fitting designed for discharge into a kitchen sink at a water supply pressure of 20 psi or more. (Efficiency Advocates, No. 8 at p. 1)

PMI agreed with DOE's understanding of the key differences between low-pressure water dispensers, pot fillers, and conventional kitchen faucets. PMI commented that test procedures should not be updated to include testing for low-pressure water dispensers or pot fillers given the function for those products and water conservation is not applicable to these products, as their intended use is for filling vessels with specific volumes of water, and that measuring the flow rate would not result in significant water savings. (PMI, No. 5 at p. 2–4)

Ziesenheim suggested that low-pressure water dispensers have the potential to conserve water, though in a slightly different capacity than traditional faucets, because the low pressure aspect of such water dispensers would allow for more precision in filling the vessel, which would decrease the likelihood of dispensing more water than needed. Ziesenheim recommended that DOE incorporate a definition of low-pressure water dispensers into the Federal regulations for faucets and showerheads and use this definition to develop testing procedures and coverage

[5] The DOE water conservation standard for faucets specifies that water use must be ''measured at a flowing water pressure of 60 pounds per square inch [('psi')].'' 10 CFR 430.32(o).

under energy conservation standards. (Ziesenheim, No. 3 at p. 1)

Further, DOE received several comments regarding potential test procedures for both low-pressure water dispensers and pot fillers.

PMI commented that the test procedures should not be updated to include testing for low-pressure water dispensers or pot fillers, given the functions of these products. (PMI, No. 5 at p. 3) PMI added that low-pressure water dispensers are intended to operate at or around 15 psi in the field, and that these products are tested for a maximum flow rate of 1.5 gpm at 15 psi, per the ASME A112.18.1–2018 requirements. PMI commented that manufacturers are already testing low-pressure water dispensers to ASME A112.18.1–2018 for certification purposes. (PMI, No. 5 at p. 5)

ASA stated that there may not be a typical water pressure for low-pressure water dispensers—other than a maximum pressure of 15 psi— because the ASME definition requires the pressure reducing valve that regulates the pressure to the dispenser to be 15 psi or less. ASA also commented that the dispenser is typically part of a system of which the inter-relationship between the dispensing system components is a design choice by a manufacturer. ASA stated that if the DOE test procedure is not consistent with the industry consensus standard, there would be anticipated additional costs associated with having to test to two different requirements for low-pressure water dispensers. (ASA, No. 6 at p. 3)

As characterized by DOE in the September 2021 RFI and consistent with comments, the purpose of low-pressure water dispensers and pot fillers is to fill a vessel with water (*e.g.,* a glass or a cooking vessel). Given this function, the amount of water provided by such products during consumer use would be dependent on the volume of the vessel and independent of the flow rate of the product. Establishing conservation standards for such products in terms of a maximum flow rate in gallons per minute (''gpm'') would not result in any water savings because the volume of water provided by such products is dictated by the vessel to be filled as opposed to the flow rate. Furthermore, establishing conservation standards could diminish the usefulness of such products by increasing the amount of time required to fill a vessel with a particular volume of water. Further, a test procedure that would measure the flow rate of such products would not provide meaningful information to consumers related to water usage.

Based on the foregoing, DOE has tentatively determined that that low-pressure water dispensers and pot fillers are not within the definition of ''faucet'' for the purposed of Part A of EPCA. Accordingly, DOE is proposing to amend the definition of ''faucet'' at 10 CFR 430.2 to explicitly exclude low-pressure water dispensers and pot fillers. DOE proposes to define a faucet as ''a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator, excluding low-pressure water dispensers and pot fillers.''

DOE requests comment on its proposed amendment to the definition of ''faucet'' to explicitly exclude ''low-pressure water dispenses'' and ''pot fillers.''

DOE proposes to add a definition for low-pressure water dispensers in 10 CFR 430.2. ASME A112.18.1–2018 defines a low-pressure water dispenser as ''a terminal fitting located downstream of a pressure reducing valve that dispenses drinking hot water above 71 °C (160 °F) or cold water or both at a pressure of 105 kPA (15 psi) or less.'' DOE notes that its authority generally applies to products as manufactured, not to the installation of products. (*See generally* 42 U.S.C. 6302) Therefore, DOE is proposing to modify the ASME A112.18.1–2018 definition to reference a product as manufactured, as opposed to its installation location. Additionally, DOE is proposing to exclude the drinking water temperature references. DOE has tentatively determined that the specified pressure is the relevant characteristic that would distinguish a low-pressure water dispenser from a faucet as defined for the purpose of applicability of the test procedure. Accordingly, DOE is proposing to define low-pressure water dispenser as ''a terminal fitting that dispenses drinking water at a pressure of 105 kPA (15 psi) or less.''

DOE requests comment on proposing to adopt the ASME A112.18.1–2018 definition for ''low-pressure water dispenser,'' with modification as described.

DOE tries to identify physical features in its definitions that would allow a third-party to easily distinguish between products. DOE has stated that relying on a manufacturer's intent can reduce regulatory transparency, and creates challenges for enforcement. 87 FR 13901, 13904. Due to these concerns with trying to interpret whether a product is designed to operate downstream of a pressure reducing valve or not, DOE is also considering including other physical features in the definition that would allow low-pressure water dispensers to be easily identified, absent any information from the manufacturer. Based on research of these products, DOE understands that low-pressure water dispensers tend to have smaller diameter fittings for water connections. DOE observed that low-pressure water dispensers have ¼″ compression fittings, which is slightly smaller than the typical ⅜″ compression fitting of a faucet.

DOE requests comment as to any additional physical features that distinguish a low-pressure water dispenser from a faucet.

DOE requests comment as to whether a ¼″ compression fitting could be universally identified as a universal characteristic of low-pressure water dispensers that distinguishes it from faucets.

Unlike ''low-pressure water dispenser,'' ASME A.112.18.1–2018 does not define pot filler. DOE notes the concern raised by the Efficiency Advocates that pot fillers could be installed over a kitchen sink. DOE assessed products marketed as residential pot fillers and observed several characteristics that make it unlikely for a pot filler to be installed for regular discharge into a kitchen sink.

All the residential pot fillers DOE observed have an articulated arm. The reason pot fillers have an articulated arm is because it allows the pot filler to extend over a cooking surface, such as burners on a range, to fill pots. When not in use, the articulation allows the pot filler to be pushed flat against the wall and out of the way of the cooking surface. Further, DOE observed that pot fillers have two shut-off valves, one located at or near the wall and the other located at or near the output of the pot filler. Given that pot-fillers are typically installed over locations that do not have a drain (*i.e.,* over a stove), the two shut-off valves minimize the chance of accidentally turning on the pot filler when there is not a vessel underneath because an accidental bumping of one shut-off valve from the off to the on position does not turn on the pot filler. Lastly, DOE observed that pot fillers are designed for a single supply line (*e.g.,* cold water), limiting their suitability for use as a kitchen faucet, which are generally supplied with both hot and cold water.

Based on these identifying characteristics, DOE proposes to define pot filler in 10 CFR 430.2 as ''a terminal fitting with an articulated arm and two or more shut-off valves that can accommodate only a single supply water inlet.''

DOE requests comments on the proposed definition of ''pot filler'' and whether other characteristics would

more appropriately distinguish pot fillers from faucets, as defined by EPCA and DOE.

2. Showerheads

EPCA defines ''showerhead'' as ''any showerhead (including a handheld showerhead), except a safety shower showerhead.'' (42 U.S.C 6291(31)(D))

DOE also defines ''hand-held showerhead'' to mean a showerhead that can be held or fixed in place for the purpose of spraying water onto a bather and that is connected to a flexible hose. 10 CFR 430.2. ''Safety shower showerhead'' is defined as a showerhead designed to meet the requirements of International Equipment Safety association (''ISEA'') standard ISEA Z358.1, *American National Standard for Emergency Eyewash and Shower Equipment.*'' *Id.*

On July 22, 2021, DOE issued a NOPR in which it proposed to reinstate the 2013 definition of ''showerhead'' by amending the regulatory definition of ''showerhead'' to mean ''a component or set of components distributed in commerce for attachment to a single supply fitting, for spraying water onto a bather, typically from an overhead position, excluding safety shower showerheads.'' 86 FR 38594, 38597, 38607 (''July 2021 NOPR'').[6] On December 20, 2021, DOE published a final rule that adopted the definition of ''showerhead'' as proposed in the July 2021 NOPR. 86 FR 71797 (''December 2021 Final Rule'').

In the September 2021 RFI, DOE requested comment on the definitional updates in ASME A112.18.1–2018 as it relates to showerheads. 86 FR 49261, 49264. Specifically, DOE discussed that ASME A112.18.1–2018 added new definitions for ''hand-held shower'' and ''rain shower.'' *Id.* Regarding ''hand-held shower'' DOE stated the DOE definition is almost identical to the definition in the ASME industry standard, and therefore tentatively concluded that there is no reason to update this definition now. *Id.* Regarding ''rain shower,'' DOE noted that the new definition was added to ASME A112.18.1–2018 in light of the standard's new spray force requirements specific to rain showers. *Id.* However, DOE tentatively concluded that there is no reason to include the term and definition for rain shower because the DOE test procedure only measures maximum water consumption and not spray force. *Id.*

PMI commented that it concurs with DOE's proposal from the July 2021 NOPR to adopt the definition of showerhead that was effective in 2013. (PMI, No. 5 at p. 6) ASA and PMI stated that DOE should complete the new showerheads definition rulemaking before taking any further action on showerheads. (ASA, No. 6 at p. 3; PMI, No. 5 at p. 6)) As explained previously, DOE has published a final rule adopting the proposed definition.

Regarding a definition of ''rain shower,'' PMI commented that there is no reason to include the term and definition for rain shower because testing of flow rate for a rain shower would be the same as testing a showerhead. PMI stated that the ASME industry standard only added a definition for rain shower to address unique spray force requirements. (PMI, No. 5 at p. 4) PMI also commented that the current definitions are effective and new definitions are not necessary. (PMI, No. 5 at p. 5) ASA commented that adding a definition for rain shower would not serve a purpose because the definition was added in the ASME industry standard to support a spray force test method, not flow rate. (ASA, No. 6 at p. 2) Separately, Efficiency Advocates stated that they agree that there is no need to make any updates to the definition of ''hand-held showerhead'' nor to provide a separate definition for the term rain shower. (Efficiency Advocates, No. 8 at p. 3)

For the reasons discussed by stakeholders in their public comments and by DOE in the September 2021 RFI, DOE is not proposing to amend the definition of ''hand-held showerhead'' and is not proposing to define ''rain shower.''

DOE also received several comments on body sprays. In response to the September 2021 RFI, CA IOUs recommended that DOE clarify that body sprays, regardless of orientation, are subject to regulatory coverage and that they must meet the same flow rate requirement as showerheads. The CA IOUs commented that the California Code of Regulations, Title 20 Appliance Efficiency Regulations states that a showerhead is ''a device through which water is discharged for a shower bath and includes a body sprayer and handheld showerhead but does not include a safety showerhead.'' (CA IOUs, No. 7 at p. 1–2) The Efficiency Advocates commented that DOE should make clear that the products that DOE describes as ''body sprays'' are showerheads and must meet the showerhead definition. The Efficiency Advocates asserted that since products marketed as body sprays may just as easily be installed in an overhead position as in any other position, these products meet the statutory definition of showerhead, *i.e.,* that ''showerheads'' spray water ''typically from an overhead position.'' Further, the Efficiency Advocates stated that the use of ''typically'' may leave ambiguity for products that spray from another position or from multiple positions, depending simply on installation. (Efficiency Advocates, No. 8 at p. 4)

In the December 2021 Final Rule, DOE withdrew the definition for body spray.[7] 86 FR 71797, 71806. DOE stated that the definition was inconsistent with the express purpose of EPCA to conserve water and does not best address the relationship between body sprays and showerheads. *Id.* at 86 FR 71799. Further, DOE stated that industry standards and the marketplace treat ''showerheads'' and ''body sprays'' similarly, with the only difference being in the installation location. *Id.*

DOE notes that the regulatory definition of showerhead includes the provision ''typically from an overhead position.'' 10 CFR 430.2 Given the ''typically from an overhead position'' language in the definition, DOE cannot make a general statement that all body sprays are showerheads as some body sprays are installed exclusively at body height and exclusively spray horizontally (*i.e.,* are not overhead). DOE has previously stated that when testing a shower tower (also known as ''shower panel'') assemblies, which includes body sprays, the components that are typically overhead (*i.e.,* the main showerhead and hand-held showerheads) are to be tested with the full flow diverted to those components only. In addition, where it is not possible to isolate the covered portion of the shower tower, DOE stated that all components are to be flowing at the maximum rate and the showerhead (*which encompasses the component or set of components that are* ''*typically from an overhead position*'') measured separately. 78 FR 62970, 62975. Consistent with this testing, the definition of ''showerhead'' only includes products that are ''typically from an overhead position.'' To the extent that a body spray meets the definition of ''showerhead,'' such product is subject to the 2.5 gpm standard regardless of the consumer installation orientation.

B. Updates to Industry Standards

Appendix S currently references ASME A112.18.1–2012 for the flow rate

[6] DOE also proposed to remove the regulatory definition of ''body spray.'' *Id.*

[7] On December 16, 2020, DOE published a final rule that adopted a definition for ''body spray'' as ''a shower device for spraying water onto a bather from other than the overhead position. A body spray is not a showerhead.'' 85 FR 81341, 81359.

test method. In the September 2021 RFI, DOE discussed that ASME A112.18.1–2012 was updated to the 2018 version, and that the main updates included provisions to accommodate testing low-pressure water dispensers. 86 FR 49261, 49625. As discussed in section III.A.1 of this document, DOE is proposing to define low-pressure water dispensers and pot fillers, and explicitly exclude these from the faucets definition. Therefore, DOE is not proposing to establish test procedures for low-pressure water dispensers and pot fillers.

Regarding showerheads, DOE discussed in the September 2021 RFI that ASME A112.18.1–2018 does not contain any updates to the water consumption test method for showerheads. 86 FR 49261, 49265. ASA commented that no amendments are needed for the current DOE test procedure for showerheads. (ASA, No. 6 at p. 3) PMI stated that no changes to the existing test procedure for showerheads are needed, once the 2013 definition of showerhead is finalized, because the current test procedures adequately assess the flow rate of showerheads. (PMI, No. 5 at p. 6) The Efficiency Advocates asserted that the test procedures for faucets and showerheads would more accurately and fully produce results that measure water use, if DOE adopted modifications to some elements of the water consumption test in the revised standard. (Efficiency Advocates, No. 8 at p. 2) A discussion of this comment appears in the next section.

In this NOPR, DOE is proposing to update the faucets and showerheads test procedure to reference the latest version of the industry standard, which is ASME A112.18.1–2018. As previously discussed, the updated standard does not include any amendments to the test procedures for faucets, as proposed to be defined by this NOPR, or for showerheads. DOE has tentatively determined that referencing the most recent version of ASME A112.18.1–2018 would not impact (1) the measured values of water use for faucets or showerheads under appendix S, (2) the representativeness of the results, or (3) the test burden.

DOE requests comment on its proposal to incorporate by reference ASME A112.18.1–2018.

C. Additional Direction in Conducting ASME A112.18.1–2018

As discussed, DOE's current test procedure for evaluating the flow rate of faucets and showerheads is at appendix S and references ASME A112.18–1–2012. Specifically, DOE adopts through reference ASME A112.18.1–2012 Sections 5.4 and 5.4.2.2 which specify two alternate methods for measuring the flow rate of showerhead and faucets. One method, described as the fluid meter test, relies on a fluid meter installed upstream of the showerhead or faucet for measuring the flow rate. The second method, described as the time/volume method, relies on a container placed downstream of the showerhead or faucet that collects the water output during a measured period of time. The flow rate calculation divides the volume of water collected by the duration of time.

As discussed in section III.B of this document, DOE is proposing to incorporate by reference ASME A112.18.1–2018. The two methods for measuring flow rate in ASME A112.18.1–2018 are identical to those in ASME A112.18.1–2012.

In response to the September 2021 RFI, the Efficiency Advocates asserted that ASME A112.18.1–2018 carries forth several deficiencies in both methods from early versions of the test procedure. (Efficiency Advocates, No. 8 at p. 2) Regarding testing of flow rate using the fluid meter test, the Efficiency Advocates commented that the industry test procedure lacks direction as to: (1) The type of meter acceptable for test; (2) the normal operating range of the fluid meter and it suitability to the target flow of the test; (3) a description of the meter's register, including incremental units of measurement; and (4) requirements for preconditioning of the meter before or between tests. *Id.*

The Efficiency Advocates also commented that the industry test procedure for the time/volume test lacks direction as to: (1) The required dimensions of the receiving container; (2) any distance or orientation between the specimen and container to preclude the possibility of splashing water escaping; (3) the means of measuring the volume of water in the container or deriving the volume of water from the weight of the collected water; and (4) recording of elapsed time. *Id.* The Efficiency Advocates suggested that DOE supplement ASME A112.18.1–2018 with additional direction to ensure better accuracy, similar to DOE's previous instruction that any container in the time/volume test be positioned to capture any leakage from the ball joint of the shower head. The Efficiency Advocates asserted that addressing these gaps is unlikely to render testing unduly burdensome, but would be likely to ensure greater standardization in test procedures and instill greater confidence in test results. (*Id.* at pp. 2–3) Further, the Efficiency Advocates commented that any inaccuracies would be amplified if standards are lowered and because some states with more stringent standards reference the DOE test procedure, the additional standardization is needed. (*Id.* at pp. 2–3)

In response to similar comments received prior to the October 2013 Final Rule, DOE determined that there was no evidence that the time/volume test method in ASME A112.18.1 did not meet the statutory requirements at 42 U.S.C. 6293(b)(3) for DOE to prescribe test procedures that are reasonably designed to produce test results that measure water use during a representative average use cycle or period of use. 78 FR 62970, 62975.

While DOE does not currently have any evidence that the current test procedure is resulting in inaccurate measurements of flow rates for faucets or showerheads, DOE is proposing additional detail to ensure that amendments to the test procedure would provide more accurate results.

DOE conducted a thorough review of ASME A112.18.1–2018 and consulted two testing laboratories to identify common practices that DOE has tentatively determined address the concerns identified by the Efficiency Advocates without creating undue burden when testing. DOE also reviewed other similar test procedures, such as ASTM International (''ASTM'') F2324 ''Standard Test Method for Prerinse Spray Valves,'' which is currently incorporated by reference at 10 CFR 431.263 and referenced in 10 CFR 431.264 ''Uniform test method to measure flow rate and spray force of commercial prerinse spray valves.'' The ASTM F2324 test method uses a time/volume test method to measure the flow rate of commercial prerinse spray valves.

Regarding testing using the fluid meter test method in ASME A112.18.1–2018, DOE notes that many different types of acceptable fluid meters could be used. The consultation with the test laboratories suggested that there are several different types of fluid meters that they currently use, but so long as the fluid meter is rated for the product flow rate and has been calibrated, any fluid meter type is accurate. The test laboratories indicated further that the fluid meters they use are capable of measuring with a precision of a minimum of two significant figures.

Based on what DOE has identified as current laboratory practice, DOE is proposing to add language to appendix S requiring that if the fluid meter test is used, the fluid meter must be rated for the flow rate range of the product being

tested. Further, DOE proposes that the fluid meter must be calibrated in accordance with manufacturer printed instructions and at the frequency specified in the manufacturer printed instructions. Finally, DOE proposes that the fluid meter must be capable of reporting flow rate to a resolution of no less than two significant figures.

DOE requests comment on the proposed additional specifications for the fluid meter test and whether the proposed additional guidance is consistent with current industry practice.

Regarding testing using the time/volume test method in ASME A112.18.1–2018, the test laboratories commented that they vary the type of receiving containers to ensure minimal water loss due to splashing. ASTM F2324 states that the receiving container should be a ''carboy, or equivalent container, for measuring the weight of the water during the flow rate test. A 5-gal (19–L) carboy water bottle has been found suitable (the carboy is the standard water bottle that is used for water coolers)'' and further adds ''Note: 1—The 5-gal (19–L) carboy container is the preferred container. With a narrow opening, the carboy captures all the water during the test at higher water pressure which can result in excess splashing.''

A carboy may not be appropriate for testing of showerheads as the surface area of a showerhead is often larger than the carboy opening. However, instruction to address the potential for splashing would apply equally to the testing of showerheads. Reasonable efforts to control splashing would include use of a container with a narrower opening or a partial cover of the container.

The test laboratories stated that the time/volume test is conducted for at least a minute, in accordance with Section 5.4.2.2 of ASME A112.18.1–2018, and that the timing is measured with a stopwatch with a resolution of 0.1 seconds. Once the time/volume test has concluded, test labs stated that they convert the mass of water to a volume based on the specific gravity of the water at the measured temperature.

In accordance with existing practices, DOE is proposing to add language to appendix S requiring that if the time/volume test is used, the receiving container must be of sufficient size to contain all the water for a single test and have an opening size and/or a partial cover, such that loss of water from splashing is minimized. Further, DOE proposes to specify that the time/volume test is conducted for a minimum of one minute and that time is measured using a stopwatch with a minimum resolution of 0.1 seconds. DOE proposes to clarify that measuring and recording the temperature of the water in this type of test requires a thermocouple or similar device and only the following two approaches are permissible: (1) At the receiving container immediately after recording the mass of water, or (2) at the water in the supply line any time during the duration of the time/volume test. In addition, DOE proposes to require measuring the mass of water to at least two significant figures following the time/volume test and converting the mass to volume based on the specific gravity of water at the recorded temperature. As discussed, the proposed amendments providing additional specificity reflect an accurate method for measuring flow rate and reflect current testing practice, and therefore would not affect testing burden.

DOE requests comment on the proposed additional specifications for the time/volume test method and whether there is any additional burden associated with the proposed additional specifications.

DOE also requests comment on its determination that the proposed methods for measuring the temperature of water align with current industry practices for when conducting the time/volume test.

D. Flow Restrictor Retention Test Method

The current standards for showerheads include a requirement that when used as a component of a showerhead, a flow-restricting insert must be mechanically retained at the point of manufacture such that a force of 8.0 pounds force (lbf) (36 Newtons) or more is required to remove the flow-restricting insert, except that this requirement does not apply to showerheads for which removal of the flow-restricting insert would cause water to leak significantly from areas other than the spray face. 10 CFR 430.32(p).

In response to the September 2021 RFI, the Efficiency Advocates recommended that DOE propose a test method for flow restrictor retention to verify compliance with the flow restricting insert requirement. They stated that flow restrictors serve a critical function and asserted that their casual removal jeopardizes the effectiveness of the standard and its intended savings of energy and water. They stated that DOE considered this issue in 2012–2013, and developed a draft test of flow restrictor retention, but ultimately reached no conclusion and deferred the issue for a future date. (Efficiency Advocates, No. 8 and p. 3).

As noted by the Efficiency Advocates, DOE considered a test method for flow restricting insert requirement during the previous rulemaking. DOE proposed a simplified gravity pull-style test method for verification of compliance with the requirements. 78 FR 20832, 20835–20836 (Apr. 8, 2013). DOE based the proposal on tests that were conducted on 21 showerheads, which included a variety of brands and styles. The showerheads tested had disc inserts made of plastic or rubber.[8] *Id.* In conjunction with the proposal, DOE also published a technical support document (''TSD'') that summarized the systematic assessment DOE performed to arrive at the proposed test method.[9] On July 30, 2013, DOE held an additional public meeting to receive comments on DOE's proposed test to verify mechanical retention of a showerhead flow restrictor when subjected to 8 lbf. 78 FR 42719 (July 17, 2013).

DOE received comments from stakeholders stating that: (1) There are thousands of showerhead geometries that require various methods to measure the 8 pound-force limit for flow restrictor removal (PMI, EERE–2011–BT–TP–0061, No. 36 at p. 2); (2) there is not one method to test all inserts that that ANSI Recognized Certifying Bodies perform the 8 pound-force test depending on the geometry of the faucet (PMI, EERE–2011–BT–TP–0061, No. 36 at p. 4); (3) because a product would have to be tested in a specific manner, it would unavoidably hinder design flexibility (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2); (4) flow restrictor removal is not a widespread issue because most users are sufficiently satisfied with current showerhead performance (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2); and (5) for the majority of users, removal of the

[8] These were the only types for which a test procedure may be appropriate. In general, DOE found four basic flow restrictor designs—(1) Plastic discs, (2) Rubber discs, (3) Permanent flow control and (4) Sealing gasket. DOE determined that the permanent flow control designs automatically met the design requirement because they did not contain a flow restrictor that could be removed (*i.e.,* it was integral to the showerhead). There is no need to test showerheads that used a sealing gasket as the flow control mechanism were exempt from the design requirement because the removal of the flow-restrictor would cause water to leak significantly from areas other than the spray face. 78 FR 20832, 20836.

[9] Supplemental Notice of Proposed Rulemaking TSD: Energy Conservation Program Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves. Showerhead Flow Control Insert Retention Testing; *www.regulations.gov/document/EERE-2011-BT-TP-0061-0033*.

showerhead from the shower arm, including the identification and removal of the correct components, is a sufficient amount of work to deter them from altering their product (Moen, EERE–2011–BT–TP–0061, No. 30 at p. 2). In October 2013 Final Rule and in consideration of comments received, DOE stated that further investigation of this issue was necessary to understand clearly any prospective impacts of the proposed test procedure prior to finalizing a test method, and did not finalize a test method. 78 FR 62970, 62974.

The latest version of the industry standard, ASME A112.18.1–2018, continues not to include any test method for showerhead flow retention. DOE understands the main issue in developing a test method is that there are numerous flow restrictor configurations and there may not be one test method to suit all possible flow restrictors. For example, regarding a pull-style test method as previously considered by DOE, one commenter stated that many flow restrictors do not have sufficient surface area or protrusion onto which a clamp can be fastened for the test. (Kohler, EERE–2011–BT–TP–0061, No. 34 at p. 1) Given the variation in design, DOE tentatively continues to find that a test method may hinder product design. Moreover, DOE does not have any indication that there is an issue in practice with customers removing flow restriction devices. For the reasons discussed, DOE is not proposing a test method for flow restrictor retention.

DOE requests comment and data on the prevalence of flow restrictors being removed from a showerhead by consumers.

E. Reporting

Manufacturers, including importers, must use product-specific certification templates to certify compliance to DOE. For faucets and showerheads, the certification template reflects the general certification requirements specified at 10 CFR 429.12 and the product-specific requirements specified at 10 CFR 429.28 and 10 CFR 429.29. DOE is not proposing to amend the product-specific certification requirements for these products.

F. Clarification to 10 CFR 430.23 and Appendix S

10 CFR 430.23(s) and (t) provide the test procedures for the measurement of water consumption for faucets and showerheads, respectively. 10 CFR 430.23(s) requires that ''the maximum permissible water use allowed for lavatory faucets, lavatory replacement aerators, kitchen faucets, and kitchen replacement aerators, expressed in gallons and liters per minute (gpm and L/min), shall be measured in accordance to section 2(a) of appendix S of this subpart. The maximum permissible water use allowed for metering faucets, expressed in gallons and liters per cycle (gal/cycle and L/cycle), shall be measured in accordance to section 2(a) of appendix S of this subpart.'' Similarly, 10 CFR 430.23(t) requires that ''the maximum permissible water use allowed for showerheads, expressed in gallons and liters per minute (gpm and L/min), shall be measured in accordance to section 2(b) of appendix S of this subpart.'' The language ''maximum permissible water use'' in the aforementioned sections is incorrect, as the test procedures measure water use. The term ''maximum permissible water use'' is instead descriptive of a conservation standard. As such, DOE is proposing to replace the language ''the maximum permissible water use allowed'' in 10 CFR 430.23(s) and 10 CFR 430.23(t) with ''the water use.'' This amendment would clarify that the DOE test procedures measure water use, whereas the standards in 10 CFR 430.32(s) and (t) establish the maximum allowable water use for water closets and urinals, respectively.

DOE requests comment on the proposed updates for faucets and showerheads to replace ''maximum permissible water use allowed'' with ''water use'' in 10 CFR 430.23(s) and (t), respectively.

Similarly, 10 CFR 430.23(s), 10 CFR 430.23(t), and appendix S state that water use should be expressed in ''gallons and liters per minute (gpm and L/min).'' The proposed wording is unclear and could mply that manufacturers need to express results in both gpm and L/min. Instead, manufacturers should use appendix S for results expressed in gpm or L/min. Manufacturers do not have to report both. As such, DOE is proposing to update language to state that water use is expressed in gallons or liters per minute.

DOE requests comment on the proposed updates for faucets and showerheads to replace ''gallons and liters per minute'' with ''gallons or liters per minute.''

G. Test Procedure Costs and Harmonization

1. Test Procedure Costs and Impact

In this NOPR, DOE proposes to amend the existing test procedure for faucets and showerheads by updating references to the current industry standard, defining low-pressure water dispensers and pot fillers and explicitly excluding them from the definition of faucet, and specifying additional instruction for conducting the flow rate tests in ASME A112.18.1–2018 reflective of current testing laboratory practice. DOE has tentatively determined that these proposed amendments would not impact testing costs as discussed in the following paragraphs.

a. Update References to the Relevant Industry Standard

DOE proposes to update references to the current version of the industry standard, ASME A112.18.1–2018. As stated in section III.B of this document, the main updates between ASME A112.18.1–2012, which is currently incorporated, and ASME A112.18.1–2018 accommodate low-pressure water dispenser testing.

DOE is proposing to exclude explicitly low-pressure water dispensers from the definition of faucet and therefore from the scope of the DOE test procedure for faucets. As such, DOE has tentatively determined that the updates to the industry standard would not affect testing of faucets or showerheads or the measured flow rates. Therefore, DOE has tentatively determined that the proposed amendments would not affect the representations of faucet or showerhead water use. Based on this tentative determination, manufacturers would be able to rely on data generated under the current test procedure if DOE adopts the proposed amendments. As such, retesting of showerheads and faucets would not be required solely as a result of DOE's adoption of the proposed amendments to the test procedure.

DOE requests comment on the impact and associated costs of the proposed amendment to incorporate by reference the latest version of the industry standard, ASME A112.18.1–2018.

b. New and Amended Definitions

DOE proposes to define low-pressure water dispensers and pot fillers and amend the definition of faucets to explicitly exclude those products. These products were not previously considered within the scope of the faucet definition and the proposed amendments clarify the scope of the faucet definition. Accordingly, DOE has tentatively determined that the proposed definitions of low-pressure water dispensers and pot fillers and their explicit exclusion from the definition of faucet would not affect which products are currently subject to testing under the DOE test procedure.

DOE requests comment on the impact and associated costs of the proposed amendment to define low-pressure water dispensers and pot fillers and to exclude them explicitly from the faucets definition.

c. Additional Direction in Conducting ASME A112.18.1

In addition to the proposed adoption of the test provisions in ASME A112.18.1–2018, DOE proposes other clarifications to the test procedure, namely specification on equipment and instrumentation, measurement precision, and calculation of flow rate. As discussed, DOE has tentatively determined that the additional specifications reflect existing test laboratory practices. As such, DOE has tentatively determined that the proposed amendments would not affect the representations of faucet or showerhead water use. DOE has tentatively determined that manufacturers would be able to rely on data generated under the current test procedure if DOE adopts the proposed amendments. DOE does not expect retesting of faucets would be required solely as a result of DOE's adoption of the proposed amendments to the test procedure. Moreover, DOE has tentatively determined that the additional specifications would not impact the testing cost, as they would reflect current practice.

DOE requests comment on the impact and associated costs of the proposed amendment to add clarifications about conducting testing under ASME A112.18.1–2018.

2. Harmonization With Industry Standards

DOE's established practice is to adopt relevant industry standards as DOE test procedures unless such methodology would fall short of EPCA's requirements that DOE's test procedure be unduly burdensome to conduct or would not produce test results that reflect the energy efficiency, energy use, water use or estimated operating costs of that product during a representative average use cycle or period of use. Section 8(c) of appendix A of 10 CFR part 430 subpart C. When the industry standard does not meet EPCA statutory criteria for test procedures, DOE will make modifications through the rulemaking process to these standards as the DOE test procedure.

The test procedures for faucets and showerheads at appendix S adopt through reference the relevant provisions of ASME A112.18.1–2012. The provisions of the industry standard referenced in the Federal test procedure provide procedures for testing and measuring water consumption, specifications for test apparatus, and other general requirements. The industry standard DOE proposes to incorporate by reference via amendments described in this NOPR are discussed in further detail in section IV.M of this document.

DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for faucets and showerheads.

H. Compliance Date

EPCA prescribes that, if DOE amends a test procedure, all representations of energy efficiency and energy use, including those made on marketing materials and product labels, must be made in accordance with that amended test procedure, beginning 180 days after publication of such a test procedure final rule in the **Federal Register**. (42 U.S.C. 6293(c)(2))

If DOE were to publish an amended test procedure EPCA provides an allowance for individual manufacturers to petition DOE for an extension of the 180-day period if the manufacturer may experience undue hardship in meeting the deadline. (42 U.S.C. 6293(c)(3)) To receive such an extension, petitions must be filed with DOE no later than 60 days before the end of the 180-day period and must detail how the manufacturer will experience undue hardship. (*Id.*)

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *www.energy.gov/gc/office-general-counsel.*

The Small Business Administration (''SBA'') considers a business entity to be a small business, if, together with its affiliates, it employs less than a threshold number of workers or earns less than the average annual receipts specified in 13 CFR part 121. The threshold values set forth in these

regulation use size standards codes established by the North American Industry Classification System (''NAICS'') that are available at: *www.sba.gov/document/support--table-size-standards.* Plumbing equipment manufacturers are classified under NAICS 332913 ''Plumbing Fixture Fitting and Trim Manufacturing,'' and NAICS 327110 ''Pottery, Ceramics, and Plumbing Fixture Manufacturing.'' The SBA sets a threshold of 1,000 employees or fewer for an entity to be considered a small business within these categories.

As described in section III.G., DOE has tentatively concluded that none of the proposed test procedure amendments would result in increased costs to manufacturers. Accordingly, DOE initially concludes that the impacts of the proposed test procedure amendments proposed in this NOPR would not have a ''significant economic impact on a substantial number of small entities,'' and that the preparation of an IRFA is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

DOE requests comment on its assessment that there would be no costs to small businesses as a result of the proposed test procedure amendments.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of showerheads and faucets must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including showerheads and faucets. (*See generally* 10 CFR part 429.) The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE is not proposing to amend the certification or reporting requirements for showerheads and faucets in this NOPR. Instead, DOE may consider proposals to amend the certification requirements and reporting for showerheads and faucets under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB Control Number 1910–1400 at that time, as necessary.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this NOPR, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for faucets and showerheads. DOE has determined that this proposed rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the

expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

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

The proposed regulatory action to amend the test procedure for measuring the water consumption of faucets and showerheads is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

The proposed modifications to the test procedures for faucets and showerheads would incorporate testing methods contained in certain sections of the following commercial standards: ASME A112.18.1–2018. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether it was developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by American Society of Mechanical Engineers (''ASME'') and the Canadian Standards Association (''CSA Group''), designated ASME A112.18.1–2018. ASME A112.18.1–2018 is an industry-accepted test procedure that measures water consumption for faucets and showerheads, and is applicable to products sold in North America. The sections of ASME A112.18.1–2018 referenced are Section 5.4 ''Flow rate'' which includes Section 5.4.1 ''Supply fittings'' and Section 5.4.2 ''Test procedure,'' which outline the procedures for testing and measuring water consumption, specifications for test apparatus, and other general requirements.

Copies of ASME A112.18.1–2018 can be obtained from American Society of Mechanical Engineers at Two Park Avenue, New York, NY 10016–5990, or by going to *www.asme.org.*

V. Public Participation

A. Participation in the Webinar

The time and date of the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's websites: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=40&action=viewcurrent* and *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=2&action=viewlive.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this proposed rule, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this proposed rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar/public meeting. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar/public meeting and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the proposed rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this proposed rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this proposed rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time permits, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this proposed rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar/public meeting.

A transcript of the webinar will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this document. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule.[10] Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

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

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

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

Submitting comments via email. Comments and documents submitted

[10] DOE has historically provided a 75-day comment period for test procedure NOPRs pursuant to the North American Free Trade Agreement, U.S.-Canada-Mexico (''NAFTA''), Dec. 17, 1992, 32 I.L.M. 289 (1993); the North American Free Trade Agreement Implementation Act, Public Law 103–182, 107 Stat. 2057 (1993) (codified as amended at 10 U.S.C.A. 2576) (1993) (''NAFTA Implementation Act''); and Executive Order 12889, ''Implementation of the North American Free Trade Agreement,'' 58 FR 69681 (Dec. 30, 1993). However, on July 1, 2020, the Agreement between the United States of America, the United Mexican States, and the United Canadian States (''USMCA''), Nov. 30, 2018, 134 Stat. 11 (*i.e.,* the successor to NAFTA), went into effect, and Congress's action in replacing NAFTA through the USMCA Implementation Act, 19 U.S.C. 4501 *et seq.* (2020), implies the repeal of E.O. 12889 and its 75-day comment period requirement for technical regulations. Thus, the controlling laws are EPCA and the USMCA Implementation Act. Consistent with EPCA's public comment period requirements for consumer products, the USMCA only requires a minimum comment period of 60 days. Consequently, DOE now provides a 60-day public comment period for test procedure NOPRs.

via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

E. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comment on its proposed amendment to the definition of ''faucet'' to explicitly exclude ''low-pressure water dispenses'' and ''pot fillers.''

(2) DOE requests comment on proposing to adopt the ASME A112.18.1–2018 definition for ''low-pressure water dispenser,'' with modification as described.

(3) DOE requests comment as to any additional physical features that could be used to distinguish a low-pressure water dispenser from a faucet.

(4) DOE requests comment as to whether a ¼″ compression fitting could be universally identified as a universal characteristic of low-pressure water dispensers that distinguishes it from faucets.

(5) DOE requests comments on the proposed definition of ''pot filler'' and whether other characteristics would more appropriately distinguish pot fillers from faucets, as defined by EPCA and DOE.

(6) DOE requests comment on its proposal to incorporate by reference ASME A112.18.1–2018.

(7) DOE requests comment on the proposed additional specifications for the fluid meter test and whether the proposed additional guidance is consistent with current industry practice.

(8) DOE requests comment on the proposed additional specifications for the time/volume test method and whether there is any additional burden associated with the proposed additional specifications.

(9) DOE also requests comment on its determination that the proposed methods for measuring the temperature of water align with current industry practices for when conducting the time/volume test.

(10) DOE requests comment and data on the prevalence of flow restrictors being removed from a showerhead by consumers.

(11) DOE requests comment on the proposed updates for faucets and showerheads to replace ''maximum permissible water use allowed'' with ''water use'' in 10 CFR 430.23(s) and (t), respectively.

(12) DOE requests comment on the proposed updates for faucets and showerheads to replace ''gallons and liters per minute'' with ''gallons or liters per minute.''

(13) DOE requests comment on the impact and associated costs of the proposed amendment to incorporate by reference the latest version of the industry standard, ASME A112.18.1–2018.

(14) DOE requests comment on the impact and associated costs of the proposed amendment to define low-pressure water dispensers and pot fillers and to exclude them explicitly from the faucets definition.

(15) DOE requests comment on the impact and associated costs of the proposed amendment to add clarificationons about conducting testing under ASME A112.18.1–2018.

(16) DOE requests comments on the benefits and burdens of the proposed updates and additions to industry standards referenced in the test procedure for faucets and showerheads.

(17) DOE requests comment on its assessment that there would be no costs to small businesses as a result of the proposed test procedure amendments.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking and announcement of public meeting.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Signing Authority

This document of the Department of Energy was signed on May 23, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 24, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Section 430.2 is amended by:
■ a. Revising the definition for ''Faucet''; and
■ b. Adding in alphabetical order, definitions for ''Low-pressure water dispenser'' and ''Pot filler''.

The revision and additions read as follows:

§ 430.2 Definitions.

* * * * *

Faucet means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator, excluding low-pressure water dispensers and pot fillers.

* * * * *

Low-pressure water dispenser means a terminal fitting that dispenses drinking water at a pressure of 105 kPA (15 psi) or less.

* * * * *

Pot filler means a terminal fitting with an articulated arm and two or more shut-off valves that can accommodate only a single supply water inlet.

* * * * *

■ 3. Section 430.3 in amended by revising paragraph (h)(1) to read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(h) * * *

(1) ASME A112.18.1–2018/CSA B125.1–2018 (with 10/18 Errata), (''ASME A112.18.1''), ''Plumbing supply fittings,'' approved 2018, IBR approved for appendix S to subpart B.

* * * * *

■ 4. Section 430.23 is amended by revising paragraphs (s) and (t) to read as follows:

§ 430.23 Test procedures for the measurement of energy and water consumption.

* * * * *

(s) *Faucets.* Measure the water use for lavatory faucets, lavatory replacement aerators, kitchen faucets, and kitchen replacement aerators, in gallons or liters per minute (gpm or L/min), in accordance to section 2(a) of appendix S to this subpart. Measure the water use for metering faucets, in gallons or liters per cycle (gal/cycle or L/cycle), in accordance to section 2(a) of appendix S of this subpart.

(t) *Showerheads.* Measure the water use for showerheads, in gallons or liters per minute (gpm or L/min), in accordance to section 2(b) of appendix S to this subpart.

* * * * *

■ 5. Appendix S to subpart B of part 430 is revised to read as follows:

Appendix S to Subpart B of Part 430—Uniform Test Method for Measuring the Water Consumption of Faucets and Showerheads

Note: Before [*date 180 Days After date of publication of the final rule in the* ***Federal Register***], representations with respect to the water consumption of faucets and showerheads, including compliance certifications, must be based on testing conducted in accordance with either this appendix or appendix S as it appeared in the 10 CFR parts 200–499 edition revised as of January 1, 2021.

On and after [*date 180 days after date of publication of the final rule in the* ***Federal Register***], representations with respect to water consumption of faucets and showerheads, including compliance certifications, must be based on testing conducted in accordance with this appendix.

0. Incorporation by reference

DOE incorporated by reference in § 430.3, the entire standard for ASME A112.18.1; however, only enumerated provisions of ASME A112.18.1 apply to this appendix, as follows: Section 5.4 ''Flow rate,'' including Figure 3 but excluding Table 1, and sections 5.4.2.3.1(a) and (c), 5.4.2.3.2(b) and (c), and 5.4.3. When there is a conflict, the language of the test procedure in this appendix takes precedence over ASME A112.18.1. Treat precatory language in ASME A112.18.1 as mandatory.

1. *Scope:* This appendix covers the test requirements to measure the hydraulic performance of faucets and showerheads.

2. *Flow Capacity Requirements*

a. Faucets—Measure the water flow rate for faucets, in gallons per minute (gpm) or liters per minute (L/min), or gallons per cycle (gal/cycle) or liters per cycle (L/cycle), in accordance with the test requirements specified in Section 5.4, Flow Rate, of ASME A112.18.1. Record measurements at the resolution of the test instrumentation. Round each calculation to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place for non-metered faucets, or two decimal places for metered faucets.

b. Showerheads—Measure the water flow rate for showerheads, in gallons per minute (gpm) or liters per minute (L/min), in accordance with the test requirements specified in Section 5.4, Flow Rate, of ASME A112.18.1. Record measurements at the resolution of the test instrumentation. Round each calculation to the same number of significant digits as the previous step. Round the final water consumption value to one decimal place. If using the time/volume method of Section 5.4.2.2(d) i, position the container to ensure it collects all water flowing from the showerhead, including any leakage from the ball joint.

2.1 General Instruction

2.1.1 Fluid Meter Test Method

When using the fluid meter method of Section 5.4.2.2(c) of ASME A112.18.1 to measure flow rate, ensure the fluid meter meets the following additional requirements, first, ensure the fluid meter is rated for the flow rate range of the product being tested. Second, ensure the fluid meter has a resolution for flow rate of no less than two significant figures. Third, verify the fluid meter is calibrated in accordance with the manufacturer printed instructions.

2.1.2 Time/Volume Test Method

There are several additional requirements when using the time/volume method of Section 5.4.2.2(d) of ASME A112.18.1 to measure flow rate. First, ensure the receiving container is large enough to contain all the water for a single test and has an opening size and/or a partial cover such that loss of water from splashing is minimized. Second, conduct the time/volume test for at least one minute, with the time recorded via a stopwatch with at least 0.1-second resolution. Third, measure and record the temperature of the water using a thermocouple or other similar device either at the receiving container immediately after recording the mass of water, or at the water in the supply line anytime during the duration of the time/volume test. Fourth, measure the mass of water to at least two significant figures and normalize it to gallons based on the specific gravity of water at the recorded temperature.

[FR Doc. 2022–11438 Filed 5–27–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0590; Project Identifier MCAI–2021–01395–T]

RIN 2120–AA64

Airworthiness Directives; MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD was prompted by a determination that a certain nondestructive test (NDT) procedure associated with a certain airworthiness limitation for inspecting

surface and subsurface fatigue cracks at fuselage station (FS) 460 and FS513 does not address all required inspections. This proposed AD would require using a revised NDT procedure when performing an airworthiness limitation task. This proposed AD would also prohibit the use of earlier revisions of that NDT procedure. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 15, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833–990–7272 or direct-dial telephone 450–990–7272; fax 514–855–8501; email *thd.crj@mhirj.com;* internet *https://mhirj.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0590; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Deep Gaurav, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; email: *deep.gaurav@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0590; Project Identifier MCAI–2021–01395–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend the proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Deep Gaurav, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; email: *deep.gaurav@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued TCCA AD CF–2021–47, dated December 13, 2021 (TCCA AD CF–2021–47) (referred to after this as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for certain MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. You may examine the MCAI on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0590.

This proposed AD was prompted by a determination that the NDT procedure specified in MHI RJ CRJ200 Nondestructive Testing Manual (NDTM) Part 6—Eddy Current, procedure number 53–41–194, dated October 10, 2020, associated with airworthiness limitation task number 53–41–194 does not address all required inspections. MHI RJ CRJ200 NDTM Part 6—Eddy Current, procedure number 53–41–194, dated October 10, 2020, is a NDT procedure for the special detailed inspection (eddy current inspection) for surface and subsurface fatigue cracks at FS460 and FS513 referenced in airworthiness limitation task number 53–41–194. Airworthiness limitations are the outside marker to ensure the continued safety of an airplane but in this case, the procedure associated with the airworthiness limitation was inadequate, leading to missed fatigue cracking in these airplanes. The FAA is proposing this AD to address such fatigue cracks, which could result in failure of the pressure floor skin and consequent rapid decompression of the airplane during flight. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

MHI RJ Aviation ULC has issued MHI RJ CRJ200 NDTM Temporary Revision 53–109, dated March 5, 2021. This temporary revision describes a NDT procedure to do a special detailed inspection (eddy current inspection) for surface and subsurface cracks at FS460 and FS513. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

described previously is likely to exist or develop on other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require using a revised NDT procedure when performing a certain airworthiness limitation task. This AD also prohibits the use of earlier revisions of that NDT procedure when performing that airworthiness limitation task.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 427 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
6 work-hours × $85 per hour = $510	$0	$510	$217,770

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

MHI RJ Aviation ULC (Type Certificate Previously Held by Bombardier, Inc.): Docket No. FAA–2022–0590; Project Identifier MCAI–2021–01395–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 15, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to MHI RJ Aviation ULC Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 through 8079 inclusive, on which Bombardier Service Bulletin 601R–53–067 and/or Bombardier Service Bulletin 601R–53–077 has been incorporated.

(d) Subject

Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by a determination that a certain nondestructive test procedure associated with a certain airworthiness limitation for inspecting surface and subsurface fatigue cracks at fuselage station (FS) 460 and FS513 does not address all required inspections. The FAA is issuing this AD to address such fatigue cracks, which could result in failure of the pressure floor skin and consequent rapid decompression of the airplane during flight.

(f) Compliance

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

(g) Maintenance Procedure Limitation

As of the effective date of this AD, use MHI RJ CRJ200 Nondestructive Testing Manual (NDTM) Part 6—Eddy Current, procedure number 53–41–194, Special Detailed Inspection of the Pressure Floor at FS460.00 and/or FS513.00 Between LBL18.00 and RBL18.00, as specified in MHI RJ CRJ200 NDTM Temporary Revision 53–109, dated March 5, 2021, when performing airworthiness limitation task number 53–41–194.

Note 1 to paragraph (g): MHI RJ CRJ200 NDTM Temporary Revision 53–109, dated March 5, 2021, revises procedure number 53–41–194 specified in airworthiness limitation task number 53–41–194, which can be found in Appendix B, Airworthiness Limitations, in Part 2, Airworthiness Requirements, of the MHI RJ CL–600–2B19 Maintenance Requirements Manual, CSP A–053.

(h) Maintenance Procedure Prohibition

As of the effective date of this AD, it is prohibited to use MHI RJ CRJ200 NDTM Part 6—Eddy Current, procedure number 53–41–194, dated October 10, 2020, or earlier revisions when performing airworthiness limitation task number 53–41–194.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the airplane to a location where the airplane can be inspected, provided the flight is a non-revenue flight.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO Branch, 1600 Stewart Avenue,

Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) TCCA AD CF–2021–47, dated December 13, 2021, for related information for related information. This MCAI may be found in the AD docket on the internet at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0590.

(2) For more information about this AD, contact Deep Gaurav, Aerospace Engineer, Airframe and Propulsion Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone: 516–228–7300; email: *deep.gaurav@faa.gov.*

(3) For service information identified in this AD, contact MHI RJ Aviation Group, Customer Response Center, 3655 Ave. des Grandes-Tourelles, Suite 110, Boisbriand, Québec J7H 0E2 Canada; North America toll-free telephone 833–990–7272 or direct-dial telephone 450–990–7272; fax 514–855–8501; email *thd.crj@mhirj.com;* internet *https://mhirj.com.* You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on May 24, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11544 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0591; Project Identifier MCAI–2021–01302–T]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede Airworthiness Directive (AD) 2017–19–13, AD 2018–24–04, and AD 2019–23–02, which apply to certain Airbus SAS Model A330–200 series, A330–200 Freighter series, and A330–300 series airplanes. ADs 2017–19–13, 2018–24–04, and 2019–23–02 require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. Since the FAA issued AD 2019–23–02, which terminates ADs 2017–19–13 and 2018–24–04 upon its accomplishment, the FAA has determined that new or more restrictive airworthiness limitations are necessary. This proposed AD would continue to require the actions in AD 2019–23–02, add airplanes to the applicability, and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive airworthiness limitations, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by July 15, 2022.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For EASA material that will be incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* For Airbus service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *http://www.airbus.com.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0591.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0591; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0591; Project Identifier MCAI–2021–01302–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *https://www.regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial

information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA issued AD 2019–23–02, Amendment 39–19795 (84 FR 64725, November 25, 2019) (AD 2019–23–02), which applies to certain Airbus SAS Model A330–200 series, A330–200 Freighter series, and A330–300 series airplanes. AD 2019–23–02 requires revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations. The FAA issued AD 2019–23–02 to address fatigue cracking, accidental damage, and corrosion in principal structural elements; such fatigue cracking, accidental damage, and corrosion could result in reduced structural integrity of the airplane. AD 2019–23–02 specifies that accomplishing the revision required by paragraph (g) of that AD terminates all requirements of AD 2017–19–13, Amendment 39–19043 (82 FR 43837, September 20, 2017) (AD 2017–19–13); and AD 2018–24–04, Amendment 39–19508 (83 FR 60756, November 27, 2018) (AD 2018–24–04).

Actions Since AD 2019–23–02 Was Issued

Since the FAA issued AD 2019–23–02, the FAA has determined that new or more restrictive airworthiness limitations are necessary. In addition, Model A330–841 and A330–941 airplanes have been added to the U.S. type certificate data sheet, the applicable airworthiness limitations documents, and this proposed AD.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0261, dated November 22, 2021 (EASA AD 2021–0261) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–201, –202, –203, –223, –243, –223F, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343, –841, and –941 airplanes.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after November 2, 2021, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is proposing this AD to address fatigue cracking, accidental damage, and corrosion in principal structural elements; such fatigue cracking, accidental damage, and corrosion could result in reduced structural integrity of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0261 describes new or more restrictive airworthiness limitations for airplane structures, including a limit of validity (LOV) for Model A330–841 and A330–941 airplanes.

This AD would also require Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018; and Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Variation 3.1, dated January 18, 2019, which the Director of the Federal Register approved for incorporation by reference as of December 30, 2019 (84 FR 64725, November 25, 2019).

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

FAA's Determination

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

Proposed AD Requirements in This NPRM

This proposed AD would retain the requirements of AD 2019–23–02. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive airworthiness limitations, which are specified in EASA AD 2021–0261 described previously, as proposed for incorporation by reference. Any differences with EASA AD 2021–0261 are identified as exceptions in the regulatory text of this AD.

This proposed AD would require revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance (AMOC) according to paragraph (l)(1) of this proposed AD.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2021–0261 by reference in the FAA final rule. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0261 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2021–0261. Service information required by EASA AD 2021–0261 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0591 after the FAA final rule is published.

Airworthiness Limitation ADs Using the New Process

The FAA's process of incorporating by reference MCAI ADs as the primary

source of information for compliance with corresponding FAA ADs has been limited to certain MCAI ADs (primarily those with service bulletins as the primary source of information for accomplishing the actions required by the FAA AD). However, the FAA is now expanding the process to include MCAI ADs that require a change to airworthiness limitation documents, such as airworthiness limitation sections.

For these ADs that incorporate by reference an MCAI AD that changes airworthiness limitations, the FAA requirements are unchanged. Operators must revise the existing maintenance or inspection program, as applicable, to incorporate the information specified in the new airworthiness limitation document. The airworthiness limitations must be followed according to 14 CFR 91.403(c) and 91.409(e).

The previous format of the airworthiness limitation ADs included a paragraph that specified that no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and intervals are approved as an AMOC in accordance with the procedures specified in the AMOCs paragraph under ''Additional FAA Provisions.'' This new format includes a ''New Provisions for Alternative Actions and Intervals'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action or interval.

Costs of Compliance

The FAA estimates that this proposed AD affects 138 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

The FAA estimates the total cost per operator for the retained actions from AD 2019–23–02 to be $7,650 (90 work-hours × $85 per work-hour).

The FAA has determined that revising the existing maintenance or inspection program takes an average of 90 work-hours per operator, although the agency recognizes that this number may vary from operator to operator. Since operators incorporate maintenance or inspection program changes for their affected fleet(s), the FAA has determined that a per-operator estimate is more accurate than a per-airplane estimate.

The FAA estimates the total cost per operator for the new proposed actions to be $7,650 (90 work-hours × $85 per work-hour).

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2017–19–13, Amendment 39–19043 (82 FR 43837, September 20, 2017); AD 2018–24–04, Amendment 39–19508 (83 FR 60756, November 27, 2018); and AD 2019–23–02, Amendment 39–19795 (84 FR 64725, November 25, 2019); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–0591; Project Identifier MCAI–2021–01302–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 15, 2022.

(b) Affected ADs

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

(1) AD 2017–19–13, Amendment 39–19043 (82 FR 43837, September 20, 2017) (AD 2017–19–13).

(2) AD 2018–24–04, Amendment 39–19508 (83 FR 60756, November 27, 2018) (AD 2018–24–04).

(3) AD 2019–23–02, Amendment 39–19795 (84 FR 64725, November 25, 2019) (AD 2019–23–02).

(c) Applicability

This AD applies to the Airbus SAS airplanes specified in paragraphs (c)(1) through (5) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before November 2, 2021.

(1) Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Model A330–223F and –243F airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841 airplanes.

(5) Model A330–941 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Time Limits/Maintenance Checks.

(e) Unsafe Condition

This AD was prompted by a determination that new or more restrictive airworthiness limitations are necessary. The FAA is issuing this AD to address fatigue cracking, accidental damage, and corrosion in principal structural elements; such fatigue cracking, accidental damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Existing Maintenance or Inspection Program, With No Changes

This paragraph restates the requirements of paragraph (g) of AD 2019–23–02, with no changes. For Model A330–201, –202, –203, –223, and –243; A330–223F and –243F; and A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes with an original airworthiness certificate or original export certificate of airworthiness issued on or before January 18, 2019: Within 90 days after December 30, 2019 (the effective date AD 2019–23–02), revise the existing maintenance or inspection program, as

applicable, to incorporate the information specified in Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT–ALI), Revision 03, dated October 15, 2018 (''Airbus A330 ALS Part 2, DT–ALI, Revision 03''), as supplemented by Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019. The initial compliance time for doing the tasks is at the time specified in Airbus A330 ALS Part 2, DT–ALI, Revision 03, including Airbus A330 ALS Part 2, DT–ALI, Variation 3.1, dated January 18, 2019; or within 90 days after December 30, 2019; whichever occurs later. This AD does not require Section 4, ''Damage Tolerant-Airworthiness Limitations Items-Tasks Beyond MPPT,'' of Airbus A330 ALS Part 2, DT–ALI, Revision 03. Accomplishing the revision of the existing maintenance or inspection program required by paragraph (i) of this AD terminates the requirements of this paragraph.

(h) Retained Restrictions on Alternative Actions or Intervals, With a New Exception

This paragraph restates the requirements of paragraph (h) of AD 2019–23–02, with a new exception. Except as required by paragraph (i) of this AD, after the existing maintenance or inspection program has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals, may be used unless the actions and intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (l)(1) of this AD.

(i) New Revision of the Existing Maintenance or Inspection Program

Except as specified in paragraph (j) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2021–0261, dated November 22, 2021 (EASA AD 2021–0261). Accomplishing the revision of the existing maintenance or inspection program required by this paragraph terminates the requirements of paragraph (g) of this AD.

(j) Exceptions to EASA AD 2021–0261

(1) Where EASA AD 2021–0261 refers to its effective date, this AD requires using the effective date of this AD.

(2) The requirements specified in paragraphs (1) and (2) of EASA AD 2021–0261 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2021–0261 specifies revising ''the AMP'' within 12 months after its effective date, but this AD requires revising the existing maintenance or inspection program, as applicable, within 90 days after the effective date of this AD.

(4) The initial compliance time for doing the tasks specified in paragraph (3) of EASA 2021–0261 is at the applicable ''associated thresholds'' as incorporated by the requirements of paragraph (3) of EASA AD 2021–0261, or within 90 days after the effective date of this AD, whichever occurs later.

(5) This AD does not require incorporating Section 4, ''Damage Tolerant-Airworthiness Limitations Items-Tasks Beyond MPPT,'' of ''the ALS'' specified in EASA AD 2021–0261.

(6) The provisions specified in paragraphs (4) and (5) of EASA AD 2021–0261 do not apply to this AD.

(7) The ''Remarks'' section of EASA AD 2021–0261 does not apply to this AD.

(k) New Provisions for Alternative Actions and Intervals

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections) and intervals are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0261.

(l) Additional FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (m)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

(i) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(ii) The AMOC specified in letter AIR–676–19–120, dated March 5, 2019, approved previously for AD 2018–24–04, is approved as an AMOC for the corresponding provisions of EASA AD 2021–0261 that are required by paragraph (i) of this AD for Model A330–200 and A330–300 series airplanes modified from a passenger to freighter configuration under the provisions of FAA Supplemental Type Certificate ST04038NY.

(iii) The AMOC specified in letter AIR–731A–20–179, dated May 11, 2020, approved previously for AD 2019–23–02 is approved as an AMOC for the corresponding provisions of EASA AD 2021–0261 that are required by paragraph (i) of this AD for Model A330–200 and A330–300 series airplanes modified from a passenger to freighter configuration under the provisions of FAA Supplemental Type Certificate ST04038NY.

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

(m) Related Information

(1) For EASA AD 2021–0261, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*. You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0591.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3229; email *vladimir.ulyanov@faa.gov.*

(3) For Airbus service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, France, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* internet *https://www.airbus.com*. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

Issued on May 24, 2022.

Gaetano A. Sciortino,

Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2022–11548 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0539; Airspace Docket No. 22–AAL–13]

RIN 2120–AA66

Proposed Revocation of Colored Federal Airway Green 17 (G–17); Atqasuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke the Colored Federal airway Green 17 (G–17) near Atqasuk, AK due to the pending decommission of the Atqasuk, AK, (ATK) Non-directional Beacon (NDB).

DATES: Comments must be received on or before July 15, 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: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0539; Airspace Docket No. 22–AAL–13 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0539; Airspace Docket No 22–AAL–13) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0539; Airspace Docket No. 22–AAL–13.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

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

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

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study, in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters, in 2021 on Atqasuk, AK, (ATK) NDB due to the ongoing high cost of maintenance and repairs. As a result of the study, there were no objections received and the FAA added the Atqasuk, AK, (ATK) navigational aid (NAVAID) to the schedule to be decommissioned.

With the planned decommissioning of the Atqasuk, AK, (ATK) NDB, the remaining ground-based NAVAID coverage in the area is insufficient to enable the continuity of the Colored Federal airway G–17. As a result, G–17 would be unusable. This proposal would revoke G–17 in its entirety. To overcome the loss of G–17, pilots equipped with Area Navigation (RNAV) capabilities may use RNAV T-route, T–235, as an alternate route. In a separate rule-making action, there is a proposal to extend RNAV T–235 to overlay the G–17 route segment that is proposed to be revoked. This action, if approved, would be in place prior to the revocation of G–17.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke the Colored Federal airway G–17 near Atqasuk, AK, due to the planned decommissioning of the Atqasuk, AK, (ATK) NDB. G–17 currently navigates between the Wainwright Village, AK, NDB and the Atqasuk, AK, NDB. The FAA proposes to revoke G–17 in its entirety.

Colored Federal airways are published in paragraph 6009(a) of FAA Order JO 7400.11F dated August 10, 2021 and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Colored Federal airway listed in this document would be removed subsequently from FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6009(a) Colored Federal Airways

* * * * *

G–17 [Remove]

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Issued in Washington, DC, on May 23, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–11500 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0541; Airspace Docket No. 22–AAL–48]

RIN 2120–AA66

Proposed Revocation of Alaskan Airway V–621 Near Atqasuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to revoke the Alaskan VHF Omnidirectional Range (VOR) Federal airway V–621 (hereinafter referred to as Alaskan V–621) due to the planned decommissioning of the Atqasuk, AK, (ATK) Non-Directional Beacon (NDB) Navigational Aid (NAVAID).

DATES: Comments must be received on or before July 15, 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: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0541; Airspace Docket No. 22–AAL–48 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Rules and Regulations Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC, 20591; telephone: (202) 267–8783.

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0541; Airspace Docket No 22–AAL–48) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0541; Airspace Docket No. 22–AAL–48.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

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

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

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en-route navigation structure away from the dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support the decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study, in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters, in 2021 on the Atqasuk, AK, (ATK) NDB due to the ongoing high cost of maintenance and repairs. As a result of the study, there were no objections to remove the Atqasuk, AK, (ATK) NDB. Therefore, the FAA proceeded to schedule the decommissioning of the Atqasuk, AK, (ATK) NDB.

With the planned decommissioning of Atqasuk, AK, (ATK) NDB, the remaining ground-based coverage in the area is insufficient to enable the continuity of the Alaskan V–621. As such, this proposal would result in the Alaskan V–621 being revoked. To overcome the loss of Alaskan V–621, pilots equipped with Area Navigation (RNAV) capabilities may use neighboring RNAV T-routes T–235, T–246, and T–267 as alternate routes.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to revoke Alaskan VOR Federal airway V–621, due to the planned decommissioning of the Atqasuk, AK, (ATK) NDB. The proposed airway change is described below.

Alaskan V–621: Alaskan V–621 currently navigates between the Barrow, AK, VOR and the Atqasuk, AK, NDB. The FAA proposes to remove the airway in its entirety.

Alaskan VOR Federal airways are published in paragraph 6010(b) 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 Alaskan VOR Federal airway listed in this document would be removed subsequently from FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6010(b) Alaskan VOR Federal Airways.

* * * * *

V–621 [Removed]

* * * * *

Issued in Washington, DC, on May 23, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–11491 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0661; Airspace Docket No. 22–AEA–10]

Proposed Revocation of Class E Airspace; Brownsville, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove Class E airspace in Brownsville, PA, as Brownsville General Hospital Heliport has been abandoned, and controlled airspace is no longer required. This action would enhance the safety and management of controlled airspace within the national airspace system.

DATES: Comments must be received on or before July 15, 2022.

ADDRESSES: Send comments on this proposal to: the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; Telephone: (800) 647–5527, or (202) 366–9826. You must identify the Docket No. FAA–2021–0661; Airspace Docket

No. 22–AEA–10, 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: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This proposed 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 remove Class E airspace extending upward from 700 feet above the surface at Brownsville General Hospital Heliport, Brownsville, PA due to the closing of the hospital.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2021–0661 and Airspace Docket No. 22–AEA–10) and be submitted in triplicate to the DOT Docket Operations (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2021–0661; Airspace Docket No. 22–AEA–10.'' 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. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, GA 30337.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA proposes an amendment to 14 CFR 71 to remove Class E airspace extending upward from 700 feet above the surface at Brownsville General Hospital Heliport, Brownsville, PA, as the hospital has closed. Therefore, the airspace is no longer necessary.

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

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA PA E5 Brownsville, PA [Removed]

Issued in College Park, Georgia, on May 23, 2022.

Lisa Burrows,

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

[FR Doc. 2022–11432 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0646; Airspace Docket No. 21–AEA–17]

RIN 2120–AA66

Proposed Amendment and Removal of VOR Federal Airways in the Eastern United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify 4 VHF Omnidirectional Range (VOR) Federal Airways, (V–7, V–9, V–106, and V–214); and remove 7 VOR Federal Airways, (V–58, V–130, V–149, V–379, V–445, V–451, and V–479) in support of the FAA's VOR Minimum Operation Network (MON) project.

DATES: Comments must be received on or before July 15, 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: (800) 647–5527 or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0646; Airspace Docket No. 21–AEA–17 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the VOR Federal airway route structure in the eastern United States to maintain the efficient flow of air traffic.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0646; Airspace Docket No. 21–AEA–17) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0646; Airspace Docket No. 21–AEA–17.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM's

An electronic copy of this document may be downloaded through the internet at *https://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's web page at *https://www.faa.gov/air_traffic/publications/airspace_amendments/.* You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Eastern Service Center, Federal Aviation Administration, Room 210, 1701 Columbia Ave., College Park, GA, 30337.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021. FAA Order JO 7400.11F is publicly available as listed in the **ADDRESSES** section of this proposed rule. 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 to modify 4 VOR Federal Airways, (V–7, V–9, V–106, and V–214), and remove 7 VOR Federal Airways, (V–58, V–130, V–149, V–379, V–445, V–451, and V–479). The proposed changes are described below.

V–7: V–7 currently consists of three separate parts: From Dolphin, FL, to Muscle Shoals, AL; From Pocket City, IN, to the intersection of radials from the Chicago Heights, IL, and Badger, WI, navigation aids; and From Green Bay, WI, to Sawyer, MI. The FAA proposes amend the first part of the route by removing the segment between Vulcan, AL, and Muscle Shoals, AL. As amended, the first part of V–7 would

extend between Dolphin, FL, and Montgomery, AL. The remaining two parts of the route would remain unchanged. Additionally, the current legal description of V–7 contains the following statements: ''The airspace below 2,000 feet MSL outside the United States is excluded. The portion outside the United States has no upper limit.'' A review of aeronautical charts revealed that no part of V–7 extends outside of United States airspace. Therefore, the FAA intends to remove the statements from the legal description. Other changes to V–7 are being proposed in a separate docket action.

V–9: V–9 currently extends from Leeville, LA to Pontiac, IL; and from Janesville, WI, to Houghton, MI. This action would remove Sidon, MS, Marvell, AR, Gilmore, AR, and Malden, MO, from the route. As amended, V–9 would consist of three parts: From Leeville, LA, to Magnolia, MS; From Farmington, MO, to Pontiac, IL; and From Janesville, WI, to Houghton, MI.

V–58: V–58 currently consists of two parts: From Philipsburg, PA, to Williamsport, PA; and from the intersection of the Sparta, NJ, 018° and the Kingston NY, 270° radials to Nantucket, MA. This action proposes to remove the entire route. RNAV route T–216 replaces V–58.

V–106: V–106 currently extends between Johnstown, PA, and the intersection of the Wilkes-Barre, PA, 037°, and the Sparta, NJ, 300° radials. This action would remove the segments from Selinsgrove, PA, to the intersection of the above Wilkes-Barre and Sparta radials. As amended, V–106 would extend from Johnstown, PA, to the intersection of the Johnstown 068° and the Selinsgrove 259° radials. RNAV route T–212 replaces the segments of V–106 being proposed for removal.

V–130: V–130 currently extends from Norwich, CT, to Marthas Vineyard, MA. The FAA proposes to remove the entire route. RNAV route T–255 replaces V–130.

V–149: V–149 currently extends from Allentown, PA, to Binghamton, NY. This action would remove the entire route. RNAV route T–221 replaces V–149.

V–214: V–214 currently consists of three parts: From Kokomo, IN, to Muncie, IN; From the intersection of the Appleton, OH, 236° and the Zanesville, OH, 274° radials to Bellaire, OH; and From Martinsburg, WV, to Teterboro, NJ. This action proposes to remove the segments from Martinsburg, WV, to Teterboro, NJ. As proposed, V–214 would extend from Kokomo, IN, to Muncie, IN; and From the intersection of the Appleton and Zanesville radials to Bellaire. RNAV route T–356 replaces V–214.

V–379: V–379 currently extends from Nottingham, MD, to Smyrna, DE. This route is not being used, therefore, the FAA proposes to remove the entire route. New performance Based Navigation procedures and T-routes have been designed to mirror current routings to and from the Washington, DC, Metropolitan area.

V–445: V–445 currently extends from the intersection of the Washington, DC, 065° and the Baltimore, MD, 197° radials, to LaGuardia, NY. This action would remove the entire route. RNAV route T–356 replaces portions of this route.

V–451: V–451 currently extends from LaGuardia, NY, to Groton, CT. This route is not being used, therefore, the FAA proposes to remove the entire route. New T-routes have been designed to mirror current routings to and from the New York Metropolitan area.

V–479: V–479 currently extends from Dupont, DE, to Yardley, PA. This route is not being used, therefore, the FAA proposes to remove the entire route. New T-routes have been designed to mirror current routings to and from the Philadelphia and New York Metropolitan areas.

Domestic VOR Federal airways are published in paragraph 6010(a) of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airways listed in this document would be subsequently published in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6010(a) Domestic VOR Federal Airways

* * * * *

V–7 [Amended]

From Dolphin, FL; INT Dolphin 299° and Lee County, FL, 120° radials; Lee County; Lakeland, FL; Cross City, FL; Seminole, FL; Wiregrass, AL; INT Wiregrass 333° and Montgomery, AL, 129° radials; to Montgomery. From Pocket City, IN; INT Pocket City 016° and Terre Haute, IN, 191° radials; Terre Haute; Boiler, IN; Chicago Heights, IL; to INT Chicago Heights 358° and Badger, WI, 117° radials. From Green Bay, WI; Menominee, MI; to Sawyer, MI.

* * * * *

V–9 [Amended]

From Leeville, LA; McComb, MS; INT McComb 004° and Magnolia, MS 194° radials; to Magnolia. From Farmington, MO; St. Louis, MO; Spinner, IL; to Pontiac, IL. From Janesville, WI; Madison, WI; Oshkosh, WI; Green Bay, WI; Iron Mountain, MI; to Houghton, MI.

* * * * *

V–58 [Removed]

* * * * *

V–106 [Amended]

From Johnstown, PA; to INT Johnstown 068° and Selinsgrove, PA, 259° radials.

* * * * *

V–130 [Removed]

* * * * *

V–149 [Removed]

* * * * *

V–214 [Amended]

From Kokomo, IN, Marion, IN; to Muncie, IN. From INT Appleton, OH, 236° and Zanesville, OH, 274° radials; Zanesville; to Bellaire, OH.

* * * * *

V–37 [Removed]

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V–445 [Removed]

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V–451 [Removed]

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Issued in Washington, DC, on May 23, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–11502 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0540; Airspace Docket No. 22–AAL–49]

RIN 2120–AA66

Proposed Amendment of Alaskan Federal Airway V–531 Near Point Hope, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Alaskan VHF Omnidirectional Range (VOR) Federal airway V–531 (hereinafter referred to as Alaskan V–531) due to the planned decommissioning of the Point Hope, AK, (PHO) Non-directional Beacon (NDB) navigational aid (NAVAID).

DATES: Comments must be received on or before July 15, 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: (800) 647–5527, or (202) 366–9826. You must identify FAA Docket No. FAA–2022–0540; Airspace Docket No. 22–AAL–49 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.*

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify the airway structure as necessary to preserve the safe and efficient flow of air traffic within the National Airspace System.

Comments Invited

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

Communications should identify both docket numbers (FAA Docket No. FAA–2022–0540; Airspace Docket No 22–AAL–49) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the internet at *https://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2022–0540; Airspace Docket No. 22–AAL–49.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRM

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

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

Availability and Summary of Documents for Incorporation by Reference

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

Background

The aviation industry/users have indicated a desire for the FAA to transition the Alaskan en route navigation structure away from the

dependency on NDBs. The advances in technology have allowed for alternate navigation methods to support decommissioning of high cost ground navigation equipment. The FAA conducted a non-rulemaking study, in accordance with FAA Order JO 7400.2, Procedures for Handling Airspace Matters, in 2021 on the Point Hope, AK, (PHO) NDB due to the ongoing high cost of maintenance and repairs. As a result of the study, there were no objections received to remove the Point Hope, AK, (PHO) NDB. Therefore, the FAA proceeded to schedule the decommissioning of the Point Hope, AK, (PHO) NDB.

With the planned decommissioning of the Point Hope, AK, (PHO) NDB, the remaining ground-based coverage in the area is insufficient to enable the continuity of a portion of the Alaskan V–531. As such, this proposal would result in Alaskan V–531 being shortened with a new end point. To overcome the loss of a portion of Alaskan V–531, pilots equipped with Area Navigation (RNAV) capabilities may use RNAV T-route, T–229, as an alternate route. A separate rule-making action proposes to extend RNAV T–229 and have it overlay the proposed shortened segment of Alaskan V–531; this proposed extension of T–229 would be effective prior to the shortening of V–531.

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 to amend the Alaskan VOR Federal airway V–531, due to the planned decommissioning of the Point Hope, AK, (PHO) NDB. The proposed airway change is described below.

Alaskan V–531. Alaskan V–531 currently navigates between the Fairbanks, AK, VHF Omnidirectional Range and Tactical Air Navigational System (VORTAC) and the Point Hope, AK, NDB. The FAA proposes to remove a portion of the airway between the Kotzebue, AK, VOR/Distance Measuring Equipment (VOR/DME) and the Point Hope, AK, NDB. The Alaskan airway would then terminate at the Kotzebue, AK, VOR/DME. The unaffected portions of the existing airway would remain as charted.

Alaskan VOR Federal airways are published in paragraph 6010(b) 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 Alaskan VOR Federal airway listed in this document would be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

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

Paragraph 6010(b) Alaskan VOR Federal Airways

* * * * *

V–531 [Amended]

From Fairbanks, AK, via Tanana, AK; Huslia, AK; Selawik, AK; to Kotzebue, AK

* * * * *

Issued in Washington, DC, on May 23, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–11503 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0121; FRL–9823–01–R3]

Air Plan Approval; Pennsylvania; 2015 Ozone National Ambient Air Quality Standard Nonattainment New Source Review Certification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve this state implementation plan (SIP) revision that will fulfill Pennsylvania's nonattainment new source review (NNSR) SIP element requirement for the 2015 8-hour ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before June 30, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2022–0121 at *https://www.regulations.gov,* or via email to *Opila.MaryCate@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person

identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Justin Leary, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2189. Mr. Leary can also be reached via electronic mail at *Leary.Justin@epa.gov.*

SUPPLEMENTARY INFORMATION: On January 8, 2021, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision on behalf of the Commonwealth of Pennsylvania (Commonwealth or Pennsylvania) for its SIP. The revision comprises the NNSR Certification for the 2015 8-hour ozone NAAQS. Pennsylvania is certifying that the Commonwealth's federally approved nonattainment new source review regulation in 25 Pennsylvania Code of Regulations (Pa. Code) Chapter 127 applies statewide and covers the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2015 ozone NAAQS. Pennsylvania asserts that its nonattainment new source review program is at least as stringent as the requirements at 40 CFR 51.165, as amended by the final rule titled ''Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area State Implementation Plan Requirements'' (SRR) for ozone and its precursors. See 83 FR 62998 (December 6, 2018).

I. Background

EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). 80 FR 65452 (October 26, 2015). Under EPA's regulation at 40 CFR 50.19 the 2015 8-hour ozone standard is obtained when the three-year average of the fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.070 ppm.

Upon promulgation of a new or revised NAAQS, the CAA requires that EPA designate as nonattainment any area that is violating the NAAQS based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment Area was designated nonattainment and classified as a marginal nonattainment area for the 2015 8-hour ozone NAAQS on August 3, 2018. Based on initial nonattainment designations for the 2015 8-hour ozone NAAQS, as well as the December 6, 2018, final SRR, Pennsylvania was required to develop a SIP revision addressing specific CAA requirements for the Philadelphia Area and submit to EPA a NNSR Certification SIP or SIP revision no later than 36 months after the effective date of area designations for the 2015 8-hour ozone NAAQS (*i.e.,* August 3, 2021). See 83 FR 62998 (December 6, 2018). EPA's analysis of how this SIP revision addresses the NNSR requirements for the 2015 8-hour ozone NAAQS is provided in Section II of this rulemaking action.

II. Summary of SIP Revision and EPA Analysis

This rulemaking action is specific to Pennsylvania's NNSR requirements. NNSR is a preconstruction review permit program that applies to new major stationary sources or major modifications at existing sources located in a nonattainment area. The specific NNSR requirements for the 2015 8-hour ozone NAAQS are located in 40 CFR 51.160–165.

The minimum SIP requirements for NNSR permitting programs for the 2015 8-hour ozone NAAQS are located in 40 CFR 51.165. See 40 CFR 51.1314. Under the 2015 8-hour ozone NAAQS NNSR SIP requirements, the SIP for each ozone nonattainment area must contain NNSR provisions that: (1) Set major source thresholds for oxides of nitrogen (NO_X) and volatile organic compounds (VOCs) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*1*)(*i*)–(*iv*); (2) classify physical changes as a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(*3*); (3) consider any significant net emissions increase of NO_X as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E); (4) consider certain increases of VOC emissions in extreme ozone nonattainment areas as a significant net emissions increase and a major modification for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F); (5) set significant emissions rates for VOCs and NO_X as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A)–(C) and (E); (6) contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(*1*)–(*2*); (7) provide that the requirements applicable to VOC also apply to NO_X pursuant to 40 CFR 51.165(a)(8); (8) set offset ratios for VOC and NO_X pursuant to 40 CFR 51.165(a)(9)(i)–(iii) (renumbered as (a)(9)(ii)–(iv) under the SIP Requirements Rule for the 2008 8-hour ozone NAAQS); and (9) in meeting emissions offset requirement of paragraph (a)(3), the emission offsets obtained be for the same regulated NSR pollutant with the exception of direct fine particulate matter ($PM_{2.5}$) emissions and emission of precursors of $PM_{2.5}$ pursuant 40 CFR 51.165(a)(11).

Pennsylvania's SIP approved NNSR program, established in the Pa. Code Rule 25 Pa. Code Chapter 127—*Construction, Modification, Reactivation, and Operation of Sources,* applies to the construction and modification of major stationary sources in nonattainment areas. In its October 30, 2017, SIP revision, Pennsylvania certifies that the version of 25 Pa. Code Chapter 127 in the SIP is at least as stringent as the Federal NNSR requirements for the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area. EPA last approved revisions to Pennsylvania's major NNSR SIP on February 22, 2019. In that action, EPA approved Pennsylvania's NNSR program under the 2008 8-hour ozone NAAQS and made PADEP's NNSR program consistent with Federal requirements. *See* 84 FR 5598 (February 22, 2019). The version of 25 Pa. Code Chapter 127 that is contained in the current SIP and covers the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area and is adequate to meet all applicable NNSR requirements for the 2015 8-hour ozone NAAQS found in 40 CFR 51.165, and the SRR.

III. Proposed Action

EPA's review of this material indicates that Pennsylvania's submission fulfills the 40 CFR 51.1114 revision requirement, meets the requirements of CAA sections 110 and 172 and the minimum SIP requirements of 40 CFR 51.165. EPA is proposing to approve Pennsylvania's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Philadelphia Area, which was submitted on January 8, 2020. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking, approving Pennsylvania's 2015 8-hour ozone NAAQS Certification SIP revision for NNSR, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2022–11498 Filed 5–27–22; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 87, No. 104
Tuesday, May 31, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Open Meeting of the Information Security and Privacy Advisory Board

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The Information Security and Privacy Advisory Board (ISPAB) will meet Wednesday, July 13, 2022, and Thursday, July 14, 2022, from 10:00 a.m. until 4:00 p.m., Eastern Time. All sessions will be open to the public.

DATES: The meeting will be held on Wednesday, July 13, 2022, and Thursday, July 14, 2022, from 10:00 a.m. until 4:00 p.m., Eastern Time.

ADDRESSES: The meeting will be a hybrid meeting, held in-person at American Institute of Architects, 1735 New York Ave. NW, Washington, DC 20006, and virtually via Blue Jeans webcast. Please note admittance instructions under the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Jeff Brewer, Information Technology Laboratory, National Institute of Standards and Technology, Telephone: (301) 975–2489, Email address: *jeffrey.brewer@nist.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the ISPAB will hold an open meeting Wednesday, July 13, 2022, and Thursday, July 14, 2022, from 10:00 a.m. until 4:00 p.m., Eastern Time. All sessions will be open to the public. The ISPAB is authorized by 15 U.S.C. 278g–4, as amended, and advises the National Institute of Standards and Technology (NIST), the Secretary of Homeland Security, and the Director of the Office of Management and Budget (OMB) on information security and privacy issues pertaining to Federal government information systems, including through review of proposed standards and guidelines developed by NIST. Details regarding the ISPAB's activities are available at *https://csrc.nist.gov/projects/ispab.*

The agenda is expected to include the following items:

—Board Introductions and Member Activities,
—Update from the NIST's Information Technology Laboratory (ITL) Director,
—Introduction to the Board of the newly confirmed NIST Director, Dr. Laurie Locascio,
—NIST Briefing on Transition to new Quantum Safe Encryption,
—OMB Briefing on Software Security Attestation Requirements,
—NIST Briefing on updates to NIST's Cybersecurity Framework,
—Board Discussion on Executive Order 14067, ''Ensuring Responsible Development of Digital Assets'',
—MITRE Briefing on ATT&CK Framework,
—Public Comments,
—Board Discussion on Recommendations.

Note that agenda items may change without notice. The final agenda will be posted on the ISPAB event page at: *https://csrc.nist.gov/Events/2022/ispab-july-2022-meeting.*

Public Participation: Written questions or comments from the public are invited and may be submitted electronically by email to Jeff Brewer at the contact information indicated in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m. on Tuesday, July 12, 2022.

The ISPAB agenda will include a period, not to exceed thirty minutes, for submitted questions or comments from the public between 3:00 p.m. and 3:30 p.m. on Wednesday, July 13, 2022. Submitted questions or comments from the public will be selected on a first-come, first-served basis and limited to five minutes per person.

Members of the public who wish to expand upon their submitted statements, those who had wished to submit a question or comment but could not be accommodated on the agenda, and those who were unable to attend the meeting via webinar are invited to submit written statements. In addition, written statements are invited and may be submitted to the ISPAB at any time. All written statements should be directed to the ISPAB Secretariat, Information Technology Laboratory by email to: *Jeffrey.Brewer@nist.gov.*

Admittance Instructions: Participants planning to attend in-person do not need to register. Participants planning to attend via webinar, must register via the instructions found on ISPAB's event page at: *https://csrc.nist.gov/Events/2022/ispab-july-2022-meeting* by 5 p.m. Eastern Time, Tuesday, July 12, 2022.

Alicia Chambers,
NIST Executive Secretariat.

[FR Doc. 2022–11598 Filed 5–27–22; 8:45 am]
BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; COVID–19 Vaccine Supplemental Medical Provider Statement

The United States Patent and Trademark Office (USPTO) will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The USPTO invites comment on this information collection renewal, which helps the USPTO assess the impact of its information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 24, 2022 (87 16719) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: United States Patent and Trademark Office, Department of Commerce.

Title: COVID–19 Vaccine Supplemental Medical Provider Statement.

OMB Control Number: 0651–0087.

Needs and Uses: Consistent with guidance from the Centers for Disease Control and Prevention (CDC), guidance from the Safer Federal Workforce Task Force established pursuant to E.O. 13991 of January 20, 2021, *Protecting*

the Federal Workforce and Requiring Mask-Wearing, and E.O. 14043 of September 9, 2021, *Requiring Coronavirus Disease 2019 Vaccination for Federal Employees,* the request for this collection of information is essential to implement the USPTO health and safety measures regarding the Federal employee medical exemptions to the COVID–19 mandatory vaccinations. The Rehabilitation Act of 1973, as amended, requires Federal agencies to provide reasonable accommodations to qualified employees with disabilities unless that reasonable accommodation would impose an undue hardship on the employee's agency. See 29 U.S.C. 791; 29 CFR part 1614; see also 20 CFR part 1630 and E.O. 13164 of July 26, 2000, *Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation.* Section 2 of E.O. 14043 mandates that each agency ''implement, to the extent consistent with applicable law, a program to require COVID–19 vaccination for all of its Federal employees, with exceptions only as required by law.'' This COVID–19 Vaccine Supplemental Medical Provider Statement is necessary for USPTO to determine legal exemptions to the vaccine requirement under the Rehabilitation Act.

The vaccination requirement issued pursuant to E.O. 14043, is currently the subject of a nationwide injunction. While that injunction remains in place, USPTO will not process requests for a medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043. USPTO will also not request the submission of any medical information related to a request for an exception from the vaccination requirement pursuant to E.O. 14043 while the injunction remains in place. But USPTO may nevertheless receive information regarding a medical exception. That is because, if USPTO were to receive a request for an exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 during the pendency of the injunction, USPTO will accept the request, hold it in abeyance, and notify the employee who submitted the request that implementation and enforcement of the COVID–19 vaccination requirement pursuant to E.O. 14043 is currently enjoined and that an exception therefore is not necessary so long as the injunction is in place. In other words, during the pendency of the injunction, any information collection related to requests for medical exception from the COVID–19 vaccination requirement pursuant to E.O. 14043 is not undertaken to implement or enforce the COVID–19 vaccination requirement.

Form Numbers:

• USPTO–OEEOD Form 303 (COVID–19 Vaccine Supplemental Medical Provider Statement)

Type of Review: Extension and revision of a currently approved information collection.

Affected Public: Private sector.

Respondent's Obligation: Voluntary.

Frequency: On occasion.

Estimated Number of Annual Respondents: 150 respondents.

Estimated Number of Annual Responses: 150 responses.

Estimated Time per Response: The USPTO estimates that the responses in this information collection will take the public 10 minutes (0.167 hours) to complete. This includes the time to gather the necessary information, create the document, and submit the completed request to the USPTO.

Estimated Total Annual Respondent Burden Hours: 25 hours.

Estimated Total Annual Respondent Non-Hourly Cost Burden: $0.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce, USPTO information collections currently under review by OMB.

Written comments and recommendations for this information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function and entering either the title of the information collection or the OMB Control Number 0651–0087.

Further information can be obtained by:

• *Email: InformationCollection@uspto.gov.* Include ''0651–0087 information request'' in the subject line of the message.

• *Mail:* Kimberly Hardy, Office of the Chief Administrative Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450.

Kimberly Hardy,

Information Collections Officer, Office of the Chief Administrative Officer, United States Patent and Trademark Office.

[FR Doc. 2022–11667 Filed 5–27–22; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2022–HQ–0005]

Submission for OMB Review; Comment Request

AGENCY: Department of the Army, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 30, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Authorization to Apply for a ''No-Fee'' Passport and/or Request for Visa; DD Form 1056; OMB Control Number 0702–0134.

Type of Request: Revision.

Number of Respondents: 175,000.

Responses per Respondent: 1.

Annual Responses: 175,000.

Average Burden per Response: 60 minutes.

Annual Burden Hours: 175,000.

Needs and uses: The information collection requirement is necessary to obtain and record the personally identifiable information of official passport and/or visa applicants. This information is used to process, track, and verify no-fee passport and visa applications and requests for additional visa pages, Status of Forces Agreement endorsements. Authorization to apply for a no-fee passport and/or request for a visa is granted to those who can verify U.S. citizenship and legitimate official travel needs. The information collected on this form is shared with the Department of State and the embassy of the country to which the traveler is going for the production of the needed travel documents. Respondents include DoD civilians and military members and their dependents traveling on official orders.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11527 Filed 5–27–22; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0064]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary, Department of Defense (DoD).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying and reissuing a current system of records titled, ''Defense Enrollment Eligibility Reporting Systems (DEERS),'' DMDC 02 DoD. This system of records was originally established by the Defense Manpower Data Center to collect and maintain records that are used to manage the issuance of DoD identification cards, manage physical and logical access to DoD facilities and to provide a database for determining DoD entitlements and privileges. Additionally, DEERS is used to support DoD healthcare management programs, assess manpower and support personnel and readiness functions. This system of records notice (SORN) is being updated to support additional information sharing of records outside of the DoD in order to streamline the DoD identification card issuance process. In addition, it clarifies the routine use governing the data sharing DoD utilizes in support of the Public Service Forgiveness loan program and it expands the routine use governing the data sharing in support of the Unemployment Compensation for Ex-service members to state workforce agencies, or to the Department of Labor contractors or grantees. This modification revises the routine uses. The new routine use will allow DoD to disclose information to the Government Publishing Office (GPO).

DATES: This system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or before June 30, 2022. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by either of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: 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 *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Peterson, DMDC Privacy Officer, DMDC Privacy Office, DoD Center, 400 Gigling Road, Monterey, CA 93955; *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil;* (831) 583–2400.

SUPPLEMENTARY INFORMATION:

I. Background

The DEERS system of records is used to manage the issuance of DoD badges and identification cards, *i.e.,* Common Access Cards (CACs) or beneficiary identification cards. In addition, this system of records is used to authenticate and identify DoD affiliated personnel (*e.g.,* contractors) and manage physical and logical access to DoD facilities. This modification will allow DoD Identification (ID) cardholders to request renewal of their CAC online as part of a pilot program. The pilot program postures the GPO to more efficiently produce and distribute the DoD ID cards on behalf of and in conjunction with DoD. Implementation of the online DoD ID card issuance capability presents an opportunity for increased convenience for cardholders and overall cost savings to the Department. In support of this initiative and subject to public comment, DoD is adding new routine use (KK) for this system of records. This routine use would allow for disclosure of information to the GPO to facilitate GPO's role in supporting the production and distribution of CAC cards on behalf of the DoD.

Additionally, subject to public comment, the DoD is modifying existing routine use (F), which currently permits disclosures of information to entities engaged in financial and legal transactions with Service members. The modification will clarify and broaden this routine use to support disclosures to these same entities to facilitate communication with Service members and to support student loan forgiveness programs.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency (OATSD(PCLT)) website at *https://dpcld.defense.gov/privacy.*

II. Privacy Act

Under the Privacy Act, a ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, OATSD(PCLT) has provided a report of this system of records to the OMB and to Congress.

Dated: May 25, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Defense Enrollment Eligibility Reporting Systems (DEERS), DMDC 02 DoD.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

DMDC at DISA DECC Columbus, 3990 East Broad St., Bldg. 23, Columbus, OH 43213–0240.

SYSTEM MANAGER:

The system manager is Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771. Email: *dodhra.dodc-mb.dmdc.mbx.webmaster@mail.mil.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 3, Inspector General Act of 1978; 5 U.S.C. Chapter 90, Federal Long-Term Care Insurance; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. Chapter 53, Miscellaneous Rights and Benefits; 10 U.S.C. Chapter 54, Commissary and Exchange Benefits; 10 U.S.C. Chapter 58, Benefits and Services for Members being Separated or Recently Separated; 10 U.S.C. Chapter 75, Deceased Personnel; 10 U.S.C. 2358, Research and Development Projects; 10 U.S.C. 987, Terms of Consumer Credit Extended to Members and Dependents; 20 U.S.C. 1070h, Scholarships for Veteran's Dependents; 31 U.S.C. 3512(c), Executive Agency Accounting and Other Financial Management Reports and Plan; 38 U.S.C. Chapter 19, Subchapter III, Service members' Group Life Insurance; 42 U.S.C. 18001 note, Patient Protection and Affordable Care Act (Pub. L. 111–148); 42 U.S.C. 1973ff, Federal Responsibilities; 50 U.S.C. Chapter 23, Internal Security; 50 U.S.C. Chapter 50, Service members Civil Relief Act; DoD Directive 1000.04, Federal Voting Assistance Program (FVAP); DoD Directive 1000.25, DoD Personnel Identity Protection (PIP) Program; DoD Instruction 1015.9, Professional United States Scouting Organization Operations at United States Military Installations Located Overseas; DoD Instruction 1100.13, Surveys of DoD Personnel; DoD Instruction 1241.03 TRICARE Retired Reserve (TRS) Program; DoD Instruction 1241.04, TRICARE Reserve Select (TRS) Program; DoD Instruction 1336.05, Automated Extract of Active Duty Military Personnel Records; DoD Instruction 1341.2, Defense Enrollment Eligibility Reporting System (DEERS) Procedures; DoD Manual 1341.02, DoD Identity Management DoD Self-Service (DS) Logon Program and Credential; DoD Instruction 3001.02, Personnel Accountability in Conjunction with Natural or Manmade Disasters; Homeland Security Presidential Directive 12, Policy for a Common Identification Standard for Federal Employees and Contractors; DoD Instruction 7730.54, Reserve Components Common Personnel Data System (RCCPDS); 38 CFR 9.20, Traumatic injury protection; and E.O. 9397 (SSN), as amended.

PURPOSE(S) OF THE SYSTEM:

A. To manage the issuance of DoD badges and identification cards, *i.e.,* Common Access Cards (CACs) or beneficiary identification cards.

B. To authenticate and identify DoD affiliated personnel (*e.g.,* contractors);

C. To manage physical and logical access to DoD facilities.

D. To provide a database for determining eligibility for DoD entitlements and privileges;

E. To detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs;

F. To detect and identify current DoD civilian and military personnel committing benefit program fraud and abuse;

G. To ensure benefit eligibility is retained after separation from the military;

H. To maintain the Service members' Group Life Insurance (SGLI) and Family SGLI (FSGLI) coverage elections and beneficiaries' information.

I. To support DoD healthcare management programs, to include research and analytical projects, through the Defense Health Agency (previously the TRICARE Management Activity);

J. To support benefit administration for those beneficiaries that have granted permission to use their personal email address for benefit-related notification purposes;

K. To register current DoD civilian and military personnel and their authorized dependents to obtain medical examinations, treatment or other benefits to which they are entitled;

L. To provide identification of deceased members.

M. To assess manpower, support personnel and readiness functions, to include Continuous Evaluation programs; to perform statistical analyses;

N. To determine Service members' Civil Relief Act (SCRA) duty status as it pertains to SCRA legislation;

O. To determine Military Lending Act (MLA) eligibility pertaining to MLA legislation; to prepare studies and policies related to manpower and the health and well-being of current and past Armed Forces and DoD-affiliated personnel;

P. To assist in the Transition Assistance Program (TAP);

Q. To assist in recruiting prior service personnel;

R. To notify military members eligible to vote about voter registration and voting procedures;

S. To provide rosters of DoD affiliated persons at the time of an official declared natural or man-made disaster.

T. To provide appropriate contact information of DoD personnel and beneficiaries for the purpose of conducting DoD authorized surveys. Authorized surveys are used as a management tool for conducting statistical analysis, policy planning, reporting, evaluation of program effectiveness, conducting research, to provide direct feedback on key strategic indicators, and for other policy planning purposes.

U. Defense Manpower Data Center (DMDC) web usage data will be used to validate continued need for user access to DMDC computer systems and databases, to address problems associated with web access, and to ensure that access is only for official purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Members, former members, retirees, civilian employees (includes non-appropriated fund) and contractor employees of the DoD and all of the Uniformed Services;

B. Presidential appointees of all Federal Government agencies;

C. Medal of Honor recipients;

D. U.S. Military Academy students;

E. DoD and Department of Veterans Affairs (DVA) beneficiaries (*e.g.,* dependent family members, legal guardians and other protectors, prior military members eligible for DVA benefits, beneficiaries of SGLI/FSGLI), non-Federal agency civilian associates and other individuals granted DoD privileges, benefits, or physical or logical access to military installations (*e.g.,* American Red Cross paid employees, United Service Organization, Intergovernmental Personnel Act Employees, Boy and Girl Scout Professionals, non-DoD contract employees);

F. Members of the public treated for a medical emergency in a DoD or joint DoD/DVA medical facility;

G. Non-CAC holders requiring access to DoD IT applications (*e.g.,* DVA employees, Department of Homeland Security (DHS) employees, state National Guard Employees, Office of Personnel Management (OPM) employees and Affiliated Volunteers);

H. Individuals identified as the result of an administrative function in information assurance/cybersecurity reports and supportive materials.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name; Service or Social Security Number (SSN); DoD identification (DoD ID) number; residence address; mailing address; personal and work email addresses; date of birth; gender; mother's maiden name, branch of Service; primary and secondary fingerprints and photographs; Foreign National Identification Numbers; emergency contact person information; stored documents for proofing identity and association; DEERS Benefits Number; relationship of beneficiary to sponsor, to include relationship and eligibility qualifiers (*i.e.,* percent of support by sponsor, student or incapacitation status, guardian authorizations); SGLI/FSGLI beneficiaries information and amounts of coverage; pharmacy benefits; start and end dates of benefits eligibility; number of family members of sponsor; multiple birth code/birth order; primary unit duty location of sponsor; race and ethnic origin; occupation; rank/pay grade.

Disability documentation; wounded, ill and injured identification information; other health information (*i.e.,* tumor/reportable disease registry, immunizations); Medicare eligibility and enrollment data; CHAMPVA and Federal Employees Health Benefits (FEHB) program eligibility indicators; blood test results; Deoxyribonucleic Acid (DNA); dental care eligibility codes and dental x-rays.

Patient registration data for shared DoD/DVA beneficiary populations, including DVA Integration Control Number (ICN), DVA patient type, patient category code and patient category TRICARE enrollment data (*i.e.,* plan name, effective dates, primary care manager information, premium payment details), identity and relationship data, command interest code and name, command security code and name, medical fly status code.

Catastrophic Cap and Deductible transactions, including monetary amounts; third party health insurance information on dependents; in addition to identity data and demographic data for beneficiaries such as contact information, family membership, and personnel information is captured as required to determine and maintain benefits; DVA disability payment records; digital signatures where appropriate to assert validity of data; care giver information; immunization data; education benefit eligibility and usage; special military pay information; SGLI/FSGLI; Privacy Act audit logs; and account audit information (*i.e.,* IP address) to support cybersecurity policy, unauthorized access and other similar investigations.

Character of service; reenlistment eligibility; entitlement conditions; activations and deployments; medals and awards data; citizenship data/country of birth; civil service employee employment information (agency and bureau, pay plan and grade, nature of action code and nature of action effective date, occupation series, dates of promotion and expected return from overseas, service computation date); compensation data (*i.e.,* Department of Labor Compensation data); date of separation of former enlisted and officer personnel; Information Assurance Work Force information; language data; military personnel information (rank, assignment/deployment, length of service, military occupation, education, and benefit usage); reason leaving military service or DoD civilian service; Reserve member's civilian occupation and employment information; workforces information (*e.g.,* acquisition, first responders).

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: Individuals and the personnel, pay, and benefit systems of the military and civilian departments, and agencies of the Uniformed Services, DVA, and other Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To Federal agencies and/or their contractors, the Transportation Security Administration and other federal transportation agencies, for purposes of authenticating the identity of individuals who, incident to the conduct of official business, present the CAC or other valid identification as proof of identity to gain physical or logical access to government and contractor facilities, locations, networks, systems, or programs.

B. To Federal and State agencies to validate demographic data (*e.g.,* SSN, citizenship status, date and place of birth, etc.) for individuals in DMDC personnel and pay files so that accurate information is available in support of DoD requirements.

C. To the Social Security Administration for the purpose of verifying an individual's identity.

D. To the DVA:

1. To provide uniformed service personnel (pay, wounded, ill, and injured) identification data for present and former uniformed service personnel for the purpose of evaluating use of veterans' benefits, validating benefit eligibility and maintaining the health and wellbeing of veterans and their family members.

2. To provide identifying uniformed service personnel data to the DVA and its insurance program contractor for the purpose of conducting outreach and administration of benefits to qualified service members, Veterans and their dependents (38 U.S.C. 1977), notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968) and for DVA to administer the Traumatic Service members' Group Life Insurance (TSGLI) (Traumatic Injury Protection Rider to Service members' Group Life Insurance (TSGLI), 38 CFR 9.20).

3. To register eligible veterans and their dependents for DVA programs.

4. To provide former uniformed service personnel and survivor's financial benefit data to DVA for the purpose of identifying retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension Program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

5. To provide identifying uniformed service personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

6. To the Veterans Benefits Administration, DVA uniformed service personnel and financial data for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI

Bill education and training benefits by the DVA under the Montgomery GI Bill (10 U.S.C. Chapter 1606—Selected Reserve and 38 U.S.C. Chapter 30—Active Duty), the Reserve Educational Assistance Program (REAP) educational benefit (Title 10 U.S.C. Chapter 1607), and the National Call to Service enlistment educational benefit (10 U.S.C. Chapter 510), the Post 9/11 GI Bill (38 U.S.C. Chapter 33), and The Transferability of Education Assistance to Family Members. The administrative responsibilities designated to both agencies by the law require that data be exchanged when administering the programs.

E. To consumer reporting agencies:

1. To obtain identity confirmation and current addresses of separated uniformed services personnel to notify them of potential benefits eligibility.

2. To the national consumer reporting agencies for the purpose of ensuring eligible Service members receive MLA protections in accordance with 32 CFR part 232.

F. To financial institutions, collection agencies and others engaged in financial and legal transactions with eligible service members for the purpose of communicating with those members and/or determining eligibility for student loan forgiveness, ensuring those service members receive SCRA protections in accordance with 50 U.S.C. Chapter 50 and other similar benefits.

G. To Federal Agencies, to include OPM, United States Postal Service, Department of Health and Human Services (HHS), Department of Education, and DVA to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

1. Providing all members of the Reserve Component of the Armed Forces to be matched against the Federal agencies for identifying those Reserve Component Service members that are also Federal civil service employees with eligibility for the FEHB program. This disclosure by the Federal agencies will provide the DoD with the FEHB program eligibility and Federal employment information necessary to determine initial and continuing eligibility for the TRICARE Reserve Select (TRS) program and the TRICARE Retired Reserve (TRR) program (collectively referred to as purchased TRICARE programs). Reserve Component members who are not eligible for FEHB program are eligible for TRS (10 U.S.C. 1076d) or TRR (10 U.S.C. 1076e).

2. Providing all members of the Reserve Component of the Armed Forces to be matched against the Federal agencies for the purpose of identifying the Ready Reserve Component Service members who are also employed by the Federal Government in a civilian position, so that reserve status can be terminated if necessary. To accomplish an emergency mobilization, individuals occupying critical civilian positions cannot be mobilized as Reservists.

3. Providing data to the Department of Education for the purpose of identifying dependent children of those Armed Forces members killed in Operation Iraqi Freedom and Operation Enduring Freedom, Iraq and Afghanistan Only, for possible benefits.

4. To the Veterans Benefits Administration, DVA uniformed service data for the purpose of determining eligibility and any changes in eligibility status to insure proper administration of benefits for GI Bill education and training benefits under the Montgomery GI Bill (10 U.S.C. Chapter 1606—Selected Reserve and 38 U.S.C. Chapter 30—Active Duty), the Post 9/11 GI Bill (38 U.S.C. Chapter 33).

5. Providing data to the Centers for Medicaid and Medicare Services (CMS), HHS, for the purpose of identifying DoD eligible beneficiaries both over and under the age of 65 who are Medicare eligible. Current law requires the Defense Health Agency to discontinue military health care benefits to Military Health Services beneficiaries who are Medicare eligible unless they are enrolled in Medicare Part B.

H. To the CMS, HHS, for the purpose of verifying individual's healthcare eligibility status, in accordance with the Affordable Care Act. Data provided to CMS will be used to make eligibility determinations for insurance affordability programs, administered by Medicaid, the Children's Health Insurance Program, the Basic Health Program and the American Health Benefit Exchange.

I. To Federal agencies for the purpose of notifying service members and dependent individuals of payments or other benefits for which they are eligible under actions of the Federal agencies.

J. To State agencies for the purpose of supporting State Veteran Affairs activities.

K. To state workforce agencies, or to the Department of Labor and/or its contractors or grantees, as the case may be, for the determination of the entitlement of an individual to unemployment compensation.

L. To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

M. To each of the fifty states and the District of Columbia for the purpose of determining the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

N. To State and local child support enforcement agencies for purposes of providing information, consistent with the requirements of 29 U.S.C. 1169(a), 42 U.S.C. 666(a)(19), and E.O. 12953 and in response to a National Medical Support Notice (NMSN) (or equivalent notice if based upon the statutory authority for the NMSN), regarding the military status of identified individuals and whether, and for what period of time, the children of such individuals are or were eligible for DoD health care coverage. NOTE: Information requested by the states is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

O. To the HHS:

1. For purposes of providing information, consistent with the requirements of 42 U.S.C. 653 and in response to an HHS request, regarding the military status of identified individuals and whether the children of such individuals are or were eligible for DoD healthcare coverage and for what period of time they were eligible. NOTE: Information requested by HHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

2. For purposes of providing information so that specified Medicare determinations, specifically late enrollment and waiver of penalty, can be made for eligible (1) DoD military retirees and (2) spouses (or former spouses) and/or dependents of either military retirees or active duty military personnel, pursuant to section 625 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2002 (as codified at 42 U.S.C. 1395p and 1395r).

3. To the Office of Child Support Enforcement, Federal Parent Locator Service, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; the relationship to a child receiving benefits provided by a third party and the name and SSN of those third party providers who have a legal responsibility. Identifying delinquent obligors will allow state child support enforcement agencies to

commence wage withholding or other enforcement actions against the obligors.

4. For purposes of providing information to the CMS to account for the impact of DoD healthcare on local reimbursement rates for the Medicare Advantage program as required in 42 CFR 422.306.

P. To the Coast Guard and Public Health Service to complete Individual Mandate Reporting and Employer Mandate reporting to the Internal Revenue Service (IRS) as required by Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) and Sections 6055 and 6056 of the IRS Code.

Q. To Federal and contractor medical personnel at joint DoD/DVA health care clinics, for purposes of authenticating the identity of individuals who are registered as patients at the clinic and maintaining, through the correlation of DoD ID number and ICN, a shared population of DoD and DVA beneficiaries who are users of the clinic.

R. To the American Red Cross for purposes of providing emergency notification and assistance to members of the Armed Forces, retirees, family members or survivors.

S. To the Office of Disability and Insurance Security Programs, for the purpose of expediting disability processing of wounded military service members and veterans.

T. To Federally Funded Research Centers and grantees for the purpose of performing research on manpower problems for statistical analyses.

U. To Defense contractors to monitor the employment of former DoD employees and uniformed service personnel subject to the provisions of 41 U.S.C. 423.

V. To the Bureau of the Census for the purposes of planning or carrying out a census survey or related activities pursuant to the provisions of section 6 of title 13 U.S.C.

W. To designated officers and employees of Federal, State, local, territorial, tribal, international, or foreign agencies in connection with the hiring or retention of an employee, the conduct of a suitability or security investigation, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter and the Department deems appropriate.

X. To Federal and quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well-being of active duty, reserve, and retired uniformed service personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

1. Determines the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

2. Determines the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

3. Requires the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

4. Secures a written statement attesting to the recipients' understanding of, and willingness to abide by these provisions.

Y. To the DHS for the conduct of studies related to the health and well-being of Coast Guard members and to authenticate and identify Coast Guard personnel.

Z. To Federal and State agencies for purposes of obtaining socioeconomic information on uniformed service personnel so analytical studies can be conducted with a view to assess the present needs and future requirements of such personnel.

AA. To the Bureau of Citizenship and Immigration Services, DHS, for purposes of facilitating the verification of individuals who may be eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

BB. To Coast Guard recruiters in the performance of their assigned duties.

CC. To the Office of Personnel Management (OPM) for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

DD. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

EE. To any component of the Department of Justice for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

FF. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

GG. To the National Archives and Records Administration (NARA) for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

HH. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

II. To appropriate agencies, entities, and persons when (1) the DoD suspects or has confirmed that there has been a breach of the System of Records; (2) the DoD has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

KK. To another Federal agency or Federal entity, when the DoD determines that information from this System of Records is reasonably necessary to assist the recipient agency or entity in (1) responding to a

suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

LL. To the Government Publishing Office (GPO) for the purpose of supporting the Department's capability for DoD Identification (ID) Cardholders to request renewal of their ID card online. Necessary identifiable information for approved requests will be transmitted to GPO, which will then produce and mail new ID cards to the applicable cardholder.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are stored on electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records may be retrieved by using a search algorithm utilizing with the primary identity traits: Personal identifier (*e.g.,* SSN, service number, foreign identification number, etc.), name, date of birth and gender; mailing address, telephone number, mother's maiden name and place of birth when available. Individual information can be retrieved via the DoD ID Number or DoD Benefits Number; data retrievals may be done by biometrics (*i.e.,* fingerprints, photograph); data retrievals for generating address lists for direct mail distribution may be accomplished using selection criteria based on geographic and demographic keys; data retrievals may also be done utilizing audit information.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

A. Hardcopy version of DD Form 1172–2: Destroy once written to optical disk.

B. Optical disks: Destroy primary and backup copies after 5 years.

C. The DEERS database is Permanent: Cut off (take a snapshot) at end of Fiscal Year and transfer to NARA in accordance with 36 CFR 1228.270 and 36 CFR 1234 Output records (electronic or paper summary reports) are deleted or destroyed when no longer needed for operational purposes.

Note: This disposition instruction applies only to record keeping copies of the reports retained by DMDC. The DoD office requiring creation of the report should maintain its record keeping copy in accordance with NARA approved disposition instructions for such reports.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Computerized records are maintained in a controlled area accessible only to authorized personnel. Entry to these areas is restricted to those personnel with a valid requirement and authorization to enter. Physical entry is restricted by the use of locks, guards, and administrative procedures (*e.g.,* fire protection regulations). Access to personal information is restricted to those requiring the records in the performance of their official duties, and to the individuals who are the subjects of the record or their authorized representatives. Access to personal information is further restricted by the use of Public Key Infrastructure or login/password authorization. All individuals granted access to this system of records require Information Assurance and Privacy Act training.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155. Signed written requests should contain the name and number of this system of records notice along with the full name, identifier (*i.e.,* DoD ID number, DoD Benefits Number, or SSN), date of birth, current address, and telephone number of the individual. In addition, the requester must provide either a notarized statement or a declaration made in accordance with 28 U.S.C. 1746, using the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial Component determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771. Signed written requests should contain the full name, identifier (*i.e.,* DoD ID number, DoD Benefits Number, or SSN), date of birth, and current address and telephone number of the individual. In addition, the requester must provide either a notarized statement or a declaration made in accordance with 28 U.S.C. 1746, using the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

July 27, 2016, 81 FR 49210; October 16, 2019, 84 FR 55293; corrected December 2, 2019, 84 FR 65975.

[FR Doc. 2022–11610 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0063]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the

burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05, Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Survey on the Strengths and Challenges of Military Relationships; OMB Control Number 0704–SCMR.

Needs and Uses: This collection is a DoD-sponsored comprehensive research study on the military-specific risk factors for domestic abuse and the best approaches across the coordinated community response to mitigate those factors. This collection is necessary to identify sustainable solutions to decreasing incidents and preventing violence before it occurs. This project is required by statute and will support (a) the programmatic needs of the sponsoring office: The Family Advocacy Program with Military Community and Family Policy, (b) Congressional requirements per SEC. 549C of the FY21 National Defense Authorization Act, (c) the current administration's priority to address gender-based violence, and (d) implementation of some recommendations contained in the U.S. Government Accountability Office Report 21–289, released May 6, 2021.

Domestic abuse can result in devastating personal consequences and societal costs, is incompatible with military values, and reduces mission readiness. The (OUSD(P&R)) Strategy for 2030 identifies a goal of resilient and adaptive total force. Without this study, the DoD risks continued incidents of domestic abuse across the armed forces. This survey will be fielded with active-duty married service members, active-duty unmarried service members in romantic relationships, and spouses of active-duty service members. Respondents will provide information, currently not available from other sources, to help DoD understand the strengths and challenges facing military couples, and in particular, the risk factors for and outcomes of military domestic abuse. Survey results will be used by the sponsor to improve the domestic abuse prevention and response system to better serve the needs of today's military couples.

Affected Public: Individuals or households.

Annual Burden Hours: 20,000.

Number of Respondents: 80,000.

Responses per Respondent: 1.

Annual Responses: 80,000.

Average Burden per Response: 15 minutes.

Frequency: Once.

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11523 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0062]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Personnel and Readiness (OUSD(P&R)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Under Secretary of Defense for Personnel and Readiness announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Defense Human Resources Activity, 4800 Mark Center Drive, Suite 08F05, Alexandria, VA 22350, LaTarsha Yeargins, 571–372–2089.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Independent Analysis and Recommendations on Domestic Abuse in the Armed Forces: Expert Panel(s); OMB Control Number 0704–IADA.

Needs and Uses: DoD has commissioned the RAND Corporation (RAND) to conduct a Congressionally mandated study (Section 549C of the Fiscal Year 2021 National Defense Authorization Act) to provide independent analyses and recommendations for improving domestic abuse prevention and response in the U.S. armed forces. This project is required by statute and will support: (a) High Congressional interest, (b) the

current administration's priority to address gender-based violence, and (c) implementation of recommendations contained in the draft Government Accountability Office Report 21–289, released March 19, 2021.

Data collection is necessary to find sustainable solutions to decrease incidents and prevent domestic abuse before it occurs. The subtopics for the additional expert panels will include:

A. Age-appropriate training and education programs for elementary and secondary school students, designed to assist such students in learning positive relationship behaviors in families and with intimate partners.

B. Means of improving access to resources for survivors who have already experienced domestic abuse, including survivors who are geographically relocating.

C. Strategies to prevent domestic abuse by training, educating, and assigning prevention-related responsibilities to military leaders; medical, behavioral, and mental health service providers; staff from domestic abuse and related prevention programs; and others with relevant responsibilities, such as law enforcement.

Respondents will be responding to the information collection to apply their expertise and help improve domestic abuse prevention and response in the military.

Affected Public: Individuals or households.

Annual Burden Hours: 472.5.

Number of Respondents: 135.

Responses per Respondent: 1.

Annual Responses: 135.

Average Burden per Response: 3.5 hours.

Frequency: On occasion.

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11518 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0029]

Submission for OMB Review; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment (USD(A&S)), Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 30, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Militarily Critical Technical Data Agreement; DD Form 2345; OMB Control Number 0704–0207.

Type of Request: Revision.

Number of Respondents: 8,000.

Responses per Respondent: 1.

Annual Responses: 8,000.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 2,666.67.

Needs and Uses: The information collection requirement is necessary for certifying enterprises or individuals to have access to DoD export-controlled militarily critical technical data subject to the provisions of 32 CFR 250. The Joint Certification Program (JCP) is the only DoD Agency by which North American contractors can apply and obtain access to unclassified DoD militarily critical technical data with a military or space application. The JCP Office fields, validates, and certifies U.S./Canadian supplier applications using the DD Form 2345 (Militarily Technical Data Agreement).

Suppliers submit applications via the DD Form 2345 to (a) access or share unclassified DoD export-controlled technical data to bid on a DoD solicitation or execute a DoD contract, (b) attend conferences where unclassified DoD export-controlled data is discussed or shared, or (c) conduct scientific research and development on behalf of DoD where unclassified DoD export-controlled data is discussed or shared. The certification process validates suppliers to minimize risk and protect U.S. intellectual property from adversarial individuals and entities, foreign or domestic.

Affected Public: Individuals or households; businesses or other for-profit; not-for-profit institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DoD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11526 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0061]

Privacy Act of 1974; System of Records

AGENCY: Office of Inspector General, Department of Defense (DoD).

ACTION: Notice of a modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the DoD is modifying and reissuing a current system of records titled, ''Defense Case Activity Tracking System (D–CATS),'' CIG–16. The system of records is being retitled, ''Inspector General Administrative Investigation Records (IGAIR).'' This system of records was originally established by the DoD Office of Inspector General (OIG) to collect and maintain records on individuals who file DoD Hotline complaints and individuals suspected of misconduct and investigated pursuant to the Inspector General Act of 1978, as amended. This system of records notice (SORN) is being updated to incorporate

the DoD standard routine uses and support additional information sharing of records outside of the DoD in furtherance of external oversight, case management, and required reporting. This modification revises the system name, system location, system manager, authority for maintenance, purpose, categories of individuals, categories of records, record source categories, routine uses, policies, and practices for retention and disposal of records, policies and practices for retrieval of information, information safeguards, record access procedures, contesting records, and notification procedures and the exemptions promulgated. Additionally, the DoD will issue a Notice of Proposed Rulemaking proposing to exempt this system of records from certain provisions of the Privacy Act in a future issue of the **Federal Register**.

DATES: This system of records is effective upon publication; however, we will accept comments on the Routine Uses on or before June 30, 2022. The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: 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 *https://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Anna Rivera, Government Information Specialist, DoD OIG FOIA, Privacy and Civil Liberties Office, Department of Defense, Office of Inspector General, 4800 Mark Center Drive, Alexandria, VA 22350–1500, *privacy@dodig.mil,* or phone number (703) 699–5680.

SUPPLEMENTARY INFORMATION:

I. Background

The DoD OIG maintains this system of records in order to carry out its responsibilities pursuant to the Inspector General Act of 1978, as amended. The DoD OIG is statutorily authorized to conduct as well as engage in oversight of investigations relating to the programs and operations of the DoD; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud, waste, and abuse in such programs and operations. Specifically, the CIG–16 IGAIR system of records (hereafter, IGAIR) contains records of DoD OIG mission activities such as the identification, referral, and investigation of DoD Hotline complaints. The DoD Hotline provides a confidential avenue for individuals to report allegations of wrongdoing pertaining to programs, personnel, and operations that fall under the purview of the DoD, pursuant to the Inspector General Act.

IGAIR also contains records of administrative investigations of both military and civilian senior officials accused of misconduct. In addition, it contains records related to the oversight and investigation of whistleblower reprisal cases against Service members, DoD contractor employees, and DoD civilian employees (appropriated and non-appropriated fund). These records also include the improper command referrals of Service member mental health evaluations. IGAIR is critical to the DoD OIG's management and oversight of DoD programs and activities and is used for case management, information storage, to respond to requests for information, and to fulfill mandatory reporting requirements.

Subject to public comment, the DoD is updating the Routine Uses section of this SORN by removing the incorporation by reference of the DoD blanket routine uses, adding the standard DoD routine uses (A through J), revising routine uses (K through M), and adding new routine uses (N through Z) allowing for additional disclosures outside the DoD. In addition to modifications made to the routine uses section, other modifications are as follows: (1) Revise the system name in the System Name and Number section; (2) update office and address in the System Location section; (3) add updated information in the System Manager section; (4) add citations in the Authority for Maintenance of the System section; (5) add information regarding the purpose of the system in the Purpose section; (6) broaden types of information in the Categories of Individuals, Categories of Records, and Record Source Categories sections; (7) provide records retrieval, retention, and disposition guidance in the Policies and Practices for Retrieval of Records and the Policies and Practices for Retention and Disposal of Records sections; (8) update the security requirements in the Administrative, Technical, and Physical Safeguards section; (9) update guidance, citation, and information needed to submit request in the Record Access Procedures, Contesting Record Procedures, and Notification Procedures sections and (10) update to the Exemptions Promulgated for the System section to claim exemptions from certain provisions of the Privacy Act for classified information in this system of records. Furthermore, this notice includes non-substantive changes to simplify the formatting and text of the previously published notice.

The DoD will issue a Notice of Proposed Rulemaking proposing to exempt this system of records from certain provisions of the Privacy Act in a future issue of the **Federal Register**. This rulemaking will seek public comment on the recently added exemption under 5 U.S.C. 552a(k)(1) as well as a previously claimed exemption under 5 U.S.C. 552a(j)(2) for which a rulemaking was not completed.

DoD SORNs have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Freedom of Information Directorate website at *https://dpcld.defense.gov.*

II. Privacy Act

Under the Privacy Act, a ''system of records'' is a group of records under the control of an agency from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined as a U.S. citizen or lawful permanent resident.

In accordance with 5 U.S.C. 552a(r) and Office of Management and Budget (OMB) Circular No. A–108, DoD has provided a report of this system of records to the OMB and to Congress.

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Inspector General Administrative Investigation Records (IGAIR), CIG–16.

SECURITY CLASSIFICATION:

Unclassified; Classified.

SYSTEM LOCATION:

Department of Defense (Department or DoD), located at 1000 Defense Pentagon, Washington, DC 20301–1000, and other

Department installations, offices, or mission locations. Information may also be stored within a government-certified cloud, implemented and overseen by the Department's Chief Information Officer, 6000 Defense Pentagon, Washington, DC 20301–6000.

SYSTEM MANAGER(S):

Deputy Inspector General for Administrative Investigations, Office of Inspector General (OIG), DoD, 4800 Mark Center Drive, Alexandria, VA 22350–1500, 703–604–8799.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, as amended; 10 U.S.C. 113, Secretary of Defense; 10 U.S.C. 141, Inspector General; DoD Directive (DoDD) 5106.01, Inspector General of the Department of Defense; and DoDD 5106.04, Defense Inspectors General.

PURPOSE(S) OF THE SYSTEM:

This system supports the DoD OIG, its staff and investigators in the receipt and evaluation of complaints, conduct and supervision of investigations and associated activities within the DoD OIG's jurisdiction, specifically:

A. To receive, document, evaluate, track, oversee, manage, resolve, and respond to complaints and allegations made by an individual and received by the DoD OIG through the DoD Hotline. This includes reports of allegations of wrongdoing pertaining to programs, personnel, and operations that fall under the purview of the DoD, pursuant to the Inspector General Act, as well as other complaints or allegations received which may be outside of the DoD OIG's jurisdiction.

B. To support the conduct of OIG-led administrative investigations and oversee DoD Component-led administrative investigations pertaining to programs, personnel, and operations that fall under the purview of the DoD, to include misconduct allegations against military and civilian senior officials, investigations into alleged whistleblower reprisal against Service members, DoD contract employees, and DoD civilian employees; alleged Service member restriction from communication with an IG or Member of Congress; and improper command referrals of Service members for mental health evaluations. This system also supports the storage of records and information documenting evidence, statements, reports, and notifications associated with these investigative activities.

Note 1: DoD OIG criminal investigation records are excluded from this system of records and instead covered by the CIG–04 Case Reporting and Information Management System of Records, and CIG–06 Investigative Files System of Records Notices (SORNs). DoD OIG may also refer allegations of criminal misconduct to the Defense Criminal Investigative Service or other criminal investigative units of DoD components, in which case the criminal investigative records would be covered by the DoD–0006 Military Justice and Civilian Criminal Case Records SORN or other applicable SORNs published by those components.

Note 2: Complaint and investigation records appearing to involve Equal Employment Opportunity (EEO) issues are excluded from this system of records. Those records are covered by the EEOC/GOVT–1 Equal Employment Opportunity in the Federal Government Complaint and Appeals Records SORN.

Note 3: Investigative records of alleged misconduct by DoD OIG personnel are excluded from this system of records. Those records are covered by the CIG–26 Case Control System—Investigative SORN.

C. To support mandatory reporting requirements, the compilation of statistical information, the provision of data for analysis and decision-making, and the response to requests for information, related to the activities described above.

D. To identify and address conduct that may warrant criminal or disciplinary action, to uphold and enforce the law, and to ensure public safety.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. For complaints and allegations made by an individual and received by the DoD OIG through the DoD Hotline: Any individual who reports allegations of wrongdoing pertaining to programs, personnel, and operations (complainant).

B. For OIG-led administrative investigations and DoD Component-led administrative investigations pertaining to programs, personnel, and operations that fall under the purview of the DoD: Any individual who is the subject of an investigation into alleged administrative misconduct within DoD's investigatory jurisdiction, including but not limited to, violations of laws, rules, or regulations; fraud, waste, and abuse; mismanagement or abuse of authority; and whistleblower reprisal. These records may also include information about other types of individuals who are not covered by the system for purposes of these records, such as complainants, witnesses, and DoD OIG and DoD component staff and investigators.

CATEGORIES OF RECORDS IN THE SYSTEM:

Categories of records may include:

A. Personal Information, such as: Full name and aliases; DoD ID number; date of birth; home address and email address; phone numbers; place of birth; citizenship/immigration status; race/ethnicity; medical information/medical records; biometric data; driver's license number; vehicle registration information; marital status; gender/gender identification; and biographical data.

B. Employment Information, such as: Duty position/title, rank/grade, and duty station; work address and email address; supervisor's name and contact information; military records; personnel records; financial information; and education and training records.

C. Complaint/Allegation Information, such as: The specific allegations or complaints of misconduct, including any supporting documentation or other materials, received by the DoD OIG from individuals, and the date/time of receipt by DoD OIG.

D. Investigative Information, such as: Case numbers; investigative data (including investigative findings and reports); supporting exhibits and data in any form (including papers, photographs, electronic recordings, electronic data, or videos lawfully acquired from any source); forms; disposition data associated with adverse actions or administrative actions; complainant, subject, and witness statements; notifications; criminal history; information received from other governmental agencies and other sources pertaining to an investigation; and case referrals from other agencies.

RECORD SOURCE CATEGORIES:

Records and information stored in this system of records are obtained from: Individuals (such as complainants, subjects, and witnesses); foreign, international, Federal, State, and local government agencies or entities; private businesses; nonprofit organizations; internet websites; and other publicly available information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, all or a portion of the records or information contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

A. To contractors, grantees, experts, consultants, students, and others performing or working on a contract,

service, grant, cooperative agreement, or other assignment for the Federal government when necessary to accomplish an agency function related to this system of records.

B. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law, whether criminal, civil, or regulatory in nature.

C. To any component of the Department of Justice (DOJ) for the purpose of representing the DoD, or its components, officers, employees, or members in pending or potential litigation to which the record is pertinent.

D. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the DoD or other Agency representing the DoD determines that the records are relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

E. To the National Archives and Records Administration for the purpose of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

F. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

G. To appropriate agencies, entities, and persons when (1) the DoD suspects or confirms a breach of the system of records; (2) the DoD determines as a result of the suspected or confirmed breach there is a risk of harm to individuals, the DoD (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the DoD's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

H. To another Federal agency or Federal entity, when the DoD determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

I. To another Federal, State or local agency for the purpose of comparing to the agency's system of records or to non-Federal records, in coordination with an Office of Inspector General in conducting an audit, investigation, inspection, evaluation, or other review as authorized by the Inspector General Act of 1978, as amended.

J. To such recipients and under such circumstances and procedures as mandated by Federal statute or treaty.

K. To designated officers, contractors, and employees of Federal, State, local, territorial, tribal, international, or foreign agencies for the purpose of the hiring or retention of an individual, the conduct of a suitability or security investigation, the letting of a contract, or the issuance of a license, grant or other benefit, to the extent that the information is relevant and necessary to the agency's decision on the matter and that the employer is appropriately informed about information that relates to or may impact an individual's suitability or eligibility.

L. To the news media and the public, with the approval of the DoD Inspector General in consultation with counsel, when there exists a legitimate public interest in the disclosure of the information, when disclosure is necessary to preserve confidence in the integrity of DoD, or when disclosure is necessary to demonstrate the accountability of DoD's officers, employees, or individuals covered by the system, except to the extent the Inspector General determines that release of the specific information in the context of a particular case would constitute a clearly unwarranted invasion of personal privacy.

M. To complainants and/or subjects to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of an investigation or case arising from the matters of which they complained and/or which they were a subject.

N. To other Federal Inspector General offices, the Council of the Inspectors General on Integrity and Efficiency (CIGIE), or other law enforcement agencies for the purpose of coordinating and conducting audits, reviews, administrative inquiries, civil or criminal investigations, or when responding to such offices in connection with the investigation of potential violation of law, rule, and/or regulation.

O. To other Federal IG offices, CIGIE, and/or the DOJ for purposes of conducting external reviews to ensure that adequate internal safeguards and management procedures continue to exist within the DoD.

P. To the DOJ and other Federal, State, or local government prosecuting or litigating agencies, for the purpose of satisfying obligations under *Giglio* (405 U.S. 150 (1972)) and *Henthorn* (931 F.2d 29 (9th Cir. 1991)), as well as the DOJ United States Attorneys' Manual, Section 9–5.100 and DoD IG Instruction 5500.1, DOJ Requirements for Potential Impeachment Information (Giglio Policy), or DoD OIG initiated notifications of similar information.

Q. To the Office of Management and Budget (OMB), for the purpose of private relief legislation review as set forth in OMB Circular A–19 at any stage of the legislative coordination and clearance process as set forth in that circular.

R. To the appropriate Federal, State, local, territorial, tribal, foreign, or international law enforcement authority or other appropriate entity, where a record, either alone or in conjunction with other information, indicates a violation or potential violation of administrative standards or indicates a threat or potential threat to individual or public health or safety.

S. To a former DoD employee for the purpose of responding to an official inquiry by a Federal, State, local, territorial or tribal entity or professional licensing authority, in accordance with applicable DoD regulations; or for the purpose of facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the DoD requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

T. To the Merit Systems Protection Board and the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service, and other merit systems; review of the Office of Personnel Management (OPM) or component rules and regulations; investigation of alleged or possible prohibited personnel practices, including administrative proceedings involving any individual subject of a DoD investigation.

U. To OPM for the purpose of addressing civilian pay and leave, benefits, retirement deduction, and any other information necessary for OPM to carry out its legally authorized government-wide personnel management functions and studies.

V. To State and local taxing authorities with which the Secretary of

the Treasury has entered into agreements under 5 U.S.C. 5516, 5517, or 5520 and only to those State and local taxing authorities for which an employee or Service member is or was subject to tax regardless of whether tax is or was withheld. The information disclosed is information normally contained in Internal Revenue Service (IRS) Form W–2.

W. To Federal, State, local, territorial, tribal, international, or foreign criminal, civil, or regulatory law enforcement authorities when the information is necessary for collaboration, coordination, and de-confliction of investigative matters, prosecutions, and/or other law enforcement actions to avoid duplicative or disruptive efforts and to ensure the safety of law enforcement officers who may be working on related law enforcement matters.

X. To the Department of State when it requires information to consider and/or provide an informed response to a request for information from a foreign, international, or intergovernmental agency, authority, or organization about enforcement matter with transnational implications.

Y. To Federal, State, local, tribal, territorial, or foreign government agencies, as well as to other individuals and organizations during the course of an investigation by DoD or the processing of a matter under DoD's jurisdiction, when DoD deems that such disclosure is necessary to carry out its functions and statutory mandates or to elicit information required by DoD to carry out its functions and statutory mandates.

Z. To federal and foreign government intelligence or counterterrorism agencies or components when DoD becomes aware of an indication of a threat or potential threat to national or international security, or when such disclosure is to support the conduct of national intelligence and security investigations or to assist in anti-terrorism efforts.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records may be stored electronically or on paper in secure facilities in a locked drawer and/or behind a locked door. The records may be stored on magnetic disc, tape, or digital media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved as follows:

For complaints and allegations made by an individual and received by the DoD OIG through the DoD Hotline: By the name of the complainant or the number assigned to the complaint or allegation.

For OIG-led administrative investigations and DoD Component-led administrative investigations pertaining to programs, personnel, and operations that fall under the purview of the DoD: By the name of the subject or the investigative case number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records are retained and disposed of in accordance with applicable disposition schedules. Any unscheduled records are retained indefinitely until they have been scheduled with National Archives and Records Administration and have become eligible for disposition under those schedules.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

The DoD OIG safeguards records in this system of records according to applicable rules, policies, and procedures, including all applicable DoD automated systems security and access policies. DoD policies require the use of controls to minimize the risk of compromise of personally identifiable information (PII) in paper and electronic form and to enforce access by those with a need to know and with appropriate clearances. Additionally, DoD has established security audit and accountability policies and procedures which support the safeguarding of PII and detection of potential PII incidents.

DoD routinely employs safeguards, such as the following, to information systems and paper recordkeeping systems: Multifactor log-in authentication including common access card authentication and password; system firewalls, physical token as required; physical and technological access controls governing access to data; network encryption to protect data transmitted over the network; disk encryption securing data at rest; key management services to safeguard encryption keys; masking of sensitive data as practicable; mandatory information assurance and privacy training for individuals who will have access; identification, marking, and safeguarding of PII; physical access safeguards including multifactor identification physical access controls, detection and electronic alert systems for access to servers and other network infrastructure; and electronic intrusion detection systems in DoD facilities.

RECORD ACCESS PROCEDURES:

Individuals seeking access to their records should address written inquiries to the DoD OIG Freedom of Information Act (FOIA), Privacy and Civil Liberties Office, ATTN: Privacy Officer, 4800 Mark Center Drive, Alexandria, VA 22350–1500. Signed written requests should contain the name and number of this system of records notice along with the full name, mailing address and email address of the requester, along with any details which may assist in locating requested records, such as the case number and date of the event. In addition, the requester must provide either a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the appropriate format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The DoD rules for accessing records, contesting contents, and appealing initial Component determinations are contained in 32 CFR part 310, or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should follow the instructions for Record Access Procedures above.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

DoD has exempted records maintained in this system from 5 U.S.C. 552a(c)(3) and (4), (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(4)(I), (e)(5), (e)(8); (f); and (g) of the Privacy Act, pursuant to 5 U.S.C. 552a(j)(2). Additionally, DoD has exempted records maintained in this system from 5 U.S.C. 552a(c)(3); (d); (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I); and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5). An exemption rule for this system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b)(1), (2), and (3), and (c), and published in 32 CFR part 310.

In addition, when exempt records received from other systems of records become part of this system, DoD also claims the same exemptions for those records that are claimed for the original primary systems of records from which they originated and claims any additional exemptions set forth here.

HISTORY:

March 17, 2016, 81 FR 14427; July 26, 2013, 78 FR 45185; October 15, 2008, 73 FR 61089; May 31, 2006, 71 FR 30882; May 9, 2003, 68 FR 24937; February 22, 1993, 58 FR 10213.

[FR Doc. 2022–11540 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2022–HQ–0016]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Naval Academy announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 1, 2022.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of Defense, Office of the Assistant to the Secretary of Defense for Privacy, Civil Liberties, and Transparency, Regulatory Directorate, 4800 Mark Center Drive, Attn: Mailbox 24, Suite 08D09, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the United States Naval Academy, 121 Blake Road, Annapolis, MD 21402, ATTN: Ms. Shannon Campbell, or call 410–293–1550.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: United States Naval Academy Sponsor Program; USNA 1531/12; OMB Control Number 0703–0054.

Needs and Uses: The information collection requirement is necessary to determine eligibility and compatibility for the U.S. Naval Academy (USNA) Sponsor Program. The information will be used to assist the Naval Academy in managing the USNA Sponsor Program and to assign midshipmen to sponsors, to maintain a record of the names and addresses of families assigned as sponsors or who are interested in the Sponsor Program, and to contact sponsors either by phone or written correspondence.

Affected Public: Individuals or households.

Annual Burden Hours: 800.

Number of Respondents: 800.

Responses per Respondent: 1.

Annual Responses: 800.

Average Burden per Response: 1 hour.

Frequency: Annually.

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11517 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2021–HQ–0011]

Submission for OMB Review; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 30-Day information collection notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by June 30, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Angela Duncan, 571–372–7574, *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Naval Academy Information Program Blue and Gold Officer Application; USNA Form 1531/1; OMB Control Number 0703–BGOA.

Type of Request: Existing collection in use without an OMB Control Number.

Number of Respondents: 250.

Responses per Respondent: 1.

Annual Responses: 250.

Average Burden per Response: 20 minutes.

Annual Burden Hours: 83.33

Needs and Uses: This information requirement is needed to determine the eligibility and leadership potential of respondents applying to represent the United States Naval Academy (USNA) as volunteer Blue and Gold Officers. Prior military service, current and past military performance, and prior affiliation with the USNA has been found to be an excellent predictor of success as a Blue and Gold Officer. Without this information, the ability for the USNA to recruit qualified Blue and Gold Officers would be impacted and would negatively affect the Naval Academy's ability to recruit qualified candidates.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Jasmeet Seehra.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: All submissions received must include the agency name, Docket ID number, and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Angela Duncan.

Requests for copies of the information collection proposal should be sent to Ms. Duncan at *whs.mc-alex.esd.mbx.dd-dod-information-collections@mail.mil.*

Dated: May 24, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–11525 Filed 5–27–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0024]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2023–2024 Free Application for Federal Student Aid (FAFSA)

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 30, 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. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger at (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: 2023–2024 Free Application for Federal Student Aid (FAFSA).

OMB Control Number: 1845–0001.

Type of Review: Revision of a currently approved collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 33,962,310.

Total Estimated Number of Annual Burden Hours: 22,844,712.

Abstract: Section 483, of the Higher Education Act of 1965, as amended (HEA), mandates that the Secretary of Education ''. . . shall produce, distribute, and process free of charge common financial reporting forms as described in this subsection to be used for application and reapplication to determine the need and eligibility of a student for financial assistance . . .''.

The determination of need and eligibility are for the following Title IV, HEA, federal student financial assistance programs: The Federal Pell Grant Program; the Campus-Based programs (Federal Supplemental Educational Opportunity Grant (FSEOG) and Federal Work-Study (FWS)),; the William D. Ford Federal Direct Loan (Direct Loan) Program; the Teacher Education Assistance for College and Higher Education (TEACH) Grant; the Children of Fallen Heroes Scholarship; and the Iraq and Afghanistan Service Grant.

Federal Student Aid (FSA), an office of the U.S. Department of Education, subsequently developed an application process to collect and process the data necessary to determine a student's eligibility to receive Title IV, HEA program assistance. The application process involves an applicant's submission of the Free Application for Federal Student Aid (FAFSA®). After submission and processing of the FAFSA form, an applicant receives a Student Aid Report (SAR), which is a summary of the processed data they submitted on the FAFSA form. The applicant reviews the SAR, and, if necessary, will make corrections or updates to their submitted FAFSA data. Institutions of higher education listed by the applicant on the FAFSA form also receive a summary of processed data submitted on the FAFSA form which is called the Institutional Student Information Record (ISIR).

ED and FSA seek OMB approval of all application components as a single ''collection of information.'' The aggregate burden will be accounted for under OMB Control Number 1845–0001. The specific application components, descriptions, and submission methods for each are listed in Table 1.

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS

Component	Description	Submission method
Initial Submission of FAFSA		
FAFSA	The electronic version of the FAFSA form completed by applicants	Submitted by the applicant.
FAFSA—Renewal	The electronic version of the FAFSA form completed by applicants who have previously completed the FAFSA form.	
FAFSA—EZ	The electronic version of the FAFSA form for applicants who qualify Automatic Zero (Auto Zero) needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAFSA—EZ Renewal	The electronic version of the FAFSA form for applicants who have previously completed the FAFSA form and who qualifyAutomatic Zero (Auto Zero) needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAA Access	Online tool that a financial aid administrator (FAA) utilizes to submit a FAFSA form	Submitted by an FAA on behalf of an applicant.

TABLE 1—FEDERAL STUDENT AID APPLICATION COMPONENTS—Continued

Component	Description	Submission method
FAA Access—Renewal	Online tool that an FAA can utilize to submit a Renewal FAFSA form	
FAA Access—EZ	Online tool that an FAA can utilize to submit a FAFSA form for applicants who qualify for Auto Zero needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
FAA Access—EZ Renewal	Online tool that an FAA can utilize to submit a FAFSA form for applicants who have previously completed the FAFSA form and who qualify Auto Zero needs analysis formula and the applicant's State of Legal Residence is one that allows for the skipping of questions not used in the EFC calculation.	
Electronic Other	This is a submission done by an FAA, on behalf of the applicant, using the Electronic Data Exchange (EDE).	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Printed FAFSA	The printed version of the PDF FAFSA for applicants who are unable to access the Internet or complete the form using fafsa.gov or the myStudentAid mobile app.	Mailed by the applicant.
Correcting Submitted FAFSA Information and Reviewing FAFSA Information		
fafsa.gov—Corrections	Any applicant who has a Federal Student Aid ID (FSA ID)—regardless of how they originally applied—may make corrections..	Submitted by the applicant
Electronic Other—Corrections	With the applicant's permission, corrections can be made by an FAA using the EDE	The FAA may be using their mainframe computer or software to facilitate the EDE process.
Paper SAR—This is a SAR and an option for corrections..	The full paper summary that is mailed to paper applicants who did not provide an e-mail address and to applicants whose records were rejected due to critical errors during processing. Applicants can write corrections directly on the paper SAR and mail for processing.	Mailed by the applicant.
FAA Access—Corrections	An institution can use FAA Access to correct the FAFSA form	Submitted by an FAA on behalf of an applicant.
Internal Department Corrections	The Department will submit an applicant's record for system-generated corrections to the Central Processing System. There is no burden to the applicants under this correction type as these are system-based corrections.	These corrections are system- generated.
Federal Student Aid Information Center (FSAIC) Corrections.	Any applicant, with their Data Release Number (DRN), can change the postsecondary institutions listed on their FAFSA form or change their address by calling FSAIC.	These changes are made directly in the CPS by an FSAIC representative.
SAR Electronic (eSAR)	The eSAR is an online version of the SAR that is available on fafsa.gov to all applicants with an FSA ID. Notification for the eSAR is sent to students who applied electronically or by paper and provided a valid e-mail address. These notifications are sent by e-mail and include a secure hyperlink that takes the user to the *fafsa.gov* site.	Cannot be submitted for processing.
SAR Acknowledgement	The SAR Acknowledgement is a condensed paper SAR that is mailed to applicants who applied electronically but did not provide a valid email address.	Cannot be submitted for processing.

This information collection also documents an estimate of the annual public burden as it relates to the application process for federal student aid. The Applicant Burden Model (ABM) measures applicant burden through an assessment of the activities each applicant conducts in conjunction with other applicant characteristics and, in terms of burden, the average applicant's experience. Key determinants of the ABM include:

- The total number of applicants that will potentially apply for federal student aid;
- How the applicant chooses to complete and submit the FAFSA form (*e.g.,* by paper or electronically);
- How the applicant chooses to submit any corrections and/or updates (*e.g.,* the paper SAR or electronically);
- The type of SAR document the applicant receives (eSAR, SAR acknowledgment, or paper SAR);
- The formula applied to determine the applicant's expected family contribution (EFC) (full need analysis formula, Simplified Needs Test or Automatic Zero); and
- The average amount of time involved in preparing to complete the application.

The ABM is largely driven by the number of potential applicants for the application cycle. The total application projection for 2023–2024 is based on the projected total enrollment into post-secondary education for Fall 2023. The ABM is also based on the application options available to students and parents. ED accounts for each application component based on analytical tools, survey information and other ED data sources.

For 2023–2024, ED is reporting a net burden decrease of 3,466,325 hours.

Dated: May 25, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–11554 Filed 5–27–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2022–SCC–0021]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Program for the International Assessment of Adult Competencies (PIAAC) Cycle II 2022 Main Study

AGENCY: Institute of Educational Sciences (IES), National Center for Education Statistics (NCES), 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 June 30, 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: Program for the International Assessment of Adult Competencies (PIAAC) Cycle II 2022 Main Study.

OMB Control Number: 1850–0870.

Type of Review: Revision of a currently approved information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 30,857.

Total Estimated Number of Annual Burden Hours: 9,726.

Abstract: The Program for the International Assessment of Adult Competencies (PIAAC) is a cyclical, large-scale study of adult skills and life experiences focusing on education and employment. PIAAC is an international study designed to assess adults in different countries over a broad range of abilities, from simple reading to complex problem-solving skills, and to collect information on individuals' skill use and background. The U.S. will administer the PIAAC 2022 assessment to a nationally representative sample of adults, along with a background questionnaire with questions about their education background, work history, the skills they use on the job and at home, their civic engagement, and sense of their health and well-being. The results are used to compare the skills capacities of the workforce-aged adults in participating countries, and to learn more about relationships between educational background, employment, and other outcomes. PIAAC is coordinated by the Organization for Economic Cooperation and Development (OECD) and developed by participating countries with the support of the OECD. In the United States, the National Center for Education Statistics (NCES), within the U.S. Department of Education (ED) conducts PIAAC. NCES has contracted with Westat to administer the PIAAC Cycle II Field Test data collection in the U.S. The United States participated in the PIAAC Main Study data collection in 2012 and conducted national supplement data collections in 2014 and 2017. All three of these collections are part of PIAAC Cycle I, in which 39 countries participated (24 countries in 2012, 9 new countries in 2014, and 5 more new countries in 2017) with close to 200,000 adults assessed across the 39 countries over the three data collections. A new PIAAC cycle is to be conducted internationally every 10 years, and PIAAC Cycle II Main Study data collection will be conducted from September 2022 through April 2023. In preparation for the main study collection, PIAAC Cycle II began with an Operational Field Test in 2021, in which 34 countries are expected to participate with the primary goal of testing the PIAAC 2022 planned operations. In recognition of the continuing global pandemic OECD shifted the timeline of PIAAC Cycle II Field Test and Main Study. Originally, the Field Test was scheduled for 2020 and the Main Study for 2021. The first shift in timeline was to move the Field Test to 2021 and the Main Study to 2022. The second shift in the PIAAC Cycle II collection affected the timing and nature of the field test, which was operational only and included a reduced field test effort both in scope and in sampling. In addition, the reduced Operational Field Test shifted the timeline from April through June 2021 to June through August 2021. This submission describes the final plans for the administration of the PIAAC Cycle II 2022 Main Study. As the OECD is still working to finalize some materials for this study, the Appendices will be updated with final materials before the 30D public comment period.

Dated: May 25, 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. 2022–11607 Filed 5–27–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Assistance for Arts Education Program

AGENCY: Office of Elementary and Secondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2022 for the Assistance for Arts Education (AAE) program, Assistance Listing Number 84.351A. This notice relates to the approved information collection under OMB control number 1894–0006.

DATES:

Applications Available: May 31, 2022.

Deadline for Transmittal of Applications: June 30, 2022.

Deadline for Intergovernmental Review: August 29, 2022.

Preapplication Presentation Information: The Department will post a preapplication presentation for prospective applicants. To access the preapplication presentation, visit the AAE program website at: *https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/well-rounded-education-programs/assistance-for-arts-education/.*

ADDRESSES: For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021

(86 FR 73264) and available at *www.federalregister.gov/d/2021–27979.* Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in *SAM.gov* a Data Universal Numbering System (DUNS) number to the implementation of the Unique Entity Identifier (UEI). More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

FOR FURTHER INFORMATION CONTACT: Asheley McBride or Sharon Burton, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202–6450. Telephone: 202–987–1679. Email: *AssistanceforArtsEducation@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION:

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The AAE program includes the Arts in Education National Program (AENP) and is authorized under Title IV, part F, subpart 4 of the Elementary and Secondary Education Act of 1965, as amended (ESEA). In general, the purpose of the AAE program is to promote arts (as defined in this notice) education for students, including disadvantaged students and students who are children with disabilities (as defined in this notice). Specifically, the AENP supports national-level (as defined in this notice), high-quality arts education projects and services for children and youth, with special emphasis on serving children from low-income families (as defined in this notice) and children with disabilities through community and national outreach activities that strengthen and expand partnerships among schools, local educational agencies (LEAs), communities, or centers for the arts, including national centers for the arts.

Background: The ESEA authorizes activities under the AAE program that enrich the academic experience of students by promoting arts education. In FY 2021, the Department offered the AAE program as one grant program. In prior years, the Department held three separate grant competitions under section 4642 of the ESEA: Arts in Education Development and Dissemination (AAEDD), Professional Development for Arts Educators (PDAE), and AENP.

The Consolidated Appropriations Act, 2022 includes language directing the Department ''to carry out a separate competition for eligible national nonprofit organizations, as described in the Applications for New Awards; Assistance for Arts Education Program—Arts in Education National Program published in the **Federal Register** on May 7, 2018 [83 FR 20056], for activities described under section 4642(a)(1)(C)'' of the ESEA. In addition, the Explanatory Statement for Division H of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103) (2022 Appropriations Explanatory Statement) includes language directing the Department to award prior experience points for past AENP grantees.

Priorities: This notice includes one absolute priority and one competitive preference priority. We are establishing these priorities for the FY 2022 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition in accordance with section 437(d)(1) of the General Education Provisions Act (GEPA), 20 U.S.C. 1232(d)(1).

Absolute Priority: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

One or more high-quality arts education projects that (1) support community and national outreach activities that strengthen and expand partnerships among schools, LEAs, communities, or centers for the arts, including national centers for the arts; (2) are designed to implement, or expand, initiatives in arts education and arts integration; and (3) have a special emphasis on serving children from low-income families and children with disabilities. To meet part 3 of this priority, applicants must submit supporting data identifying the population of students that meets the definition of ''child from a low-income family'' and the population of students that meets the definition of ''child with a disability.''

Competitive Preference Priority: This priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we award an additional 10 points to an application that meets this priority.

This priority is:

The Department gives priority to an eligible national nonprofit organization that has previously implemented a large-scale AENP project. (0 or 10 points)

Definitions: For the FY 2022 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition, we are establishing the definitions of ''arts,'' ''arts educator,'' ''arts integration,'' and ''child from a low-income family'' in accordance with section 437(d)(1) of GEPA, 20 U.S.C. 1232(d)(1). The definitions of ''child with a disability'' and ''local educational agency'' are from section 8101 of the ESEA (20 U.S.C. 7801). The definition of ''eligible national nonprofit organization'' is from section 4642 of the ESEA (20 U.S.C. 7292). The definitions of ''demonstrates a rationale,'' ''experimental study,'' ''logic model,'' ''national level,'' ''project component,'' ''promising evidence,'' ''quasi-experimental design study,'' ''relevant outcome,'' and ''What Works Clearinghouse Handbooks (WWC Handbooks)'' are from 34 CFR 77.1(c).

Arts means music, dance, theater, media arts, and visual arts, including folk arts.

Arts educator means a teacher or other instructional staffer who works in music, dance, theater, media arts, or visual arts, including folk arts.

Arts integration means strengthening the (1) use of high-quality arts instruction in other academic/content areas, and (2) place of the arts as a part of a well-rounded education.

Child from a low-income family means a child who is determined by a State or LEA to be a child, in prekindergarten through grade 12, (a) who is in poverty according to the most recent census data, (b) who is eligible for free or reduced-price lunches under the Richard B. Russell National School Lunch Act, (c) whose family is receiving assistance under the State program funded under part A of title IV of the Social Security Act, (d) who is eligible to receive medical assistance under the Medicaid program, or (e) who is in poverty under a composite of such indicators.

Child with a disability (or children with disabilities) means—

(1) A child—

(i) With intellectual disabilities, hearing impairments (including deafness), speech or language impairments, visual impairments (including blindness), serious emotional disturbance (referred to in the IDEA as ''emotional disturbance''), orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, by reason thereof, needs special education and related services.

(2) The term ''child with a disability,'' for a child aged three through nine (or

any subset of that age range, including ages three through five), may, at the discretion of the State and the LEA, include a child—

(i) Experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development; cognitive development; communication development; social or emotional development; or adaptive development; and

(ii) Who, by reason thereof, needs special education and related services. (Section 8101(4) of the ESEA).

Demonstrates a rationale means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

Eligible national nonprofit organization means an organization of national scope that—

(1) Is supported by staff, which may include volunteers, or affiliates at the State and local levels; and

(2) Demonstrates effectiveness or high-quality plans for addressing arts education activities for disadvantaged students or students who are children with disabilities.

Experimental study means a study that is designed to compare outcomes between two groups of individuals (such as students) that are otherwise equivalent except for their assignment to either a treatment group receiving a project component or a control group that does not. Randomized controlled trials, regression discontinuity design studies, and single-case design studies are the specific types of experimental studies that, depending on their design and implementation (*e.g.,* sample attrition in randomized controlled trials and regression discontinuity design studies), can meet What Works Clearinghouse (WWC) standards without reservations as described in the WWC Handbooks (as defined in this notice):

(i) A randomized controlled trial employs random assignment of, for example, students, teachers, classrooms, or schools to receive the project component being evaluated (the treatment group) or not to receive the project component (the control group).

(ii) A regression discontinuity design study assigns the project component being evaluated using a measured variable (*e.g.,* assigning students reading below a cutoff score to tutoring or developmental education classes) and controls for that variable in the analysis of outcomes.

(iii) A single-case design study uses observations of a single case (*e.g.,* a student eligible for a behavioral intervention) over time in the absence and presence of a controlled treatment manipulation to determine whether the outcome is systematically related to the treatment.

Local educational agency means:

(1) In general—The term ''local educational agency'' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(2) Administrative Control and Direction—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(3) Bureau of Indian Education Schools—The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the LEA receiving assistance under the ESEA with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(4) Educational Service Agencies—The term includes educational service agencies and consortia of those agencies.

(5) State Educational Agency—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

Logic model (also referred to as a theory of action) means a framework that identifies key project components of the proposed project (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

National level describes the level of scope or effectiveness of a process, product, strategy, or practice that is able to be effective in a wide variety of communities, including rural and urban areas, as well as with different groups (*e.g.,* economically disadvantaged, racial and ethnic groups, migrant populations, individuals with disabilities, English learners, and individuals of each gender).

Project component means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.,* training teachers on instructional practices for English learners and follow-on coaching for these teachers).

Promising evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome, based on a relevant finding from one of the following:

(i) A practice guide prepared by WWC reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single study assessed by the Department, as appropriate, that—

(A) Is an experimental study, a quasi-experimental design study, or a well-designed and well-implemented correlational study with statistical controls for selection bias (*e.g.,* a study using regression methods to account for differences between a treatment group and a comparison group); and

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome.

Quasi-experimental design study means a study using a design that attempts to approximate an experimental study by identifying a comparison group that is similar to the treatment group in important respects. This type of study, depending on design and implementation (*e.g.,* establishment of baseline equivalence of the groups being compared), can meet WWC standards with reservations, but cannot meet WWC standards without reservations, as described in the WWC Handbooks.

Relevant outcome means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

What Works Clearinghouse Handbooks (WWC Handbooks) means the standards and procedures set forth in the WWC Standards Handbook, Versions 4.0 or 4.1, and WWC Procedures Handbook, Versions 4.0 or 4.1, or in the WWC Procedures and Standards Handbook, Version 3.0 or Version 2.1 (all incorporated by reference, see § 77.2). Study findings eligible for review under WWC standards can meet WWC standards without reservations, meet WWC standards with reservations, or not meet WWC standards. WWC practice guides and intervention reports include findings from systematic reviews of evidence as described in the WWC Handbooks documentation.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (5 U.S.C. 553), the Department generally offers interested parties the opportunity to comment on proposed priorities and definitions. Section 437(d)(1) of GEPA, however, allows the Secretary to exempt from rulemaking requirements regulations governing the first grant competition under a new or substantially revised program authority. This is the first grant competition for this program under the Consolidated Appropriations Act, 2022 and, therefore, qualifies for this exemption. In order to ensure timely grant awards, the Secretary has decided to forgo public comment on the priorities and definitions under section 437(d)(1) of GEPA. These priorities and definitions will apply to the FY 2022 grant competition and any subsequent year in which we make awards from the list of unfunded applications from this competition.

Program Authority: Consolidated Appropriations Act, 2022.

Note: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in Federal civil rights laws.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 299.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $8,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in subsequent years from the list of unfunded applications from this competition.

Estimated Average Size of Awards: $8,000,000.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

III. Eligibility Information

1. *Eligible Applicants:* Eligible national nonprofit organizations.

Note: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate nonprofit status by providing (1) proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant:* This competition involves supplement-not-supplant funding requirements. Under section 4642(b)(2) of the ESEA, funds must be used to supplement, and not supplant, non-Federal funds that would otherwise be used for activities authorized under this program (20 U.S.C. 1221e–3, 3474, and 6511(a)). Accordingly, grantees must comply with 34 CFR 76.564 through 76.569, which apply to agencies of State and local governments that are grantees under programs with a statutory requirement prohibiting the use of Federal funds to supplant non-Federal funds.

c. *Indirect Cost Rate Information:* This competition uses a restricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see *www2.ed.gov/about/offices/list/ocfo/intro.html.*

d. *Administrative Cost Limitation:* This competition does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees:* A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

IV. Application and Submission Information

1. *Application Submission Instructions:* Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on December 27, 2021 (86 FR 73264) and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application. Please note that these Common Instructions supersede the version published on February 13, 2019, and, in part, describe the transition from the requirement to register in SAM.gov a DUNS number to the implementation of the UEI. More information on the phase-out of DUNS numbers is available at *https://www2.ed.gov/about/offices/list/ofo/docs/unique-entity-identifier-transition-fact-sheet.pdf.*

2. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the AAE program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Because we plan to make the successful application available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application,

under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review:* This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

4. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit:* The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1'' margins at the top, bottom, and both sides.
- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; or the one-page abstract, resumes, bibliography, logic model, or letters of support. However, the recommended page limit does apply to all of the application narrative.

Note: The applicant should include, as an attachment, the logic model used to address selection criterion (b)(2)(iv).

6. *Notice of Intent to Apply:* The Department will be able to review grant applications more efficiently if we know the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line ''Intent to Apply,'' and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

V. Application Review Information

1. *Selection Criteria:* Under the Quality of the Project Design selection criterion, factors (a) and (b)(2)(i) are consistent with section 4642 of the ESEA. The rest of the selection criteria for this competition are from 34 CFR 75.210.

The points assigned to each criterion are indicated in the parentheses next to the criterion. An applicant may earn up to a total of 100 points based on the selection criteria for the application.

(a) *Significance* (up to 20 points).

(1) The Secretary considers the significance of the proposed project.

(2) In determining the significance of the proposed project, the Secretary considers the following factors:

(i) The national significance of the proposed project.

(ii) The extent to which the results of the proposed project are to be disseminated in ways that will enable others to use the information or strategies.

(iii) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of project design* (up to 35 points).

(1) The Secretary considers the quality of the design of the proposed project.

(2) In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(i) The extent to which the proposed project will provide community and national outreach activities that strengthen and expand partnerships among schools, LEAs, communities, or centers for the arts, including national centers for the arts.

(ii) The extent to which the proposed project is appropriate to, and will successfully address, the arts education needs of pre-kindergarten-through-grade-12 children and youth, with special emphasis on serving children from low-income families and children with disabilities;

(iii) The extent to which the proposed project will integrate with or build on similar or related efforts to improve relevant outcomes (as defined in this notice), using existing funding streams from other programs or policies supported by community, State, and Federal resources.

(iv) The extent to which the proposed project demonstrates a rationale (as defined in this notice).

(c) *Quality of project services* (up to 25 points).

(1) The Secretary considers the quality of the services to be provided by the proposed project.

(2) In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

(3) In addition, the Secretary considers the following factors:

(i) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(ii) The extent to which the training or professional development services to be provided by the proposed project are of sufficient quality, intensity, and duration to lead to improvements in practice among the recipients of those services.

(iii) The extent to which the services to be provided by the proposed project involve the collaboration of appropriate partners for maximizing the effectiveness of project services.

(d) *Quality of the project evaluation* (up to 20 points).

(1) The Secretary considers the quality of the evaluation to be conducted of the proposed project.

(2) In determining the quality of the evaluation, the Secretary considers the following factors:

(i) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(ii) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

(iii) The extent to which the methods of evaluation will, if well implemented, produce promising evidence (as defined in this notice) about the project's effectiveness.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also

consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions:* Consistent with 2 CFR 200.206, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently $250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds $10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed $10,000,000.

5. *In General:* In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115—232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements:* Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the terms of any licenses or other legal restrictions on the use of pre-existing works.

Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *www.ed.gov/fund/grant/apply/appforms/appforms.html.*

5. *Performance Measures:* For the purposes of Department reporting under 34 CFR 75.110, the Department has established the following performance measures for the AAE program: (1) The total number of students who participate in arts education sponsored by the grantee; (2) the number of teachers participating in the grantee's program who receive professional development; (3) the total number of low-income students who participate in arts education sponsored by the grantee; and (4) the total number of children with disabilities who participate in arts education sponsored by the grantee.

All grantees will be expected to submit an annual performance report that includes data addressing these performance measures to the extent that they apply to the grantee's project.

6. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving

the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

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.

Ruth E. Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

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BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Record of Decision for the Final Environmental Impact Statement for Proposed Energy Conservation Standards for Manufactured Housing (DOE/EIS–0550)

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

ACTION: Record of decision.

SUMMARY: The U.S. Department of Energy (''DOE'') has determined that it will establish energy conservation standards for manufactured housing based on the 2021 International Energy Conservation Code (''IECC'') using a tiered approach based on the size of the manufactured home, as described in Alternative B2 in the Final Environmental Impact Statement for Proposed Energy Conservation Standards for Manufactured Housing (DOE/EIS–0550). This Record of Decision (''ROD'') was prepared in accordance with the requirements of the National Environmental Policy Act (''NEPA''), Council on Environmental Quality (''CEQ'') regulations for implementing NEPA, and DOE NEPA regulations.

ADDRESSES: The final EIS, this ROD, and other EIS documents are available on the Project website at: *https://ecs-mh.evs.anl.gov* and on *Energy.gov* at: *www.energy.gov/node/4810038.*

FOR FURTHER INFORMATION CONTACT: For additional information on the EIS process or this ROD, please contact Kristin Kerwin at the Department of Energy—Golden Field Office, 15013 Denver West Parkway, Golden, Colorado 80401, email: *DOE_EIS_MANUFACTURED_HOUSING@ee.doe.gov,* (240) 562–1800. For general information on the DOE NEPA review process, please contact Brian Costner, Office of NEPA Policy and Compliance, GC–54, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0119, email: *AskNEPA@hq.doe.gov,* telephone (202) 586–4600 or (800) 472–2756, facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION:

Background

DOE is obligated to establish energy conservation standards for manufactured housing, as directed by Section 413 of the Energy Independence and Security Act of 2007 (''EISA''). (42 U.S.C. 17071) EISA directs DOE to base these standards on the most recent version of the IECC and any supplements to that document, except where DOE finds that the IECC is not cost effective or where a more stringent standard would be more cost effective based on the impact of the IECC on the purchase price of manufactured housing and on total lifecycle construction and operating costs. In accordance with Section 413 of EISA, DOE is establishing energy conservation standards for manufactured housing in a final rulemaking published elsewhere in this issue of the **Federal Register**. To inform the proposed rulemaking, DOE prepared an EIS pursuant to NEPA, the CEQ NEPA implementing regulations (40 CFR parts 1500–1508), and DOE's procedures for implementing NEPA (10 CFR part 1021).

Purpose and Need for Agency Action

In accordance with EISA, DOE will establish energy conservation standards for manufactured housing that are based on the 2021 IECC. In fulfilling its statutory mandate to establish energy conservation standards, the standards will also:

- Reduce national energy consumption,
- Reduce energy costs for owners of manufactured homes,
- Reduce emissions of outdoor pollutants associated with electricity production,
- Reduce emissions of greenhouse gases (''GHGs'') associated with electricity production that may lead to climate change, and
- Protect public health and safety related to energy efficiency.

DOE's Proposed Action and Alternatives

DOE considered three approaches for establishing the energy conservation standards for manufactured housing. The final EIS refers to each approach as an action alternative. The alternatives were informed by public comments on the scope of the EIS and on the draft EIS, and by comments on DOE's 2016 notice of proposed rulemaking (''NOPR'') 81 FR 39756, 2016 draft environmental assessment, 2021 supplemental notice of proposed rulemaking (''SNOPR'') 86 FR 47744, and subsequent 2021 notice of data availability (''NODA'') 86 FR 59042, as well as coordination and consultation with the U.S. Department of Housing and Urban Development (''HUD''). In accordance with NEPA, DOE also considered the alternative of taking no action, which serves as a baseline against which potential consequences of the action alternatives can be compared. Thus, four alternatives (referred to as A, B, C, and D) are evaluated in detail in the EIS.

Under Alternative A, the proposed standards for energy conservation would be tiered (including ''Tier 1'' and ''Tier 2'' standards) based on a manufacturer's retail list price of $63,000. Within Alternative A, two detailed alternatives (A1 and A2) were analyzed. Under Alternative A1, Tier 1 standards would apply to homes with a retail list price of $63,000 or less, with requirements based on the 2021 IECC, but with less stringent building thermal envelope requirements that would

correspond to an incremental increase in purchase price of less than $750. Tier 2 standards would apply to homes with a manufacturer's retail list price above $63,000 and would be the same as the Tier 1 requirements, but with more stringent building thermal envelope requirements similar to those of the 2021 IECC. Alternative A2, is the same as Alternative A1 except it would include relaxed insulation requirements for Tier 2 manufactured houses in certain climate zones.

Under Alternative B, the proposed standards for energy conservation would be tiered (including ''Tier 1'' and ''Tier 2'' standards) based on the size of the manufactured home. Similar to Alternative A, two detailed alternatives were analyzed within Alternative B (B1 and B2). For Alternative B1, the Tier 1 standards would apply to single-section manufactured homes with requirements based on the 2021 IECC, and, as with Alternative A, the building thermal envelope requirements would correspond to an incremental purchase price increase of less than $750. Tier 2 standards would apply to multi-section manufactured homes and would be the same as the Tier 1 requirements but with more stringent building thermal envelope requirements similar to those of the 2021 IECC. The building thermal envelope requirements for Alternative B1 are the same as those identified for Alternative A1. Alternative B2 is the same as Alternative B1 except it would include relaxed insulation requirements for Tier 2 manufactured homes in certain climate zones.

Alternative C represents an untiered approach to establishing energy conservation standards. Under this alternative, the proposed standards based on the 2021 IECC would apply to all manufactured homes, without considering the manufacturer's retail list price or size or less stringent building thermal envelope requirements to address affordability concerns. As with Alternatives A and B, two detailed alternatives were analyzed within Alternative C (C1 and C2). Under Alternative C1, the building thermal envelope requirements would be the same as those identified for Tier 2 in Alternative A and Alternative B. Alternative C2 is the same as C1 except it would include relaxed insulation requirements for all manufactured houses in certain climate zones.

Alternative D represents the no action alternative. Under this alternative, DOE would not establish energy conservation standards for manufactured housing, and manufacturers would continue to follow the requirements in the existing HUD Code.

DOE considered, but did not analyze in detail, several potential alternatives, including alternatives suggested in comments received during the scoping process for this EIS and in response to the NOPR, SNOPR, NODA, and draft EIS. These alternatives fall within four themes: (1) The mechanism for implementing standards; (2) the basis for the standards, (3) the structure of the standards, and (4) other efficiency requirements. The EIS, in section 2.5, describes why these alternatives were not analyzed in detail.

As presented in the final EIS, Alternatives A, B, and C would result in:

- Conservation of energy,
- Avoidance of GHGs and other emissions (reducing impacts to climate change and outdoor air quality),
- Better indoor protection from outdoor air pollutants,
- Higher indoor air concentrations of pollutants emitted indoors, and
- National cost savings.

DOE did not have a preferred alternative at the time of the publication of the draft EIS. In the final EIS, DOE identified the preferred alternative as the untiered alternative with relaxed insulation (Alternative C2).

Environmentally Preferable Alternatives

DOE considers both Alternatives B and C to be environmentally preferrable. There are minor tradeoffs between Alternatives B and C relative to which is more environmentally preferable over different time periods. DOE considers the untiered approach (Alternative C) to be environmentally preferrable as it would result in the most energy savings and emissions reductions and would provide the same benefits to all residents of manufactured homes. Alternative C, however, has a somewhat greater socioeconomic and environmental justice impacts associated with first cost (home purchase) and a longer payback period than the Tier 1 homes in Alternative B. DOE considers Alternative B to be environmentally preferrable as it addresses the socioeconomic and environmental justice impacts associated with the upfront cost and shortens the payback period (for Tier 1 homes) by only including components that would increase the incremental purchase price by less than $750.

Public Involvement

The Notice of Intent (''NOI'') to prepare an EIS was published in the **Federal Register** on July 7, 2021, beginning the scoping process that extended through August 6, 2021. 86 FR 35773. The NOI invited public participation in the EIS scoping process and solicited public comments on the scope and content of the EIS. DOE solicited comments from Federal, State, and local agencies; tribal governments; other organizations and the public. In July 2021, DOE hosted two online public scoping meetings to provide the public an opportunity to comment on the scope of the EIS and ask questions about the EIS process. DOE received oral and written comments from 17 organizations and two individuals. DOE's scoping process and public involvement along with a summary of the scoping comments received, are summarized in Appendix A of the final EIS.

The Notice of Availability (''NOA'') for the draft EIS was published in the **Federal Register** on January 14, 2022, and comments on the draft EIS were invited for 45-days (through February 28, 2022). 87 FR 2430. Two online public meetings were held in January 2022. DOE received 24 oral and written comment submittals on the draft EIS from organizations across 13 states and the District of Columbia. Appendix C of the final EIS provides a summary of the comments received and describes how the final EIS reflects the comments received on the draft EIS.

Decision

The agency has considered all the alternatives, information, analyses, and objections submitted by State, Tribal, and local governments and public commenters for consideration by DOE in developing the EIS. Further, informed by the analyses and environmental impacts documented in the final EIS and related analysis, DOE has decided to establish energy conservation standards for manufactured housing that are tiered based on the size of the manufactured home, with relaxed insulation for Tier 2 homes in certain climate zones (Alternative B2).

DOE will issue a final rule that will codify the energy conservation standards in a new part of the Code of Federal Regulations (''CFR'') under 10 CFR part 460 subparts A, B, and C. Subpart A will present generally the scope of the rule and provides definitions of key terms. Subpart B will establish new requirements for manufactured homes that relate to climate zones, the building thermal envelope, air sealing, and installation of insulation. Subpart C will establish new requirements related to duct sealing, heating, ventilation, and air conditioning (''HVAC''); service hot water systems; mechanical ventilation

fan efficacy; and heating and cooling equipment sizing.

Under the energy conservation standards, the stringency of the requirements under subpart B will depend on the size of the manufactured home for the tiered approach. Accordingly, two sets of standards will be established in subpart B (*i.e.,* Tier 1 and Tier 2). Tier 1 will apply to single-section manufactured homes and will incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC, but only including components that would increase the incremental purchase price by less than $750. Tier 2 will apply to multi-section manufactured homes and incorporate building thermal envelope measures based on certain thermal envelope components and specifications of the 2021 IECC, with alternate exterior wall insulation requirements for climate zones 2 and 3, as presented in the August 2021 SNOPR and the October 2021 NODA and analyzed in the final EIS. Further, the energy conservation standards for both tiers also include duct and air sealing, insulation installation, HVAC and service hot water system specifications, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions, based on the 2021 IECC. DOE will adopt a compliance date such that the standards will apply to manufactured homes starting one year after the publication date of the final rule in the **Federal Register**.

DOE notes that its decision to adopt Alternative B2 differs from the preferred alternative presented in the final EIS (Alternative C2). DOE decided to adopt Alternative B2 because of affordability and cost-effectiveness concerns identified in the consultation process and during the rulemaking process. Following the issuance of the final EIS, DOE continued to consider comments received on the rulemaking and in the interagency review process under Executive Order 12866, which included the aforementioned concerns regarding first-costs, affordability, and cost-effectiveness. DOE believes that access to affordable housing and reducing energy burdens of low-income purchasers are of the utmost importance in the manufactured housing market. Alternative B2 better addresses both of these concerns than Alternative C2 because it will ensure continued availability for the homes most often purchased by low-income purchasers (single-section homes) with little change to the current manufactured housing market, while providing energy cost savings in the nearer term for residents of these homes. A more detailed explanation of DOE's bases for adopting Alternative B2 will be provided in the final rule and its Technical Support Document in the rulemaking docket. The docket, and all documents contained therein, may be found at *www.regulations.gov/docket?D=EERE-2009-BT-BC-0021.*

Mitigation

The analyses presented in the final EIS identify both beneficial and adverse impacts to indoor air quality, health, socioeconomic conditions, environmental justice, and cumulative effects of DOE's proposed action alternatives. The final EIS describes measures that could mitigate potential adverse impacts. To address adverse impacts to indoor air quality, health, socioeconomics, and environmental justice, the final EIS identifies the following mitigation measures:

- Promoting installation of energy-efficient fans for ventilation,
- Advancing research and stakeholder engagement to increase implementation of energy-efficient ventilation,
- Promoting training and technical assistance to manufacturers, and
- Promoting improved indoor air quality and environmental justice through efficiency labeling and informational resources about healthy homes and financing options.

The final EIS identifies that DOE could further address adverse impacts to socioeconomics and environmental justice by promoting financial mechanisms to offset first costs through incentives, assistance, and informational resources. Also, the final EIS identifies that DOE could promote awareness of DOE's energy justice initiative to address impacts to environmental justice.

Along with DOE's decision to implement energy conservation standards for manufactured housing, DOE will:

- Collaborate with HUD to promote efficient ventilation, including whole-house ventilation and exhaust fan techniques.
- Advance research and stakeholder engagement on energy-efficient heating, ventilating, and air-conditioning solutions for modular housing.
- Leverage existing funded research projects to provide training and technical assistance to manufactured housing manufacturers intended to help manufacturers achieve the energy conservation standards in the most cost-efficient manner.
- Develop and implement informational campaigns to promote improved indoor air quality and environmental justice—specifically to aid potential buyers in identifying and comparing energy efficiency between homes.
- Collaborate with the Manufactured Housing Task Force to address market barriers to energy-efficient manufactured housing as an affordable, equitable, and accessible housing option, including better consumer education around how energy-efficient manufactured homes are financed.
- Coordinate with DOE's Office of Economic Impact and Diversity to promote partnerships that enhance community awareness and engagement in advancing energy justice concepts for manufactured housing.

DOE has committed to all practicable means to avoid or minimize environmental harm.

Signing Authority

This document of the Department of Energy was signed on May 16, 2022, by Derek G. Passarelli, Director, Golden Field Office, Office of Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 17, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–10931 Filed 5–27–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: The Department of Energy hereby publishes a notice of open meeting on June 13, 2022, of the Secretary of Energy Advisory Board (SEAB). This meeting will be held virtually.

DATES: Monday, June 13, 2022; 5:00 p.m.–6:00 p.m. Eastern Time.

ADDRESSES: Virtual meeting. To register for the meeting, please follow this link: *https://www.energy.gov/seab/seab-meetings.*

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586–5260; email: *seab@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was established to provide advice and recommendations to the Secretary on the Administration's energy policies; the Department's basic and applied research and development activities; economic and national security policy; and other activities as directed by the Secretary.

Purpose of the Meeting: For the SEAB to deliberate and vote on recommendations concerning electric grid modernization.

Tentative Agenda: The meeting will start at 5:00 p.m. on June 13th. The tentative meeting agenda includes: Introduction of SEAB's members, and deliberation and vote on recommendations. The meeting will conclude at 6:00 p.m. The meeting agenda and times may be subject to change to accommodate SEAB business.

Public Participation: The meeting is open to the public. Individuals who would like to attend must register by following this link: *https://www.energy.gov/seab/seab-meetings.*

Individuals and representatives of organizations who would like to offer comments and suggestions may do so during the meeting. Approximately 20 minutes will be reserved for public comments. Time allotted per speaker will depend on the number who wish to speak but will not exceed five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Those wishing to speak should register to do so via email, *seab@hq.doe.gov,* no later than 5:00 p.m. on Friday, June 10, 2022.

Those not able to attend the meeting or who have insufficient time to address the committee are invited to send a written statement to Christopher Lawrence, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585, or email to: *seab@hq.doe.gov.*

Minutes: The minutes of the meeting will be available on the SEAB website or by contacting Mr. Lawrence. He may be reached at the above postal address or email address, or by visiting SEAB's website at *www.energy.gov/seab.*

Signed in Washington, DC, on May 25, 2022.

LaTanya Butler,

Deputy Committee Management Officer.

[FR Doc. 2022–11579 Filed 5–27–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL22–41–000]

Puget Sound Energy, Inc.; Notice of Conference Call

On Thursday, June 2, 2022, Commission staff will hold a conference call with Puget Sound Energy, Inc. (Puget Sound) beginning at 11:00 a.m. (Eastern Time). The purpose of the conference call is to discuss Puget Sound's formula rate protocols. The discussion during the conference call will be limited to this matter.

All interested parties are invited to listen by phone. The conference call will not be webcasted or transcribed. However, an audio listen-only line will be provided. Those wishing to access the listen-only line must email Patricia Dalton at *patricia.dalton@ferc.gov* by 5:00 p.m. (Eastern Time) on Tuesday, May 31, 2022, with your name, email, and phone number, in order to receive the call-in information before the conference call. Please use the following text for the subject line, ''EL22–41–000 listen-only line registration.''

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1 (866) 208–3372 (voice) or (202) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For additional information, please contact Patricia Dalton at (202) 502–8044 or *patricia.dalton@ferc.gov.*

Dated: May 24, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–11625 Filed 5–27–22; 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: EG22–130–000.

Applicants: Madison Fields Solar Project, LLC.

Description: Madison Fields Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/24/22.

Accession Number: 20220524–5088.

Comment Date: 5 p.m. ET 6/14/22.

Docket Numbers: EG22–131–000.

Applicants: Marion County Solar Project, LLC.

Description: Marion County Solar Project, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 5/24/22.

Accession Number: 20220524–5091.

Comment Date: 5 p.m. ET 6/14/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2474–025; ER10–2475–026; ER10–3246–019; ER13–1266–037; ER15–2211–034; ER10–2984–054.

Applicants: Merrill Lynch Commodities, Inc., MidAmerican Energy Services, LLC, CalEnergy, LLC, PacifiCorp, Nevada Power Company, Sierra Pacific Power Company.

Description: Supplement to March 3, 2022 Notice of Non-Material Change in Status of Sierra Pacific Power Company, et al.

Filed Date: 5/19/22.

Accession Number: 20220519–5173.

Comment Date: 5 p.m. ET 6/9/22.

Docket Numbers: ER22–108–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Compliance Filing—Modify Minimum Capitalization Requirements to be effective 4/30/2022.

Filed Date: 5/24/22.

Accession Number: 20220524–5090.

Comment Date: 5 p.m. ET 6/14/22.

Docket Numbers: ER22–1945–000.

Applicants: Bracewell LLP, Powells Creek Farm Solar, LLC.

Description: Baseline eTariff Filing: Bracewell LLP submits tariff filing per 35.12: Application for Market-Based Rate Authorization, Request for Related Waivers to be effective 8/1/2022.

Filed Date: 5/23/22.

Accession Number: 20220523–5163.

Comment Date: 5 p.m. ET 6/13/22.

Docket Numbers: ER22–1946–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 3951 Kiowa County Solar Project GIA to be effective 4/28/2022.

Filed Date: 5/24/22.

Accession Number: 20220524–5065.
Comment Date: 5 p.m. ET 6/14/22.
Docket Numbers: ER22–1947–000.
Applicants: Switched On, LLC.
Description: Tariff Amendment: Cancellation entire tariff to be effective 5/25/2022.
Filed Date: 5/24/22.
Accession Number: 20220524–5095.
Comment Date: 5 p.m. ET 6/14/22.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH22–14–000.
Applicants: Macquarie Infrastructure Holdings, LLC.
Description: Macquarie Infrastructure Holdings, LLC submits FERC 65–A Exemption Notification.
Filed Date: 5/24/22.
Accession Number: 20220524–5106.
Comment Date: 5 p.m. ET 6/14/22.

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: May 24, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–11624 Filed 5–27–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP22–932–000.
Applicants: Midwestern Gas Transmission Company.
Description: § 4(d) Rate Filing: Compliance Filing to Implement Revised Tariff Records to be effective 7/2/2022.
Filed Date: 5/24/22.
Accession Number: 20220524–5040.
Comment Date: 5 p.m. ET 6/6/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

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: May 24, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–11623 Filed 5–27–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–ORD–2016–0010; FRL 9871–01–ORD]

Proposed Information Collection Request; Comment Request; Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Recordkeeping for Institutional Dual Use Research of Concern (iDURC) Policy Compliance'' (EPA ICR No. 2530.03, OMB Control No. 2080–0082) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act. Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a proposed extension of the ICR, which is currently approved through January 1, 2023. An Agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

DATES: Comments must be submitted on or before August 1, 2022.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2016–0010 online using *www.regulations.gov* (our preferred method), by email to *ord.docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Viktoriya Plotkin, Center for Environmental Solution and Emergency Response, Office of Research and Development, 26 W Martin Luther King Dr., Cincinnati, Ohio, 45268; telephone number: 202–510–3602; email address: *plotkin.viktoriya@epa.gov.*

SUPPLEMENTARY INFORMATION: Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. EPA will consider the comments received and amend the ICR as appropriate. The final ICR package

will then be submitted to OMB for review and approval. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

Abstract: To comply with the U.S. Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern (iDURC Policy), EPA must ensure that the institutions subject to iDURC Policy appropriately train their laboratory personnel and maintain records of their training. This training is specific to ''dual use research of concern,'' and should include information on how to properly identify DURC, appropriate methods for ensuring research that is determined to be DURC, and that it is conducted and communicated responsibly.

Form Numbers: None.

Respondents/affected entities: Private sector and federal-owned/contractor-operated labs.

Respondent's obligation to respond: Mandatory (Per EPA Order 1000,19: Policy and Procedures for Managing Dual Use Research of Concern).

Estimated number of respondents: Forty (total).

Frequency of response: Only once and/or as necessary.

Total estimated burden: 20 hours (per year). Burden is defined at 5 CFR 1320.03(b)

Total estimated cost: $1,260 (per year), includes $0 annualized capital or operation & maintenance costs.

Changes in Estimates: There is no change in estimate from the previous ICR renewal submission.

Gregory Sayles,

Director, Center for Environmental Solutions and Emergency Response, Office of Research and Development.

[FR Doc. 2022–11572 Filed 5–27–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2022–0365 and EPA–HQ–OW–2022–0366; FRL 8310–03–OW]

Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic Acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS); Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; extension of comment period.

SUMMARY: The Environmental Protection Agency (EPA) is extending the comment period for the Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA) and Perfluorooctane Sulfonic Acid (PFOS). The comment period is scheduled to close on June 2, 2022. However, a number of groups have requested additional time to submit comments. In response, EPA is extending the public comment period for an additional 30 days through July 2, 2022.

DATES: The comment period for the notice of availability published May 3, 2022 (87 FR 26199), is extended. The EPA must receive comments on or before July 2, 2022.

ADDRESSES: You may send comments, identified by the Docket ID No. EPA–HQ–OW–2022–0365 for the draft PFOA criteria or Docket ID No. EPA–HQ–OW–2022–0366 for the draft PFOS criteria, through the Federal eRulemaking Portal: *https://www.regulations.gov/.* Follow the online instructions for submitting comments.

Instructions: All submissions received must include the relevant Docket ID Number(s) for these draft criteria. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the public comment process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: James Justice, Health and Ecological Criteria Division, Office of Water (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW, Washington, DC 20460; telephone: (202) 566–0275; or email: *justice.jamesr@epa.gov.*

SUPPLEMENTARY INFORMATION: On May 3, 2022, EPA announced the availability of Clean Water Act (CWA) national ''Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA)'' and ''Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctane Sulfonic Acid (PFOS)'' for a 30-day public review and comment period to seek additional scientific views, data, and information regarding the science and technical approach used in the derivation of the draft documents.

The original deadline to submit comments was June 2, 2022 (87 FR 26199, May 3, 2022). This action extends the comment period for 30 days. Written comments must now be received by July 2, 2022. The ''Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctanoic acid (PFOA)'' and other supporting materials may also be viewed and downloaded from EPA's website at *https://www.epa.gov/wqc/aquatic-life-criteria-perfluorooctanoic-acid-pfoa.* The ''Draft Recommended Aquatic Life Ambient Water Quality Criteria for Perfluorooctane Sulfonic Acid (PFOS)'' and other supporting materials may also be viewed and downloaded from EPA's website at *https://www.epa.gov/wqc/aquatic-life-criteria-perfluorooctane-sulfonate-pfos.*

Public Participation—Written Comments

Submit your comments, identified by Docket ID No. EPA–HQ–OW–2022–0365 for the draft PFOA criteria or Docket ID No. EPA–HQ–OW–2022–0366 for the draft PFOS criteria, at *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

Radhika Fox,

Assistant Administrator.

[FR Doc. 2022–11569 Filed 5–27–22; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meetings

TIME AND DATE: 9 a.m., Thursday, June 9, 2022.

PLACE: You may observe the open portions of this meeting in person at 1501 Farm Credit Drive, McLean, Virginia 22102–5090, or virtually. If you would like to observe, at least 24 hours in advance, visit *FCA.gov,* select

''Newsroom,'' then select ''Events.'' From there, access the linked ''Instructions for board meeting visitors'' and complete the described registration process.

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: The following matters will be considered:

PORTIONS OPEN TO THE PUBLIC:

- Approval of May 12, 2022, Minutes
- Quarterly Report on Economic Conditions and Farm Credit System Condition and Performance
- Semiannual Report on Office of Examination Operations
- Cyber Risk Management Proposed Rule

PORTIONS CLOSED TO THE PUBLIC:

- Office of Examination Quarterly Report on Supervisory and Oversight Activities [1]

CONTACT PERSON FOR MORE INFORMATION: If you need more information or assistance for accessibility reasons, or have questions, contact Ashley Waldron, Secretary to the Board. Telephone: 703–883–4009. TTY: 703–883–4056.

Ashley Waldron,

Secretary to the Board.

[FR Doc. 2022–11701 Filed 5–26–22; 11:15 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 89498]

Privacy Act of 1974; System of Records

AGENCY: Federal Communications Commission.

ACTION: Notice of a modified system of records.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission or Agency) is modifying a system of records, FCC/OSP–1, Broadband Dead Zone Report and Consumer Broadband Test, subject to the Privacy Act of 1974, as amended. This action is necessary to implement the Broadband Data Collection (BDC) program. The modified system, now known as FCC/OEA–6, Broadband Data Collection system of records (BDC system), will collect granular, detailed information on the availability and quality of service of fixed and mobile broadband internet access service from service providers, as well as verified broadband availability data from other Federal agencies, from State, local, and Tribal governmental entities that are primarily responsible for mapping or tracking broadband service coverage, and from other third parties. The BDC will additionally give the FCC, industry, Federal, State, local and Tribal government entities, and consumers the tools they need to continuously refine and improve the accuracy of these new mapping data. A number of broadband deployment funding mechanisms will rely upon BDC data, including the Broadband Equity, Access, and Deployment (BEAD) program, administered by the Department of Commerce's National Telecommunications and Information Administration (NTIA), the FCC's 5G Fund for Rural America, and potentially other broadband infrastructure deployment funding programs.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to comment on the routine uses, described below. Please submit any comments by June 30, 2022.

ADDRESSES: Send comments to Brendan McTaggart, Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554, or to *privacy@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: Brendan McTaggart, (202) 418–1738, or *privacy@fcc.gov* (and to obtain a copy of the Narrative Statement and the Supplementary Document, which includes details of the modifications to this system of records).

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4) and (e)(11), this document sets forth notice of the proposed modification of a system of records maintained by the FCC. The FCC previously provided notice of the system of records FCC/OSP–1, Broadband Dead Zone Report and Consumer Broadband Test, by publication in the **Federal Register** on July 14, 2011 (76 FR 41497).

This notice serves to modify FCC/OSP–1 to reflect a change in the name of the system of records, make various necessary changes and updates, including clarification of the purpose of the system, format changes required by OMB Circular A–108 since its previous publication, the addition of five new routine uses and the revision of five existing routine uses, which in several instances entailed converting a single existing routine use into multiple revised routine uses. The substantive changes and modification to the previously published version of FCC/OSP–1 system of records include: (1) Adding routine uses related to sharing information with (a) the public; (b) broadband service providers; (c) other Federal agencies; (d) State, local, and Tribal governmental entities; and (e) certain FCC contractors or grantees; (2) revising routines uses related to sharing information with other Federal agencies, both for purposes directly related to the Broadband Data Collection as well as for law enforcement and data breach mitigation purposes; (3) substantially updating the Purposes of the System, Categories of Individuals, Categories of Records, and Sources of Records sections to accurately describe the BDC system.

SYSTEM NAME AND NUMBER:

FCC/OEA–6, Broadband Data Collection.

SECURITY CLASSIFICATION:

No information in the system is classified.

SYSTEM LOCATION:

Office of Economics and Analytics (OEA), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

SYSTEM MANAGER:

Office of Economics and Analytics (OEA), Federal Communications Commission (FCC), 45 L Street NE, Washington, DC 20554.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Broadband Data Improvement Act of 2008, Public Law 110–385, Stat. 4096 § 103(c)(1); American Reinvestment and Recovery Act of 2009 (ARRA), Public Law 111–5, 123 Stat. 115 (2009); Communications Act, 47 U.S.C. 154(i); Broadband Deployment Accuracy and Technological Availability Act (Broadband DATA Act), Public Law 116–130, 806(b), 134 Stat. 228, 238 (2020), amended by Infrastructure Investment and Jobs Act, Public Law 117–58, 60102(h)(2)(E)(ii), 135 Stat. 429, 1198 (2021) (codified at 47 U.S.C. 646(b)).

PURPOSES OF THE SYSTEM:

The BDC system will collect granular, detailed information on the availability and quality of service of fixed and mobile broadband internet access service from service providers, as well as verified broadband availability data from other Federal agencies, from State, local, and Tribal governmental entities that are primarily responsible for mapping or tracking broadband service coverage, and from other third parties.

[1] Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8) and (9).

As part of the functionality of this system, various stakeholders, including consumers, can provide information about the accuracy of these data through the submission of challenge data and crowdsourced data. Certain information is required to properly validate challenge data and crowdsourced data submitted by consumers and to adjudicate challenges. The Categories of Records section below describes the types of information that will be collected from individuals as part of the fixed broadband challenge and crowdsourcing processes, and the Fabric challenge process. Information will also be collected from individuals through mobile speed test apps—including not only the FCC's mobile speed test application (FCC Speed Test App), built by an FCC contractor, but also other FCC-approved, third-party applications (*see Broadband Data Task Force and Office of Engineering and Technology Announce Procedures for Third-Party Mobile Speed Test Applications Seeking Approval for Use in the FCC's Broadband Data Collection,* WC Docket No. 19–195, ET Docket No. 22–152, Public Notice, DA–22–408 (OET Apr. 14, 2022))—which will enable individuals to participate in the BDC mobile challenge process and crowdsourcing efforts. A Privacy Act Statement or privacy notice will appear at all points of information collection from consumers.

To that end, the BDC platform does the following:

(1) Collects and disseminates granular broadband service availability data (broadband maps) from both fixed and mobile broadband providers, as well as governmental entities and third parties;

(2) Ingests the Broadband Serviceable Location Fabric (a common dataset of all locations in the United States and its territories where fixed broadband internet access service can be installed, and which must serve as the foundation upon which all data relating to the availability of fixed broadband internet access service must be reported and overlaid);

(3) Enables the submission of data challenging the accuracy of the FCC's broadband coverage maps, the information submitted by internet service providers regarding broadband service availability and quality of service, and/or the information included in the Fabric; and

(4) Enables the submission of crowdsourced data regarding the deployment and availability of broadband internet access service so that it may be used to verify and supplement information submitted by service providers for potential inclusion in the coverage maps.

As part of their participation in the challenge processes and other BDC mechanisms, it is the responsibility of the individuals to ensure the completeness and accuracy of the contact information and other data being provided at the time it is submitted into the BDC system. For individuals using the FCC Speed Test App, or another FCC-approved, third-party speed test application, this responsibility is shared by the individual and the mobile application provider. Once information is ingested by the BDC system, data integrity is controlled through user access safeguards and annual data validation testing (*i.e.,* contingency planning exercises).

Information will be provided by consumers to the BDC system as part of the challenge processes. As noted, there are three types of challenges that can be initiated through the BDC: Fixed Broadband Challenges, Mobile Broadband Challenges, and Broadband Serviceable Location Fabric Challenges.

Fixed Broadband Challenges:

Entities and individuals can challenge whether a fixed broadband provider makes broadband service available at a particular broadband serviceable location (BSL) identified through the Fabric. After a challenger provides contact information and a justification for the challenge into the BDC system via a web-based form, an official ticket is created, along with a unique ticket number. The FCC monitors the ticket throughout the challenge process and will adjudicate challenges as necessary. The BDC system will notify individual challengers about the status of their challenge once the challenge is resolved.

Mobile Broadband Challenges:

Entities or individuals have the ability to download the FCC Speed Test App, or another FCC-approved, third-party mobile speed test application, to provide actual measurements of mobile broadband speeds and other metrics. These applications are not incorporated into the BDC system of records. The mechanisms used by the BDC for the mobile challenge process collect the following data: The challenger's email address and phone number, and the device identification, TCP/IP, time, and geo-location data associated with the speed test. This information is necessary to properly analyze and adjudicate consumer-initiated challenges.

The data collected by the FCC Speed Test App are transmitted to a database managed by SamKnows, the vendor for the FCC Speed Test App. SamKnows periodically transmits mobile speed test data from the database to the BDC system via a data transmission initiated by an automated Application Programming Interface (API) process, and the BDC system will acknowledge receipt of the submission. For FCC-approved, third-party mobile speed test applications, the collected mobile speed test data should be transmitted, stored, and maintained in the third-party app developer's data repository system after the completion of active test measurements. The third-party app developer will similarly transmit the mobile speed test data periodically to the BDC system via a data transmission initiated by an automated API process, and the BDC system will acknowledge receipt of the submission.

These mobile speed test data will be subject to validation checks and algorithms developed by the FCC's Office of Economics and Analytics (OEA) to confirm the validity of the challenge data submission. The BDC system will aggregate validated speed test data with other submissions to create a cognizable mobile challenge in an area. Once a valid challenge data submission has formed the basis of a cognizable mobile challenge, a message will be sent to the challenger providing an update on the status of the challenge. At the same time as the challenger is notified that a cognizable mobile challenge has been created, the BDC system will notify the challenged mobile broadband service provider of the challenged area and provide details regarding the substance of the cognizable challenge, including underlying speed test data and relevant information about the challenger as necessary to allow the mobile service provider to respond to the challenge.

Broadband Serviceable Location Fabric Challenges:

Stakeholders can submit challenges to the Fabric data. The FCC relies on the Fabric when ingesting and publishing fixed broadband availability data. After a challenger provides contact information, information about a location that the challenger believes is incorrect in or missing from the Fabric, and a justification for the challenge, the BDC system creates an official ticket, along with a unique ticket number. The challenge data and associated ticket number are stored in a database within the FCC's BDC system. The FCC monitors the ticket through resolution. Once resolved, the challenger will receive a message with the resolution and status update.

Submission of Crowdsourced Data:

Entities or individuals may submit information about the deployment and

availability of broadband internet access service so that it may be used to verify and supplement information submitted by providers for potential inclusion in the coverage maps. Crowdsourced data filers will provide, among other things, personal contact information (*e.g.,* name, address, phone number, and email), the location that is the subject of the filing, including the street address and/or coordinates of the location; and a certification that to the best of the filer's actual knowledge, information, and belief, all statements in the filing are true and correct. Additionally, parties submitting mobile crowdsourced data must include the metrics and meet the testing parameters required for other entities to submit on-the-ground data to the Commission (*see* 47 CFR 1.7006(c)(1)(i)–(ii)), except that the data may include any combination of download speed and upload speed rather than both.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The categories of individuals in this system include individuals who have an interest in or are otherwise connected to the BDC, including individuals who (either in their own capacity or as a representative of a business or governmental entity): (1) Submit broadband availability data, in the case of broadband service providers; (2) submit verified availability data, in the case of Federal agencies, State, local or Tribal governmental entities primarily responsible for mapping or tracking broadband coverage, or other third parties; and (3) elect to participate in the BDC fixed challenge process, fixed crowdsourced data collection, and the Fabric challenge process (either in the submission of challenge or crowdsourced data or in the submission of data in rebuttal to challenges), as well as each person who uses either the FCC Speed Test App or other FCC-approved, third-party mobile speed test applications to participate in the BDC mobile challenge and crowdsourcing processes).

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records in this system include: First and last name, street address (when relevant), phone number(s), email address, and, for the mobile challenge and crowdsource processes, geolocation or geographic coordinates (latitude and longitude) information, the timestamp reflecting when the test measurement data were transmitted to the app developer's servers, user ID (unique device or application installation identifier), IP/MAC address (including source IP address and port of the device, as measured by the server), and other mobile device information (*e.g.,* make, model, operating system).

RECORD SOURCE CATEGORIES:

The sources for the information in this system are individuals, governmental entities (including Federal, State, local, and Tribal governmental entities), businesses, other third parties, and other FCC systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FCC as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. Public Access—Pursuant to the FCC's Third Report and Order implementing the Broadband Data Collection (FCC–21–20), records related to the location of a challenge that is submitted as part of the challenge process will be made public, at times in aggregate form, via the Commission's website, including the street address and/or geographic coordinates as relevant. Location-related records related to the crowdsourcing process will also be made public via the Commission's website. Non-location related records associated with the challenge or crowdsourcing process, such as names, phone numbers, email addresses, or mobile device information will not be posted on the website.

2. Fixed and Mobile Broadband Service Providers—As described in the Purpose section above, certain records will be shared with fixed and mobile broadband service providers in order to help resolve challenges and/or address conflicting coverage information.

3. NTIA—Records, including provider contact information, may be shared with the National Telecommunications and Information Administration (NTIA) for administration of the Broadband Equity, Access, and Deployment (BEAD) program and for other broadband programs funded under the Infrastructure Investment and Jobs Acts or other legislation. Additionally, records may be shared with NTIA in response to its submission of verified broadband availability data.

4. Other Federal Agencies—Records, including provider contact information, may be shared with other Federal agencies, including the Department of Agriculture and the Department of Treasury to support broadband programs funded under the Infrastructure Investment and Jobs Act or other legislation. For example, the Broadband DATA Act requires the FCC to share broadband maps with other Federal agencies upon request, while the Infrastructure Investment and Jobs Act requires coordination with Treasury and other agencies on the Broadband Deployment Locations Map. Additionally, records may be shared with other Federal agencies in response to their submission of verified broadband availability data.

5. State, Local, and Tribal Governmental Entities—Records, including provider contact information, may be shared with State, local, and Tribal governmental entities for use in their own broadband infrastructure funding programs, such as funding made available through Section 9901 of the American Rescue Plan Act of 2021, as well as in response to their submission of verified broadband availability data.

6. Contract Services, Grants, or Cooperative Agreements—Records may be shared with FCC contractors, grantees, or volunteers who have been engaged to assist the FCC in the performance of a contract service, grant, cooperative agreement, or other activity related to this system of records and who need to have access to the records in order to perform their activity. Examples include, but are not limited to, sharing records with the developers of FCC-approved, third-party mobile speed test applications; with wireless engineering firms assisting with the mobile challenge process; with technical assistance firms supporting the BDC help center; with outside auditing firms assisting with audits.

7. FCC Enforcement Actions—When a record in this system involves an informal complaint filed alleging a violation of FCC rules and regulations by an applicant, licensee, certified or regulated entity, or an unlicensed person or entity, the complaint may be provided to the alleged violator for a response. Where a complainant in filing his or her complaint explicitly requests confidentiality of his or her name from public disclosure, the Commission will endeavor to protect such information from public disclosure. Complaints that contain requests for confidentiality may be dismissed if the Commission determines that the request impedes the Commission's ability to investigate and/or resolve the complaint.

8. Congressional Inquiries—To provide information to a Congressional office from the record of an individual

in response to an inquiry from that Congressional office made at the request of that individual.

9. Government-Wide Program Management and Oversight—To the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

10. Law Enforcement and Investigation—To disclose pertinent information to appropriate Federal, State, or local agencies, authorities, and officials responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the FCC becomes aware of an indication of a violation or potential violation of a civil or criminal statute, law, regulation, or order.

11. Litigation—To disclose records to the Department of Justice (DOJ) when: (a) The FCC or any component thereof; (b) any employee of the FCC in his or her official capacity; (c) any employee of the FCC in his or her individual capacity where the DOJ or the FCC has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and the use of such records by the Department of Justice is for a purpose that is compatible with the purpose for which the FCC collected the records.

12. Adjudication—To disclose records in a proceeding before a court or adjudicative body, when: (a) The FCC or any component thereof; or (b) any employee of the FCC in his or her official capacity; or (c) any employee of the FCC in his or her individual capacity; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the FCC determines that the records are both relevant and necessary to the litigation, and that the use of such records is for a purpose that is compatible with the purpose for which the agency collected the records.

13. Breach Notification—To appropriate agencies, entities, and persons when: (a) The Commission suspects or has confirmed that there has been a breach of the system of records; (b) the Commission has determined that as a result of the suspected or confirmed compromise there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

14. Assistance to Federal Agencies and Entities Related to Breaches—To another Federal agency or Federal entity when the Commission determines that information from this system is reasonably necessary to assist the recipient agency or entity in: (a) Responding to a suspected or confirmed breach, or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, program, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

15. Prevention of Fraud, Waste, and Abuse Disclosure—To Federal agencies, non-Federal entities, their employees, and agents (including contractors, their agents or employees; employees or contractors of the agents or designated agents); or contractors, their employees or agents with whom the FCC has a contract, service agreement, cooperative agreement, or computer matching agreement for the purpose of: (1) Detection, prevention, and recovery of improper payments; (2) detection and prevention of fraud, waste, and abuse in Federal programs administered by a Federal agency or non-Federal entity; (3) detection of fraud, waste, and abuse by individuals in their operations and programs, but only to the extent that the information shared is necessary and relevant to verify pre-award and prepayment requirements prior to the release of Federal funds, prevent and recover improper payments for services rendered under programs of the FCC or of those Federal agencies and non-Federal entities to which the FCC provides information under this routine use.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

This is an electronic system of records that resides on the FCC's network or on an FCC vendor's network.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system of records can be retrieved by any category field, *e.g.,* first name or email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The information in this system is maintained and disposed of in accordance with the National Archives and Records Administration (NARA) General Records Schedule 6.5, Item 020 (DAA–GRS–2017–0002–0002).

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Before a service provider receives access to crowdsourced or challenge data, it will be required, within the BDC platform, to acknowledge that it will use personally identifiable information that it receives for the sole purpose of responding to a challenge and that it will protect and keep private all such personally identifiable information.

The FCC protects its information resources with a dynamic set of security measures. Some of these measures (*e.g.,* network firewalls, physical security) protect the entire FCC enterprise, while other measures (*e.g.,* user access restrictions, encryption) are applied to specific information systems. Following the risk-based policy established in the Federal Information Modernization Act (FISMA), the FCC applies more security measures (also known as security ''controls'') to information systems that present higher operational risks. Consistent with this policy, the FCC applies specific security controls to systems that collect and process Privacy Act records. A comprehensive list of the security and privacy controls the FCC may apply to its information systems can be found in National Institute of Standards and Technology (NIST) Special Publication (SP) No. 800–53, Revision 5. Finally, the BDC resides within the FCC instance of AWS, which is FedRAMP accredited, and any customer responsibility controls are addressed through NIST SP No. 800–53.

The electronic records, files, and data are stored within FCC or a vendor's accreditation boundaries and maintained in a database housed in the FCC's or vendor's computer network databases. Access to the electronic files is restricted to authorized employees and contractors; and to IT staff, contractors, and vendors who maintain the IT networks and services. Other employees and contractors may be granted access solely on a need-to-know basis. The electronic files and records are protected by the FCC and third-party privacy safeguards, a comprehensive and dynamic set of IT safety and security protocols and features that are designed to meet all Federal privacy standards, including those required by the Federal Information Security Modernization Act of 2014 (FISMA), the Office of Management and Budget (OMB), and the National Institute of Standards and Technology (NIST).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedure below.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request access to and/or amendment of records about themselves should follow the Notification Procedures below.

NOTIFICATION PROCEDURES:

Individuals wishing to determine whether this system of records contains information about themselves may do so by emailing *privacy@fcc.gov*. Individuals requesting access must also comply with the FCC's Privacy Act regulations regarding verification of identity to gain access to records as required under 47 CFR part 0, subpart E.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

76 FR 41497 (July 14, 2011).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2022–11691 Filed 5–27–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request; OMB No. 3064–0207

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Agency information collection activities: Submission for OMB review; comment request.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), The Federal Deposit Insurance Corporation (FDIC) is seeking public comments concerning an information collection which has been assigned control number 3064–0207 by the Office of Management and Budget (OMB). FDIC intends to submit the information collection for review and approval of a three-year extension of the information collection on or after the publication of this notice.

DATES: Comments must be submitted on or before June 30, 2022.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *Agency Website: https://www.fdic.gov/resources/regulations/federal-register-publications/.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767), Regulatory Counsel, MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street NW building (located on F Street NW), on business days between 7:00 a.m. and 5:00 p.m.

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: Manny Cabeza, Regulatory Counsel, 202–898–3767, *mcabeza@fdic.gov,* MB–3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Loans in Areas Having Special Flood Hazards.

OMB Number: 3064–0207.

Form Number: None.

Affected Public: Private Sector.

Burden Estimate:

BURDEN CALCULATION (OMB NO. 3064–0207)

Description	Estimated annual number of respondents	Estimated annual number of responses per respondent	Estimated hours per response	Total hours
Recordkeeping:				
Private flood Insurance (Required to obtain benefits)	3,106	1	0.500	1,553.00
Standard flood hazard determination form (Mandatory)	3,106	313	0.042	40,831.48
Retention of notice of special flood hazards and availability of Federal disaster relief assistance (Mandatory)	3,106	36	0.250	27,954.00
Disclosure:				
Notice of requirement to escrow flood insurance payments and fees (Mandatory)	470	82	0.083	3,198.82
Change in status (Mandatory)	30	2	40	2,400.00
Notice of option to escrow flood insurance payments and fees (Mandatory)	30	22	0.083	54.78
Notice to borrower to purchase flood insurance (Mandatory)	3,106	10	0.083	2,577.98
Notification to terminate flood insurance purchased on behalf of a borrower (Mandatory)	3,106	1	0.250	776.50
Notice of special flood hazards and availability of Federal disaster relief assistance (Mandatory)	3,106	36	0.250	27,954.00
Notice to Administrator of FEMA of servicer's identity (Mandatory)	3,106	18	0.083	4,640.36
Notice to Administrator of FEMA of a change in loan servicer (Mandatory)	3,106	22	0.083	5,671.56

Total Estimated Burden Hours: 117,612.48.

General Description of Collection: Each supervised lending institution is required to provide a notice of special flood hazards to a borrower acquiring a

loan secured by a building on real property located in an area identified by FEMA as subject to special flood hazards, and various other notices to borrowers, servicers and FEMA. The Riegle Community Development Act requires that each institution also provide a copy of the notice to the servicer of the loan (if different from the originating lender). Section 100239 of the Biggert-Waters Flood Insurance Reform Act of 2012 requires each federal banking agency (including the FDIC), and the Farm Credit Administration, to adopt implementing regulations to direct regulated lending institutions to accept ''private flood insurance,'' as defined by the Biggert-Waters Act. A lending institution would be required to implement policies and procedures to comply with the Biggert-Waters Act provision and verify in writing that a private insurance policy satisfies the criteria included in the definition or document findings that separate required criteria have been met when accepting a private flood insurance policy in satisfaction of the mandatory flood insurance purchase requirement of the Flood Disaster Protection Act. The institution must also maintain records to permit examination staff to ascertain how the institution has met the requirements of the regulation.

The FDIC has reviewed its previous submission related to the PRA and has updated its methodology to align with the Office of the Comptroller of the Currency's corresponding information collection (1557–0326). The decrease in the estimated annual burden of 409,935 hours is the result of this change in methodology.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on May 24, 2022.

James P. Sheesley,

Assistant Executive Secretary.

[FR Doc. 2022–11576 Filed 5–27–22; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MEDIATION AND CONCILIATION SERVICE

Privacy Act of 1974; System of Records

AGENCY: Federal Mediation and Conciliation Service

ACTION: Notice of a new system of records.

SUMMARY: To fulfill its conflict resolution, training, and outreach mission, Federal Mediation and Conciliation Service (FMCS) uses surveys to provide training and education, conduct interactive exercises, and create consensus during mediation and training meetings. For engagements with FMCS clients in meetings of all types, FMCS uses a collection of online engagement activity tools that includes Survey Monkey, Poll Everywhere, Microsoft Forms, and FacilitatePro, all of which are online licensed software platforms, for customers' meeting effectiveness, electronic flip charting, project management, requests for assistance, event registration, needs assessments, and surveys. FMCS will use surveys from clients to evaluate services and employee performance.

DATES: This system of records will be effective without further notice on [June 30, 2022 unless otherwise revised pursuant to comments received. New routine uses will be effective on June 30, 2022. Comments must be received on or before June 30, 2022.

ADDRESSES: You may send comments, identified by FMCS–0002, by any of the following methods:

- *Mail:* Office of General Counsel, 250 E Street SW, Washington, DC 20427.
- *Email: ogc@fmcs.gov*. Include FMCS–0002 on the subject line of the message.
- *Fax:* (202) 606–5444.

FOR FURTHER INFORMATION CONTACT: Anna Davis, Acting General Counsel, at 202–606–3737 or *adavis@fmcs.gov*.

SUPPLEMENTARY INFORMATION: This describes a new system for FMCS and its customers for meeting effectiveness, electronic flip charting, project management, requests for assistance, event registration, and surveys.

Dated: May 25, 2022.

Anna Davis,

Acting General Counsel.

SYSTEM NAME AND NUMBER:

FMCS–0002 Survey Records.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427.

SYSTEM MANAGER(S):

Doug Jones, Director of Information Technology, email *djones@fmcs.gov,* or send mail to Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427, Attn: Doug Jones.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Mediation and Conciliation Service, 29 U.S.C. 172, *et seq.;* The National Labor Relations Act, 29 U.S.C. 151, *et seq.;* Administrative Dispute Resolution Act, 5 U.S.C. 571–584; Negotiated Rulemaking Act of 1990, 5 U.S.C. 561–570; the Federal Labor Relations Act, 5 U.S.C. 7119; and Departmental Regulations, 5 U.S.C. 301.

PURPOSE(S) OF THE SYSTEM:

This system is maintained for the purposes of assessing parties' needs, engaging parties to a dispute in finding resolution, collecting and handling data for use in negotiations and mediations, engaging parties in virtual meetings, teaching problem-solving skills, and creating and receiving evaluations from parties on the quality of services they receive from FMCS by collecting information used during live training sessions for educational purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system encompasses all individuals participating in training and evaluation sessions, both virtually and in-person, with an FMCS Mediator, the FMCS staff referenced in the evaluations, and FMCS staff processing the evaluations. Also, this includes parties to mediation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of records created or compiled during live training sessions and for purposes of evaluating FMCS's services. The system also includes FMCS employee and client responses to questions, surveys, and scenarios. These records include contact information for participants, and participant responses. System access records are also included (login

information for users and FMCS staff). Specifically, these engagement programs might collect information names, participant responses to open-ended questions, contributions to a brainstorming activity in training or mediation, ideas that represent possible dispute resolution options, and other data. In short, the data that arrives through these engagement tools is the same or similar information that would be available to an FMCS mediator in any in-person meeting with clients and is handled with the same degree of confidentiality as a mediator would handle paper or traditional written data-gathering methods.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by FMCS clients or training registrants, conference attendees, and FMCS staff assigned to help process the survey results.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed to authorized entities, as is determined to be relevant and necessary, outside the FMCS as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

(a) To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule regulation or order where the record, either alone or in conjunction with other information creates an indication of a violation or potential violation of civil or criminal laws or regulations.

(b) To the Government Accountability Office (GAO) for oversight purposes; to the Department of Justice (DOJ) to obtain that department's advice regarding disclosure obligations under the Freedom of Information Act (FOIA); or to the Office of Management and Budget (OMB) to obtain that office's advice regarding obligations under the Privacy Act.

(c) To disclose information to the National Archives and Records Administration (NARA) or the General Services Administration in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

(d) To a former employee of the Agency for purposes of responding to an official inquiry by a federal, state, or local government entity or professional licensing authority, in accordance with applicable Agency regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Agency requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

(e) To disclose information to contractors, grantees, experts, consultants, detailees, and other non-Government employees performing or working on a contract, service, or other assignment for the Federal Government when necessary to accompany an agency function related to this system of records.

(f) To officials of labor organizations recognized under 5 U.S.C. Chapter 71 upon receipt of a formal request and in accordance with the conditions of 5 U.S.C. 7114 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

(g) To disclose information to a Member of Congress or a congressional office in response to an inquiry made on behalf of, and at the request of, an individual who is the subject of the record.

(h) To the Department of Justice, including Offices of the U.S. Attorneys; another Federal agency conducting litigation or in proceedings before any court, adjudicative, or administrative body; another party in litigation before a court, adjudicative, or administrative body; or to a court, adjudicative, or administrative body. Such disclosure is permitted only when it is relevant and necessary to the litigation or proceeding, and one of the following is a party to the litigation or has an interest in such litigation:

(1) FMCS, or any component thereof;

(2) Any employee or former employee of FMCS in their official capacity;

(3) Any employee or former employee of FMCS in their capacity where the Department of Justice or FMCS has agreed to represent the employee;

(4) The United States, a Federal agency, or another party in litigation before a court, adjudicative, or administrative body, upon the FMCS General Counsel's approval, pursuant to 5 CFR part 295 or otherwise.

(i) To any federal agency, organization, or person for the purposes of performing audit or oversight operations related to the operation of this system of records as authorized by law, but only information necessary and relevant to such audit or oversight function.

(j) To disclose to FMCS clients who participate in trainings and presentations to collect survey results and information during educational sessions to facilitate group discussions and learning.

(k) To disclose to FMCS clients to facilitate mediation.

(l) To disclose to another Federal agency or Federal entity, when FMCS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(m) To appropriate agencies, entities, and persons when (1) FMCS suspects or has confirmed that there has been a breach of the system of records, (2) FMCS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMCS (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMCS's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(n) To disclose aggregate data from the surveys in support of research activities conducted by FMCS employees, other agencies, and educational institutions who collaborate with FMCS.

(o) To distribute and present aggregate data received from the surveys for news, public relations, official agency social media, community affairs, and client services purposes.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

After the project is completed, data collected for the project is transferred to a Microsoft document or spreadsheet and sent to the project manager for determination of sharing, temporary storage, or destruction. Data collected is accessed through agency internal drives which require a username and password. Upon FMCS client request, these documents may be created in hard copy and provided to the client then destroyed when FMCS closes the case or ends the training or service.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by the name or other programmatic identifier, including the date of the training or FMCS service.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Temporarily stored data or records received by the project manager is deleted by the end of the fiscal year unless there is a specific need to retain it longer.

Records are retained and disposed of in accordance with General Records Schedule 4.2, issued by the National Archives and Records Administration.

ADMINSTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

FMCS maintains the FacilitatePro data and user profiles on its own servers and have an electronic backup system in place in the event of a system failure, as well as an alternative system consistent with requirements of Continuing of Operations Plan. The system requires a username and password which can only be created by FMCS. FMCS employee access to these systems is on a limited license basis and requires use of internal agency network and drives. Access is restricted, and accessible to limited FMCS Personnel such as the Project Manager, System Administrator, IT, and/or individuals in a need-to-know capacity. The other platforms mentioned above are web-based programs and require either FMCS Office 365 credentials, usernames and passwords, or both, in order to be used by an employee of FMCS.

RECORD ACCESS PROCEDURES:

FMCS employees, both current and former, may request access to their own records used as the basis for their performance evaluations through the Office of Human Resources. For external users, Privacy Act requests may be completed pursuant to 29 CFR 1410.3, Individual access requests. Individuals must provide the following information for their records to be located and identified: (1) Full name, (2) Address, and (3) A specific description of the record content requested. Also, see *https://www.fmcs.gov/privacy-policy/*.

CONTESTING RECORDS PROCEDURES:

See 29 CFR 1410.6, Requests for correction or amendment of records, on how to contest the content of any records. Privacy Act requests to amend or correct records may be submitted to the Privacy Office at *privacy@fmcs.gov* or via mail at Federal Mediation and Conciliation Service, 250 E Street SW, Washington, DC 20427. Also, see *https://www.fmcs.gov/privacy-policy/*.

NOTIFICATION PROCEDURES:

See 29 CFR 1410.3(a), Individual access requests.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

[FR Doc. 2022–11617 Filed 5–27–22; 8:45 am]

BILLING CODE 6732–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than June 13, 2022.

A. Federal Reserve Bank of Cleveland (Bryan S. Huddleston, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566. Comments can also be sent electronically to *Comments.applications@clev.frb.org:*

1. *Jodi Hillyer and Kim Hillyer, both of Dennison, Ohio; Kurt Shelley, New Philadelphia, Ohio; Kim Shelley, Belmont, Maine; Tina Floyd, North Canton, Ohio; Todd Scott, Strasburg, Ohio; the Connolly, Hillyer and Ong Law Firm, Uhrichsville, Ohio*; to join the Hillyer Family Control Group, a group acting in concert, to retain voting shares of FNB, Inc., Dennison, Ohio.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–11545 Filed 5–27–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0905]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The committee will meet in open session to discuss whether and how the SARS–CoV–2 strain composition of COVID–19 vaccines should be modified. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on June 28, 2022, from 8:30 a.m. to 5 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at *https://youtu.be/BFdzNUus_CE* on the day of the meeting. Answers to commonly asked questions may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–0905. The docket will close on June 27, 2022. Submit either electronic or written comments on this public meeting by June 27, 2022. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 27, 2022. The *https://www.regulations.gov* electronic filing system will accept

comments until 11:59 p.m. Eastern Time at the end of June 27, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before June 22, 2022, will be provided to the committee. Comments received after June 22, 2022, and by June 27, 2022, will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–0905 for ''Vaccines and Related Biological Products Advisory Committee (VRBPAC); Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, 240–402–7500.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Prabhakara Atreya or Sussan Paydar, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 1226, Silver Spring, MD 20993–0002, 240–506–4946, *CBERVRBPAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On June 28, 2022, the committee will meet in open session to discuss whether and how the SARS–CoV–2 strain composition of COVID–19 vaccines should be modified.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: On June 28, 2022, from 8:30 a.m. to 5 p.m. Eastern Time, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 22, 2022, will be provided to the committee. Comments received after June 22, 2022, and by June 27, 2022, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 1:30 p.m. and 2:30 p.m. Eastern Time. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and email addresses

of proposed participants, and an indication of the approximate time requested to make their presentation on or before 6 p.m. Eastern Time on June 21, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 23, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Prabhakara Atreya or Sussan Paydar (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11670 Filed 5–26–22; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0904]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. Members will participate via teleconference. This 2-day virtual meeting will be held to discuss recent requests to amend the Emergency Use Authorization (EUA) of the Moderna COVID–19 mRNA vaccine to include the administration of a primary series to infants, children, and adolescents 6 months through 17 years of age and to amend the EUA of the Pfizer-BioNTech COVID–19 mRNA vaccine to include the administration of a primary series to infants and children 6 months through 4 years of age. The meeting will be open to the public on both days. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held June 14 and June 15, 2022, from 8:30 a.m. to 5 p.m. Eastern Time (ET). Comments received on or before June 7, 2022, will be provided to the committee. Comments received after June 7, 2022, and by June 13, 2022, be taken into consideration by FDA.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at the following separate links on the respective days of the meeting:

Day 1: *https://youtu.be/GbNpaZeDPiA*
Day 2: *https://youtu.be/Ixm4UmldTGQ*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–0904. The docket will close on June 13, 2022. Submit either electronic or written comments on this public meeting by June 13, 2022. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 13, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. ET at the end of June 13, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before June 7, 2022, will be provided to the committee. Comments received after June 7, 2022, and by June 13, 2022, will be taken into consideration by FDA. If the meeting is canceled, FDA will continue to evaluate any relevant applications, submissions, or information and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand Delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–0904 for ''Vaccines and Related Biological Products; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two

copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Prabhakara Atreya or Sussan Paydar, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 6306, Silver Spring, MD 20993–0002, 240–506–4946, via email at *CBERVRBPAC@fda.hhs.gov*; or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last-minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/advisory-committees* and scroll down to the appropriate advisory committee meeting link or call the advisory committee information line to learn about possible modifications before joining the meeting.

SUPPLEMENTARY INFORMATION: Consistent with FDA's regulations, this notice is being published with less than 15 days prior to the date of the meeting based on a determination that convening a meeting of the Vaccines and Related Biological Products Advisory Committee as soon as possible is warranted. This **Federal Register** notice could not be published 15 days prior to the date of the meeting due to recent requests to amend the EUA of the Moderna COVID–19 mRNA vaccine to include the administration of a primary series to infants, children, and adolescents 6 months through 17 years of age and to amend the EUA of the Pfizer-BioNTech COVID–19 mRNA vaccine to include the administration of a primary series to infants and children 6 months through 4 years of age, and the need for prompt discussion of such requests given the COVID–19 pandemic.

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On June 14, 2022, under Topic 1, the committee will meet in open session to discuss amending the EUA of the Moderna COVID–19 mRNA vaccine to include the administration of the primary series to children and adolescents 6 years through 17 years of age. On June 15, 2022, under Topic II, the committee will meet in open session to discuss amending the EUA of the Moderna COVID–19 mRNA vaccine to include the administration of the primary series to infants and children 6 months through 5 years of age and to discuss amending the EUA of the Pfizer-BioNTech COVID–19 mRNA vaccine to include the administration of the primary series to infants and children 6 months through 4 years of age.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/advisory-committees/advisory-committee-calendar*. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: On June 14 and June 15, 2022, from 8:30 a.m. to 5 p.m. ET, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 7, 2022, will be provided to the committee. Comments received after June 7, 2022, and by June 13, 2022, will be taken into consideration by FDA. Oral presentations from the public will be scheduled approximately between 1 p.m. and 2 p.m. ET on June 14, 2022, and approximately between 1 p.m. and 2 p.m. ET on June 15, 2022. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate date and time requested to make their presentation on or before 6 p.m. ET on June 8, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 10, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Prabhakara Atreya or Sussan Paydar (*CBERVRBPAC@fda.hhs.gov*) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at: *https://www.fda.gov/advisory-committees/about-advisory-committees/public-conduct-during-fda-advisory-committee-meetings* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11669 Filed 5–26–22; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0784]

Cellular, Tissue, and Gene Therapies Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA or the Agency) announces a forthcoming public advisory committee meeting of the Cellular, Tissue, and Gene Therapies Advisory Committee (the Committee). The general function of the Committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. Matters considered at the meeting will include discussion of the current regulatory expectations for xenotransplantation products. The discussion topics include human cells that have had ex vivo contact with animal cells, and animal organs and cells for transplantation into human subjects, both of which are xenotransplantation products. The meeting will be open to the public on both days. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on June 29, 2022, from 10 a.m. to 5:25 p.m. Eastern Time and June 30, 2022, from 10 a.m. to 4:45 p.m. Eastern Time.

ADDRESSES: Please note that due to the impact of the COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. Answers to commonly asked questions about FDA advisory committee meetings may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

The online web conference meeting will be available at the following link on the day of the meeting:

Day 1 June 29 link: https://youtu.be/DobR-4h8YA0.

Day 2 June 30 link: https://youtu.be/r8ea5NjLEW0.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–0784. The docket will close on June 28, 2022. Submit either electronic or written comments on this public meeting by June 28, 2022. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before June 28, 2022. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 28, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before June 22, 2022, will be provided to the committee. Comments received after that date will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–0784 for ''Cellular, Tissue, and Gene Therapies Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240–402–7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Christina Vert or Tonica Burke, Center

for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave. Bldg. 71, Rm. 1244, Silver Spring, MD 20993–0002, 240–402–8054, *ctgtac@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, before coming to the meeting, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications.

SUPPLEMENTARY INFORMATION:

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. The Committee will meet in open session on both days to discuss the current regulatory expectations for xenotransplantation products. The discussion topics include human cells that have had ex vivo contact with animal cells, and animal organs and cells for transplantation into human subjects. On June 29, 2022, in the morning, under session 1, the Committee will meet to discuss and make recommendations on human cells that have ex vivo contact with animal cells. In the afternoon under session 2, the Committee will begin to discuss and make recommendations on animal organs and cells for transplantation into human subjects and their associated risks. On June 30, 2022, the Committee will continue to discuss and make recommendations on animal organs and cells for transplantation into human subjects.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available on FDA's website at the time of the advisory committee meeting. Background material and the link to the online teleconference meeting room will be available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 22, 2022, will be provided to the committee. Oral presentations from the public will be scheduled between approximately 1:15 p.m. and 2:15 p.m. Eastern Time on June 29, 2022, and 1 p.m. and 2 p.m. Eastern Time on June 30, 2022. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation, on or before June 16, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 17, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Christina Vert (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 24, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11563 Filed 5–27–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0895]

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, Health and Human Services (HHS).

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Vaccines and Related Biological Products Advisory Committee (VRBPAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. This meeting will be held to discuss an Emergency Use Authorization (EUA) request by Novavax for a vaccine to prevent COVID–19 in individuals 18 years of age and older. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held virtually on June 7, 2022, from 8:30 a.m. to 5 p.m. Eastern Time. Submit either electronic or written comments on this public meeting by June 6, 2022. Comments received on or before June 1, 2022, will be provided to the committee. Comments received after June 1, 2022, and by June 6, 2022, will be taken into consideration by FDA.

ADDRESSES: Please note that due to the impact of this COVID–19 pandemic, all meeting participants will be joining this advisory committee meeting via an online teleconferencing platform. The online web conference meeting will be available at the following link on the day of the meeting: *https://youtu.be/DfdMsAqkneE.*

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2022–N–0895. The docket will close on June 6, 2022. Submit either electronic or written comments on this public meeting by June 6, 2022. Please note that late, untimely filed comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of June 6, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Comments received on or before June 1, 2022, will be provided to the committee. Comments received June 1, 2022, and by June 6, 2022, will be taken into consideration by FDA. In the event that the meeting is cancelled, FDA will continue to evaluate any relevant applications or information, and consider any comments submitted to the docket, as appropriate.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2022–N–0895 for ''Vaccines and Related Biological Products Advisory Committee (VRBPAC); Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Eastern Time Monday through Friday, 240–402–7500.

- *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify the information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September18, 2015, or access the information at: *https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240–402–7500.

FOR FURTHER INFORMATION CONTACT: Prabhakara Atreya or Sussan Paydar, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Silver Spring, MD 20993–0002, 240–506–4946, via email at *CBERVRBPAC@fda.hhs.gov;* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION: Consistent with FDA's regulations, this notice is being published with less than 15 days prior to the date of the meeting based on a determination that convening a meeting of the VRBPAC as soon as possible is warranted. This notice could not be published 15 days prior to the date of the meeting due to the need for prompt discussion on an EUA request by Novavax for a vaccine to prevent COVID–19 in individuals 18 years of age and older.

Agenda: The meeting presentations will be heard, viewed, captioned, and recorded through an online teleconferencing platform. On June 7, 2022, the committee will meet in open session to discuss an EUA request by Novavax for a vaccine to prevent COVID–19 in individuals 18 years of age and older.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the time of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm*. Scroll down to the appropriate advisory committee meeting link. The meeting will include slide presentations with audio components to allow the presentation of materials in a manner that most closely resembles an in-person advisory committee meeting.

Procedure: On June 7, 2022, from 8:30 a.m. to 5 p.m. Eastern Time, the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. All electronic and written submissions submitted to the Docket (see **ADDRESSES**) on or before June 1, 2022, will be provided to the committee. Comments received after June 1, 2022, and by June 6, 2022, will be taken into consideration by FDA. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Eastern Time. Those individuals interested in making formal

oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and email addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before 6 p.m. ET on June 1, 2022. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by June 3, 2022.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Prabhakara Atreya or Sussan Paydar (see **FOR FURTHER INFORMATION CONTACT**) at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: May 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11668 Filed 5–26–22; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2022–N–0887]

TG Therapeutics, Inc.; Withdrawal of Approval of New Drug Application for UKONIQ (Umbralisib Tosylate) Tablets, Equivalent to 200 Milligrams Base

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of the new drug application (NDA) for UKONIQ (umbralisib tosylate) Tablets, equivalent to (EQ) 200 milligrams (mg) Base, held by TG Therapeutics, Inc., 3020 Carrington Mill Blvd., Morrisville, NC 27560. TG Therapeutics, Inc. (TGT) has voluntarily requested that FDA withdraw approval of this application and has waived its opportunity for a hearing.

DATES: Approval is withdrawn as of May 31, 2022.

FOR FURTHER INFORMATION CONTACT: Kimberly Lehrfeld, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6226, Silver Spring, MD 20993–0002, 301–796–3137, *Kimberly.Lehrfeld@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: On February 5, 2021, FDA approved NDA 213176 for UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, for the treatment of adult patients with: (1) Relapsed or refractory marginal zone lymphoma (MZL) who have received at least one prior anti-CD20-based regimen and (2) relapsed or refractory follicular lymphoma (FL) who have received at least three prior lines of systemic therapy, under the Agency's accelerated approval regulations, 21 CFR part 314, subpart H. The accelerated approval of UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, for MZL and FL included required postmarketing trials intended to verify the clinical benefit of UKONIQ.

On February 3, 2022, FDA issued a Drug Safety Communication about a possible increased risk of death with UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base. FDA's initial review of data from a phase 3, randomized, controlled clinical trial in patients with chronic lymphocytic leukemia (CLL) who were administered UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, in combination with a monoclonal antibody drug compared to the control arm showed a possible increased risk of death in patients receiving the combination of UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, and the monoclonal antibody (UNITY–CLL trial). Those patients receiving the combination also experienced more serious adverse events than those in the control arm. FDA considered the data from the UNITY–CLL trial conducted in patients with CLL to have implications for UKONIQ's approved uses for MZL and FL.

On March 10, 2022 (87 FR 13736), FDA published the **Federal Register** notice ''Oncologic Drugs Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments,'' announcing that UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, would be discussed at an Oncologic Drugs Advisory Committee (ODAC) meeting scheduled for April 22, 2022.

FDA met with TGT on April 14, 2022, to discuss voluntary withdrawal of UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, pursuant to § 314.150(d) (21 CFR 314.150(d)) due to the decrement in overall survival and increased serious adverse events observed with UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, in the UNITY–CLL trial. FDA recommended the applicant voluntarily request withdrawal of approval of UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, for the follicular lymphoma and marginal zone lymphoma indications pursuant to § 314.150(d) and requested TGT waive its opportunity for a hearing.

On April 15, 2022, TGT submitted a letter asking FDA to withdraw approval of NDA 213176 for UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, pursuant to § 314.150(d) and waiving its opportunity for a hearing. On April 18, 2022, FDA acknowledged TGT's request for withdrawal of approval of the NDA and waiver of its opportunity for a hearing. FDA also cancelled the ODAC meeting scheduled for April 22, 2022, because the meeting was unnecessary considering the applicant's withdrawal request.

For the reasons discussed above, and in accordance with the applicant's request, approval of NDA 213176 for UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, and all amendments and supplements thereto, is withdrawn under § 314.150(d). Distribution of UKONIQ (umbralisib tosylate) Tablets, EQ 200 mg base, into interstate commerce without an approved application is illegal and subject to regulatory action (see sections 505(a) and 301(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(a) and 331(d)).

Dated: May 25, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022–11631 Filed 5–27–22; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Meeting of the Advisory Committee on Infant and Maternal Mortality (Formerly the Advisory Committee on Infant Mortality)

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Advisory Committee on Infant and Maternal Mortality (ACIMM) has scheduled a public meeting. Information about ACIMM and the agenda for this meeting including any changes to the meeting times can be found on the ACIMM website at *https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

DATES: June 14, 2022, 11:00 a.m. to 5:30 p.m. Eastern Time and June 15, 2022, 11:00 a.m. to 5:30 p.m. Eastern Time.

ADDRESSES: This meeting will be held virtually via webinar. *The webinar link and log-in information will be available at the ACIMM website before the meeting: https://www.hrsa.gov/advisory-committees/infant-mortality/index.html.*

FOR FURTHER INFORMATION CONTACT: Anne Leitch, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18W46, Rockville, Maryland 20857; (301) 443–1321; or *SACIM@hrsa.gov.*

SUPPLEMENTARY INFORMATION: ACIMM is authorized by section 222 of the Public Health Service Act, as amended. The Committee is governed by provisions of Public Law 92–463, as amended, which sets forth standards for the formation and use of Advisory Committees.

The ACIMM advises the Secretary of Health and Human Services (Secretary) on department activities, partnerships, policies, and programs directed at reducing infant mortality, maternal mortality and severe maternal morbidity, and improving the health status of infants and women before, during, and after pregnancy. The Committee provides advice on how to coordinate federal, state, local, tribal, and territorial government efforts designed to improve infant mortality, related adverse birth outcomes, and maternal health, as well as influence similar efforts in the private and voluntary sectors. The Committee provides guidance and recommendations on the policies, programs, and resources required to address the disparities and inequities in infant mortality, related adverse birth outcomes and maternal health outcomes, including maternal mortality and severe maternal morbidity. With its focus on underlying causes of the disparities and inequities seen in birth outcomes for women and infants, the Committee advises the Secretary on the health, social, economic, and environmental factors contributing to the inequities and proposes structural, policy, and/or systems level changes.

The agenda for the June 14–15, 2022, meeting is being finalized and may include the following topics: Federal program updates; Sudden Infant Death Syndrome/Sudden Unexpected Infant Death; Violence, Incarceration, and Substance Abuse; Cultural Strength/Resilience; American Indian/Alaskan Native maternal and infant health disparities; Workforce and Workforce Development; and Race Concordant Care.

Agenda items and meeting start and end times are subject to change as priorities dictate. Refer to the ACIMM website listed above for updated information concerning the meeting.

Members of the public will have the opportunity to provide written or oral comments. Requests to submit a written statement or make oral comments to ACIMM should be sent to Anne Leitch using the email address above at least 3 business days prior to the meeting. Public participants may submit written statements in advance of the scheduled meeting by emailing *SACIM@hrsa.gov.* Oral comments will be honored in the order they are requested and may be limited as time allows.

Individuals who plan to attend and need special assistance or some reasonable accommodation should notify Anne Leitch at the contact information listed above at least 10 business days prior to the meeting.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–11520 Filed 5–27–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: OS–0990–0302]

Agency Information Collection Request; 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before June 30, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795–7714. When submitting comments or requesting information, please include the document identifier 0990–0302–30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Medical Reserve Corps Unit Profile and Reports.

Type of Collection: Revision.

OMB No. 0990–0302.

Abstract: Medical Reserve Corps Units are currently located in 748 communities across the United States and represent a resource of over 300,000 volunteers. To continue to support MRC units, detailed information about the MRC units, including unit/user demographics, contact information, volunteer numbers and information about non-emergency and emergency unit activities is needed by the MRC Program. MRC Unit Leaders are asked to update this information on the MRC website at least quarterly and to participate in a technical assistance assessment using the Capability Assessment and Factors for Success at least annually. This collection informs resources and tools developed as part of national programing and helps to identify trends and target technical assistance to support MRC units'

preparedness to respond to disasters in their communities. The MRC unit data collection has been refined to eliminate duplication and streamline data collection tools.

ANNUALIZED BURDEN TABLE

Forms (if necessary)	Type of respondents (if necessary)	Number of respondents	Number of responses per respondents	Average burden per response	Total burden hours
Unit Profile	MRC Unit Leader	748	4	15/60	748
Capability Assessment	MRC Unit Leader	748	1	30/60	374
Factors for Success	MRC Unit Leader	748	1	30/60	374
Unit Activity Reporting	MRC Unit Leader	748	4	15/60	748
Total			10		2,244

Sherrette A. Funn,

Paperwork Reduction Act Reports Clearance Officer, Office of the Secretary.

[FR Doc. 2022–11546 Filed 5–27–22; 8:45 am]

BILLING CODE 4150–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Cancer Therapy Evaluation Program (CTEP) Branch and Support Contracts Forms and Surveys (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Michael Montello, Cancer Therapy Evaluation Program—DCTD, National Cancer Institute, 9609 Medical Center Drive, Rockville, Maryland, 20850 or call non-toll-free number (240) 276–6080 or email your request, including your address to: *montellom@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimizes the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Cancer Therapy Evaluation Program (CTEP) Branch and Support Contracts Forms and Surveys (NCI), 0925–0753, Expiration Date 05/31/2024, REVISION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for OMB to approve the revised information collection, Cancer Therapy Evaluation Program (CTEP) Support Contracts Forms and Survey. This revision removes one form (A17 CTSU System Access Request Form), adds one new form (A22 CLASS Course Setup Request Form), revises three forms (A18 CTSU Open Rave Request Form; B41 Annual Principal Investigator Worksheet about Local Context; B47 CIRB Waiver of Consent Request Supplemental Form), and includes an updated Privacy Impact Assessment. The National Cancer Institute (NCI) Cancer Therapy Evaluation Program (CTEP) and the Division of Cancer Prevention (DCP) fund an extensive national program of cancer research, sponsoring clinical trials in cancer prevention, symptom management and treatment for qualified clinical investigators. As part of this effort, CTEP implements programs to register clinical site investigators and clinical site staff, and to oversee the conduct of research at the clinical sites. CTEP and DCP also oversee two support programs, the NCI Central Institutional Review Board (CIRB) and the Cancer Trial Support Unit (CTSU). The combined systems and processes for initiating and managing clinical trials is termed the Clinical Oncology Research Enterprise (CORE) and represents an integrated set of information systems and processes which support investigator registration, trial oversight, patient enrollment, and clinical data collection. The information collected is required to ensure compliance with applicable federal regulations governing the conduct of human subject's research (45 CFR 46 and 21 CRF 50), and when CTEP acts as the Investigational New Drug (IND) holder (Food and Drug Administration (FDA) regulations pertaining to the sponsor of clinical trials and the selection of qualified investigators under 21 CRF 312.53). Survey collections assess satisfaction and provide feedback to guide improvements with processes and technology.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 151,769 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
CTSU IRB/Regulatory Approval Transmittal Form (Attachment A01).	Health Care Practitioner	2,444	12	2/60	978
CTSU IRB Certification Form (Attachment A02) ..	Health Care Practitioner	2,444	12	10/60	4,888
Withdrawal from Protocol Participation Form (Attachment A03).	Health Care Practitioner	279	1	10/60	47
Site Addition Form (Attachment A04)	Health Care Practitioner	80	12	10/60	160
CTSU Request for Clinical Brochure (Attachment A06).	Health Care Practitioner	360	1	10/60	60
CTSU Supply Request Form (Attachment A07) ..	Health Care Practitioner	90	12	10/60	180
RTOG 0834 CTSU Data Transmittal Form (Attachment A10).	Health Care Practitioner	12	76	10/60	152
CTSU Patient Enrollment Transmittal Form (Attachment A15).	Health Care Practitioner	12	12	10/60	24
CTSU Transfer Form (Attachment A16)	Health Care Practitioner	360	2	10/60	120
CTSU OPEN Rave Request Form (Attachment A18).	Health Care Practitioner	30	21	10/60	105
CTSU LPO Form Creation (Attachment A19)	Health Care Practitioner	5	2	120/60	20
CTSU Site Form Creation (Attachment A20)	Health Care Practitioner	400	10	30/60	2,000
CTSU Electronic Signature Form (Attachment A21).	Health Care Practitioner	400	10	10/60	667
CTSU CLASS Course Setup Form (Attachment A22).	Health Care Practitioner	10	2	20/60	7
NCI CIRB AA & DOR between the NCI CIRB and Signatory Institution (Attachment B01).	Participants	50	1	15/60	13
NCI CIRB Signatory Enrollment Form (Attachment B02).	Participants	50	1	15/60	13
CIRB Board Member Application (Attachment B03).	Board Member	100	1	30/60	50
CIRB Member COI Screening Worksheet (Attachment B08).	Board Members	100	1	15/60	25
CIRB COI Screening for CIRB meetings (Attachment B09).	Board Members	72	1	15/60	18
CIRB IR Application (Attachment B10)	Health Care Practitioner	80	1	60/60	80
CIRB IR Application for Exempt Studies (Attachment B11).	Health Care Practitioner	4	1	30/60	2
CIRB Amendment Review Application (Attachment B12).	Health Care Practitioner	400	1	15/60	100
CIRB Ancillary Studies Application (Attachment B13).	Health Care Practitioner	1	1	60/60	1
CIRB Continuing Review Application (Attachment B14).	Health Care Practitioner	400	1	15/60	100
Adult IR of Cooperative Group Protocol (Attachment B15).	Board Members	65	1	180/60	195
Pediatric IR of Cooperative Group Protocol (Attachment B16).	Board Members	15	1	180/60	45
Adult Continuing Review of Cooperative Group Protocol (Attachment B17).	Board Members	275	1	60/60	275
Adult Amendment of Cooperative Group Protocol (Attachment B19).	Board Members	40	1	120/60	80
Pediatric Amendment of Cooperative Group Protocol (Attachment B20).	Board Members	25	1	120/60	50
Pharmacist's Review of a Cooperative Group Study (Attachment B21).	Board Members	50	1	120/60	100
Adult Expedited Amendment Review (Attachment B23).	Board Members	348	1	30/60	174
Pediatric Expedited Amendment Review (Attachment B24).	Board Members	140	1	30/60	70
Adult Expedited Continuing Review (Attachment B25).	Board Members	140	1	30/60	70
Pediatric Expedited Continuing Review (Attachment B26).	Board Members	36	1	30/60	18
Adult Cooperative Group Response to CIRB Review (Attachment B27).	Health Care Practitioner	30	1	60/60	30
Pediatric Cooperative Group Response to CIRB Review (Attachment B28).	Health Care Practitioner	5	1	60/60	5
Adult Expedited Study Chair Response to Required Modifications (Attachment B29).	Board Members	40	1	30/60	20
Reviewer Worksheet—Determination of UP or SCN (Attachment B31).	Board Members	400	1	10/60	67

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Reviewer Worksheet—CIRB Statistical Reviewer Form (Attachment B32).	Board Members	100	1	15/60	25
CIRB Application for Translated Documents (Attachment B33).	Health Care Practitioner	100	1	30/60	50
Reviewer Worksheet of Translated Documents (Attachment B34).	Board Members	100	1	15/60	25
Reviewer Worksheet of Recruitment Material (Attachment B35).	Board Members	20	1	15/60	5
Reviewer Worksheet Expedited Study Closure Review (Attachment B36).	Board Members	20	1	15/60	5
Reviewer Worksheet of Expedited IR (Attachment B38).	Board Members	5	1	30/60	3
Annual Signatory Institution Worksheet About Local Context (Attachment B40).	Health Care Practitioner	400	1	40/60	267
Annual Principal Investigator Worksheet About Local Context (Attachment B41).	Health Care Practitioner	1,800	1	20/60	600
Study-Specific Worksheet About Local Context (Attachment B42).	Health Care Practitioner	4,800	1	15/60	1,200
Study Closure or Transfer of Study Review Responsibility (Attachment B43).	Health Care Practitioner	1,680	1	15/60	420
Unanticipated Problem or Serious or Continuing Noncompliance Reporting Form (Attachment B44).	Health Care Practitioner	360	1	20/60	120
Change of Signatory Institution PI Form (Attachment B45).	Health Care Practitioner	120	1	20/60	40
Request Waiver of Assent Form (Attachment B46).	Health Care Practitioner	35	1	20/60	12
CIRB Waiver of Consent Request Supplemental Form (Attachment B47).	Health Care Practitioner	20	1	15/60	5
Review Worksheet CIRB Review for Inclusion of Incarcerated Participants (Attachment B48).	Board Members	20	1	60/60	20
Notification of Incarcerated Participant Form (B49).	Health Care Practitioner	20	1	20/60	7
CTSU OPEN Survey (Attachment C03)	Health Care Practitioner	10	1	15/60	3
CIRB Customer Satisfaction Survey (Attachment C04).	Participants	600	1	15/60	150
Follow-up Survey (Communication Audit) (Attachment C05).	Participants/Board Members.	300	1	15/60	75
CIRB Board Member Annual Assessment Survey (Attachment C07).	Board Members	60	1	15/60	15
PIO Customer Satisfaction Survey (Attachment C08).	Health Care Practitioner	60	1	5/60	5
Audit Scheduling Form (Attachment D01)	Health Care Practitioner	152	5	21/60	266
Preliminary Audit Finding Form (Attachment D02)	Health Care Practitioner	152	5	10/60	127
Audit Maintenance Form (Attachment D03)	Health Care Practitioner	152	5	9/60	114
Final Audit finding Report Form (Attachment D04).	Health Care Practitioner	75	11	1,098/60	15,098
Follow-up Form (Attachment D05)	Health Care Practitioner	75	7	27/60	236
Roster Maintenance Form (Attachment D06)	Health Care Practitioner	5	1	18/60	2
Final Report and CAPA Request Form (Attachment D07).	Health Care Practitioner	12	9	1,800/60	3,240
NCI/DCTD/CTEP FDA Form 1572 for Annual Submission (Attachment E01).	Physician	26,500	1	15/60	6,625
NCI/DCTD/CTE Biosketch (Attachment E02)	Physician; Health Care Practitioner.	48,000	1	120/60	96,000
NCI/DCTD/CTEP Financial Disclosure Form (Attachment E03).	Physician; Health Care Practitioner.	48,000	1	15/60	12,000
NCI/DCTD/CTEP Agent Shipment Form (ASF) (Attachment E04).	Physician	24,000	1	10/60	4,000
Totals		167,545	235,510		151,769

Dated: May 24, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–11510 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; Generic Clearance for Application Information for Fellowships, Internships, Training Programs, and Specialty Positions, National Cancer Institute (NCI)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this 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.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Diane Kreinbrink, Office of Management Policy and Compliance, National Cancer Institute, 9609 Medical Center Drive, Rockville, Maryland 20892 or call non-toll-free number (240) 276–7283 or email your request, including your address to: *diane.kreinbrink@nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on March 17, 2022 (Vol. 87, No. 52, Page 15257) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Cancer Institute (NCI), National Institutes of Health, may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

In compliance with Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

Proposed Collection: Generic Clearance for Application Information from Fellows, Interns, and Trainees, 0925–0761, Exp., Date 07/31/2022, EXTENSION, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This generic information collection request is to support the science and research in a multidisciplinary environment at the National Cancer Institute (NCI), a part of the National Institutes of Health. Applicants may possess a variety of degrees including, but not limited to, high school, post-baccalaureate, graduate, postdoctoral, Registered Nurse, and Doctor of Medicine (MD). Potential applicants may apply for cancer-related positions by submitting applications, resumes, curriculum vitae (CV), reference letters, letters of intent and interest, and other related documentation directly to the Divisions, Offices, and Centers. This information is necessary to evaluate the eligibility, merits, and quality of potential candidates and will also assist in matching potential candidates to various training and internship programs, and specialty positions. The information is for internal use to make decisions about candidates invited to visit and attend NCI fellowships, internships, training opportunities, and apply for specialized staff and faculty positions.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden is 7,500 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hours
Individuals (Applicants)	3,000	1	60/60	3,000
Individuals (Professional References)	9,000	1	30/60	4,500
Totals		12,000		7,500

Dated: May 24, 2022.

Diane Kreinbrink,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2022–11506 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Musculoskeletal, Orthopedic, Oral, Dermatology and Rheumatology.
Date: June 21–22, 2022.
Time: 8:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 237–9931, *ansaria@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Sensory and Motor Neurosciences, Cognition and Perception.
Date: June 22–24, 2022.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: John Nathan Stabley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0566, *stableyjn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Orthopedic Rehabilitation.
Date: June 22, 2022.
Time: 11:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Chee Lim, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4128, Bethesda, MD 20892, (301) 435–1850, *limc4@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group Social Psychology, Personality and Interpersonal Processes Study Section.
Date: June 23–24, 2022.
Time: 9:30 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Janetta Lun, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1007E, Bethesda, MD 20892, (301) 435–5877, *janetta.lun@nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.
Date: June 27–28, 2022.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge, Drive Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Laura Asnaghi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockville Drive, Room 6200, MSC 7804, Bethesda, MD 20892, (301) 443–1196, *laura.asnaghi@nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Prevention Study Section.
Date: June 27–28, 2022.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Svetlana Kotliarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, Bethesda, MD 20892, (301) 594–7945, *kotliars@mail.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genetics of Health and Disease Study Section.
Date: June 27–28, 2022.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Christopher Payne, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Rm. 2208, Bethesda, MD 20892, 301–402–3702, *christopher.payne@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuroscience Assays, Diagnostics, Instrumentation, and Interventions.
Date: June 27–28, 2022.
Time: 9:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Thomas Zeyda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6921, *thomas.zeyda@nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Virology—A Study Section.
Date: June 27–28, 2022.
Time: 9:30 a.m. to 7:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth M. Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Bioengineering, Cellular and Circuit Neuroscience.
Date: June 27, 2022.
Time: 10:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jyothi Arikkath, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5215, Bethesda, MD 20892, (301) 435–1042, *arikkathj2@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; RFA–RM–22–007: Pilot Projects Enhancing Utility and Usage of Common Fund Data Sets.
Date: June 28, 2022.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Lambratu Rahman Sesay, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–905–8294, *rahman-sesay@csr.nih.gov.*

Name of Committee: Interdisciplinary Molecular Sciences and Training Integrated Review Group; Enabling Bioanalytical and Imaging Technologies Study Section.
Date: June 28–29, 2022.
Time: 9:30 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Pain and Itch Study Section.
Date: June 28–29, 2022.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: M. Catherine Bennett, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7846, Bethesda, MD 20892, 301–435–1766, *bennettc3@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Autoimmunity and Immunopathogenesis.
Date: June 28, 2022.
Time: 11:00 a.m. to 4:00 p.m.
Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: David C. Chang, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–0290, *changdac@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11590 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Bilingualism in AD.

Date: July 22, 2022.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dario Dieguez, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institutes of Health, National Institute on Aging, 7201 Wisconsin Ave., Bethesda, MD 20814, (301) 827–3101, *dario.dieguez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst. Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11593 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group; Training and Workforce Development Study Section—B TWD–B Review of T32 Applications.

Date: June 24, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of General Medical Science, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Latarsha J. Carithers, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of General Medical Sciences, National Institutes Health, 45 Center Drive, Room 3AN12C, Bethesda, MD 20892, (301) 594–4859, *latarsha.carithers@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 24, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11532 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Community Level Interventions to Improve Minority Health and Reduce Health Disparities.

Date: June 7–8, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20892, 301–402–1366, *ismonddr@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Minority Health and Health Disparities Special Emphasis Panel; Technologies/Innovations for Improving Minority Health and Eliminating Health Disparities.

Date: June 23–24, 2022.

Time: 10:00 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20817 (Virtual Meeting).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Office of Extramural Research Administration, National Institute on Minority Health and Health Disparities, National Institutes of Health, Gateway Plaza, 7201 Wisconsin Avenue, Bethesda, MD 20892, (301) 451–5953, *jingsheng.tuo@nih.gov.*

Dated: May 25, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11589 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: NIGMS Initial Review Group Training and Workforce Development Study Section—A TWD–A, Review of NIGMS Predoctoral Basic Biomedical Sciences Training Program Applications.

Date: June 15, 2022.

Time: 12:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, MD 20894 (Virtual Meeting).

Contact Person: Isaah S. Vincent, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12L, Bethesda, MD 20892, (301) 594–2948, *isaah.vincent@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: May 24, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11539 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: SBIR/STTR Commercialization Readiness Pilot (CRP) Program.

Date: June 22, 2022.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Understanding Alzheimer's Disease.

Date: June 22, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Boris P. Sokolov, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–408–9115, *bsokolov@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Behavioral Genetics and Epidemiology Study Section.

Date: June 22–23, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lisa Steele, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 257–2638, *steeleln@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Pathobiology of Alzheimer's Disease.

Date: June 22, 2022.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Aleksey Gregory Kazantsev, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5201, MSC 7846, Bethesda, MD 20817, (301) 435–1042, *aleksey.kazantsev@nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Adult Psychopathology and Disorders of Aging Study Section.

Date: June 23–24, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Benjamin Greenberg Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7848, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery and Mechanisms of Antimicrobial Resistance.

Date: June 23–24, 2022.

Time: 9:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bidyottam Mittra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20894, (301) 435–0000, *bidyottam.mittra@nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Language and Communication Study Section.

Date: June 23–24, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Rochelle Francine Hentges, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000C, Bethesda, MD 20892, (301) 402–8720, *hentgesrf@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Endocrinology and Metabolism.

Date: June 23, 2022.

Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Jonathan Michael Peterson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 867–5309, *jonathan.peterson@nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Transplantation, Tolerance, and Tumor Immunology Study Section.
Date: June 23–24, 2022.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Carmen Angeles Ufret-Vincenty, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 594–0912, *carmen.ufret-vincenty@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Collaborative Applications: Clinical Studies of Mental Illness.
Date: June 23, 2022.
Time: 2:00 p.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Benjamin G. Shapero, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, Bethesda, MD 20892, (301) 402–4786, *shaperobg@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Endocrinology, Metabolism, Nutrition and Reproductive Sciences.
Date: June 24, 2022.
Time: 10:00 a.m. to 8:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Baskaran Thyagarajan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 800B, Bethesda, MD 20892, (301) 867–5309, *thyagarajanb2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Interdisciplinary Molecular Sciences and Training Neuroimaging Technologies.
Date: June 24, 2022.
Time: 1:00 p.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Mufeng Li, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–5653, *limuf@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11587 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Office of Research Infrastructure Programs Special Emphasis Panel; Applications for Scientific Conferences.
Date: August 3, 2022.
Time: 11:00 a.m. to 3:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kenneth Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3218, MSC 7717, Bethesda, MD 20892, 301–435–0229, *kenneth.ryan@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11592 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Physical Activity and Cognitive Health.
Date: June 21, 2022.
Time: 11:30 a.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).
Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11597 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Chronic Dysfunction and Integrative Neurodegeneration Study Section.

Date: June 23–24, 2022.

Time: 9:30 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bernard Rajeev Srambical Wilfred, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 435–1042, *bernard.srambicalwilfred@nih.gov.*

Name of Committee: Musculoskeletal, Oral and Skin Sciences Integrated Review Group; Musculoskeletal Rehabilitation Sciences Study Section.

Date: June 23–24, 2022.

Time: 10:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Richard Michael Lovering, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1000J, Bethesda, MD 20892, (301) 867–5309, *loveringrm@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cell and Molecular Biology.

Date: June 28, 2022.

Time: 9:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Musculoskeletal, Rehabilitation and Skin Sciences.

Date: June 28–29, 2022.

Time: 10:00 a.m. to 10:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Carmen Bertoni, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 805B, Bethesda, MD 20892, (301) 867–5309, *bertonic2@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA/REAP: Infectious Diseases and Immunology.

Date: June 28, 2022.

Time: 10:00 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dayadevi Jirage, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 809–H, Bethesda, MD 20892, (301) 867–5309, *jiragedb@csr.nih.gov.*

Name of Committee: Cardiovascular and Respiratory Sciences Integrated Review Group; Respiratory Integrative Biology and Translational Research Study Section.

Date: June 29–30, 2022.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bradley Nuss, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC7814, Bethesda, MD 20892, 301–451–8754, *nussb@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Therapeutic Approaches to Genetic Diseases Study Section.

Date: June 29–30, 2022.

Time: 9:15 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Karobi Moitra, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 480–6893, *karobi.moitra@nih.gov.*

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; Host Interactions with Bacterial Pathogens Study Section.

Date: June 29–30, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michelle Marie Arnold, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 451–7806, *michelle.arnold@nih.gov.*

Name of Committee: Infectious Diseases and Immunology A Integrated Review Group; Virology—B Study Section.

Date: June 29–30, 2022.

Time: 9:30 a.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Neerja Kaushik-Basu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301)435–1742, *kaushikbasun@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11588 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Retromer Pathogenesis of Alzheimer's Disease.

Date: June 23, 2022.

Time: 11:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Reymundo Dominguez, Ph.D., Scientific Review Branch, NIA, Bg Gwy, Rm. 2C230, 7201 Wisconsin Ave., Bethesda, MD 20814, (301) 555–1212, *rey.dominguez@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 25, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–11594 Filed 5–27–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022—0253]

National Towing Safety Advisory Committee; June 2022 Virtual Meeting

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee virtual meeting.

SUMMARY: The National Towing Safety Advisory Committee (Committee) will conduct a virtual meeting to review and discuss matters relating to shallow-draft inland navigation, coastal waterway navigation, and towing safety. The Committee will also discuss new and existing tasking to include the Final Report for National Towing Safety Advisory Committee Task 21–01, that sought to identify the parameters Coast Guard officials should use to determine whether a vessel inspected under subchapters other than Subchapter M is performing ''Occasional Towing''. This virtual meeting will be open to the public.

DATES: *Meeting:* The Committee will meet virtually on Tuesday, June 14, 2022, from 11:00 a.m. until 3:00 p.m. Eastern Daylight Time (EDT). This virtual meeting may close early if all business is finished.

Comments and supporting documentation: To ensure your comments are received by Committee members before the virtual meeting, submit your written comments no later than June 07, 2022.

ADDRESSES: To join the virtual meeting or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. EDT on June 7, 2022, to obtain the needed information. The number of virtual meeting lines are limited and will be available on a first-come, first-served basis.

Instructions: You are free to submit comments at any time, including orally at the meeting as time permits, but if you want Committee members to review your comment before the meeting, please submit your comments no later than June 7, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG–2022–0253]. Comments received will be posted without alteration at *https://www.regulations.gov* including any personal information provided. For more about the privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Matthew D. Layman, Designated Federal Officer of the National Towing Safety Advisory Committee, 2703 Martin Luther King Jr Ave. SE, Stop 7509, Washington, DC 20593–7509, telephone 202–372–1421, or *Matthew.D.Layman@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* (5, U. S. C., appendix). The Committee was established on December 4, 2018, by § 601 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* (Pub. L. 115–282, 132 Stat. 4190), and codified in 46 U.S.C. 15108. The Committee operates under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. appendix), and 46 U.S.C. 15109. The National Towing Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security, via the Commandant of the Coast Guard, on matters related to shallow-draft inland navigation, coastal waterway navigation, and towing safety.

Agenda

The agenda for the National Towing Safety Advisory Committee is as follows:

Tuesday, June 14, 2022

I. Opening
  a. Call to order/DFO Remarks
  b. NTSAC Chairperson Remarks
  c. Roll Call
  d. Coast Guard Leadership Remarks
II. Administration
  a. Adoption of Meeting Agenda
  b. Approval of Meeting Minutes for December 7th, 2021, Inaugural Meeting
III. Old Business
  a. Final Report for Task #21–01, *Recommendations for the Criteria Used to Apply the Term ''Occasional Towing''*
  b. Update from NTSAC Subcommittees
  (1) Task #21–03, *Report On the Anticipated Challenges Expected to Impact the Towing Vessel Industry*
  (2) Task #21–04, *Report on the Challenges Faced by the Towing Vessel Industry as a Result of the Covid-19 Pandemic*
IV. New Business
  a. NTSAC Planning
  b. New Task Consideration for the NTSAC Vetting Committee
IV. NTSAC Committee Discussion
V. Public Comments
VI. Adjourn

A copy of all pre-meeting documentation will be available at *https://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/Commercial-Regulations-standards-CG-5PS/Office-of-Operating-and-Environmental-Standards/vfos/TSAC/.* Alternatively, you may contact Mr. Matthew Layman as noted above in the **FOR FURTHER INFORMATION CONTACT** section.

There will be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact Mr. Matthew Layman to register as a speaker.

Dated: May 24, 2022.

Jeffrey G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2022–11560 Filed 5–27–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2022–0057; FXES11140400000–212–FF04EF4000]

Receipt of Incidental Take Permit Application and Proposed Habitat Conservation Plan for the Sand Skink, Lake County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments and information.

SUMMARY: We, the Fish and Wildlife Service (Service), announce receipt of an application from Zenodro Homes, Inc (Sunrise Pointe and Tranquility at Hidden Forest) (applicant) for an incidental take permit (ITP) under the Endangered Species Act. The applicant requests the ITP to take the federally listed sand skink incidental to the construction of two residential developments in Lake County, Florida. We request public comment on the application, which includes the applicant's proposed habitat conservation plan (HCP), and on the Service's preliminary determination that this HCP qualifies as ''low effect,'' categorically excluded under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before June 30, 2022.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2022–0057 at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by any of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2022–0057.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2022–0057; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Erin M. Gawera, by U.S. mail (see **ADDRESSES**), or via phone at 904–731–3121. 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: We, the Fish and Wildlife Service (Service), announce receipt of an application from Zenodro Homes, Inc (Sunrise Pointe and Tranquility at Hidden Forest) (applicant) for an incidental take permit (ITP) under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). The applicant requests the ITP to take the federally listed sand skink (*Neoseps reynoldsi*) incidental to the construction of two residential developments (project) in Lake County, Florida. We request public comment on the application, which includes the applicant's HCP, and on the Service's preliminary determination that this HCP qualifies as ''low effect,'' categorically excluded under the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests a 10-year ITP to take sand skinks through the conversion of approximately 9.18 acres (ac) of occupied sand skink foraging and sheltering habitat incidental to the construction of residential developments located on two properties within the Hidden Forest development: Sunrise Pointe, a 10-ac property within Section 25, Township 24 South, Range 26 East, Lake County, Florida; parcel ID number 25–24–26–0003–000–04100. And Tranquility, a 25.15-ac property within Section 25, Township 24 South, Range 26 East, Lake County, Florida; Parcels ID numbers 25–24–26–0003–000–01700, 25–24–26–0003–000–01500, 25–24–26–0003–000–01800, and 25–24–26–0003–000–01900. The two developments total 35.15 ac. The applicant proposes to mitigate for take of 3.5 ac of occupied sand skink foraging and sheltering habit associated with construction of Sunrise Pointe by the purchase of 7.0 credits and for take of 5.68 ac of occupied sank skink foraging and sheltering habitat associated with construction of Tranquility by the purchase of 11.36 credits (totaling 18.40 credits). The credits would be purchased from the Lake Livingston Conservation Bank or another Service-approved Conservation Bank. The Service would require the applicant to purchase the credits for each development prior to engaging in activities associated with that development on the respective parcel.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that the applicant's project—including land clearing, infrastructure building, landscaping, and ground disturbance and site preparation activities, along with the proposed mitigation measures—would individually and cumulatively have a minor or negligible effect on the sand skink and the environment. Therefore, we have preliminarily concluded that the ITP for this project would qualify for categorical exclusion and that the HCP is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect HCP is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonable foreseeable similarly situated projects, would not result in significant cumulative effects to environmental values or resources over time.

Next Steps

The Service will evaluate the application and the comments to determine whether to issue the requested permit. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the proposed take. After considering the preceding and other matters, we will determine whether the permit issuance criteria of section 10(a)(1)(B) of the ESA have been met. If met, the Service will issue ITP number PER0028829 to Zenodro Homes, Inc (Sunrise Pointe and Tranquility at Hidden Forest).

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et*

seq.) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Robert L. Carey,

Division Manager, Environmental Review, Florida Ecological Services Office.

[FR Doc. 2022–11536 Filed 5–27–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[2231A2100DD/AAKC001030/A0A501010.999900]

Advisory Board of Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of meeting.

SUMMARY: The Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children will hold two-day virtual meeting. The purpose of the meeting is to meet the mandates of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities. Due to the COVID–19 pandemic and for the safety of all individuals, it will be necessary to conduct a virtual meeting.

DATES: The BIE Advisory Board meeting will be held Thursday, June 23, 2022 from 8:00 a.m. to 4:00 p.m., Mountain Standard Time (MDT) and Friday, June 24, 2022 from 8:00 a.m. to 4:00 p.m., Mountain Standard Time (MDT).

ADDRESSES: All Advisory Board activities and meetings will be conducted virtually. See the **SUPPLEMENTARY INFORMATION** section of this notice for information on how to join the meeting. Public comments can be emailed to the DFO at *Jennifer.davis@bie.edu;* or faxed to (602) 265–0293 Attention: Jennifer Davis, DFO; or mailed or hand delivered to the Bureau of Indian Education, Attention: Jennifer Davis, DFO, 2600 N Central Ave., 12th Floor, Suite 250, Phoenix, AZ 85004.

FOR FURTHER INFORMATION CONTACT: Jennifer Davis, Designated Federal Officer, Bureau of Indian Education, 2600 N Central Ave., 12th Floor, Suite 250, Phoenix, AZ 85004, *Jennifer.davis@bie.edu,* or (202) 860–7845.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, the BIE is announcing the Advisory Board will hold its next meeting online. The Advisory Board was established under the Individuals with Disabilities Act of 2004 (20 U.S.C. 1400 *et seq.*) to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. All meetings, including virtual sessions, are open to the public in their entirety.

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. Please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT** at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

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.

The following agenda items will be for the June 23, 2022 and June 24, 2022 meeting. The reports are regarding special education topics from the:

- BIE Central Office
- BIE/Division of Performance and Accountability (DPA)/Special Education Program
- Special Education Updates from the Associate Deputy Director (ADD) Regions—Bureau Operated Schools, Tribally Controlled Schools, and the Navajo Region Schools
- Live Panel Discussion with Bureau funded Special Education Coordinators
- BIE Special Education Updates
- BIE Office of Sovereignty in Indian Education
- Four Public Commenting Sessions will be provided during both meeting days.

○ On Thursday, June 23, 2022 two sessions (15 minutes each) will be provided, 11:15 a.m. to 11:30 a.m. MDT and 2:30 p.m. to 2:45 p.m. MDT. Public comments can be provided via webinar or telephone conference call. Please use the online access codes as listed below.

○ On Friday, June 24, 2022 two sessions (15 minutes each) will be provided, 9:45 a.m. to 10:00 a.m. MDT and 1:00 p.m. to 1:15 p.m. MDT. Public comments can be provided via webinar or telephone conference call. Please use the online access codes as listed below.

○ Public comments can be emailed to the DFO at *Jennifer.davis@bie.edu;* or faxed to (602) 265–0293 Attention: Jennifer Davis, DFO; or mailed or hand delivered to the Bureau of Indian Education, Attention: Jennifer Davis, DFO, 2600 N Central Ave. 12th floor, Suite 250, Phoenix, Arizona 85004.

To Access the June 23, 2022 and Friday, June 24, 2022 meeting: You can join the meetings through any of the following means:

Join Meeting: https://www.zoomgov.com/j/1606199030?pwd=YlVJTGhqb3FyVE5mL1AyTHc1eEgrUT09. Meeting ID: 160 619 9030, *Passcode:* 734307.

One tap mobile:

+16692545252,,160619 9030#,,,,*734307# US (San Jose)
+16692161590,,160619 9030#,,,,*734307# US (San Jose)

Dial by your location: +1 669 254 5252 US (San Jose); +1 669 216 1590 US (San Jose); +1 551 285 1373 US; +1 646 828 7666 US (New York), Meeting ID: 160 619 9030, Passcode: 734307.

Find your local number: https://www.zoomgov.com/u/aqOldXBHH.

Authority: 5 U.S.C. Appendix 5; 20 U.S.C. 1400 *et seq.*

Bryan Newland,

Assistant Secretary—Indian Affairs.

[FR Doc. 2022–11604 Filed 5–27–22; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033968; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Gilcrease Museum, Tulsa, OK

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Gilcrease Museum has completed an inventory of associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between an associated funerary object and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of this associated funerary object should submit a written request to the Gilcrease Museum. If no additional requestors come forward, transfer of control of the associated funerary object to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or

Native Hawaiian organization not identified in this notice that wish to request transfer of control of this associated funerary object should submit a written request with information in support of the request to the Gilcrease Museum at the address in this notice by June 30, 2022.

FOR FURTHER INFORMATION CONTACT: Laura Bryant, Gilcrease Museum, 800 S Tucker Drive, Tulsa, OK 74104, telephone (918) 596–2747, email *laura-bryant@utulsa.edu*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of associated funerary objects under the control of the Gilcrease Museum, Tulsa, OK. The associated funerary object listed in this notice was removed from Moundville, Greene County, AL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American associated funerary object. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the associated funerary object was made by the Gilcrease Museum professional staff in consultation with representatives of Muskogean Speaking Tribes that include the Seminole Tribe of Florida (*previously* listed as Seminole Tribe of Florida (Dania, Big Cypress, Brighton, Hollywood, & Tampa Reservations)); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; and The Seminole Nation of Oklahoma (hereafter referred to as ''The Tribes'').

History and Description of the Associated Funerary Object

In 1929, one associated funerary object was removed from the Moundville site in Greene County, AL, by William L. Holton, a curator of the Alabama Museum of Natural History, University of Alabama. Holton removed this item from a burial and traded this item with Dr. P.F. Titterington of St. Louis, Missouri in July 1930. Harry J. Lemley, a judge and prominent collector from Arkansas, acquired the item from Titterington between 1930 and 1955. Thomas Gilcrease purchased Harry J. Lemley's entire collection, including this item, in 1955. Thomas Gilcrease transferred his collection to the City of Tulsa in 1955 and 1963–64, forming the Gilcrease Museum. The associated funerary object is a stone palette (catalog number 61.1872).

This item and the site from which it was removed are culturally affiliated to the Muskogean Speaking Tribes that include the Seminole Tribe of Florida, The Choctaw Nation of Oklahoma, The Chickasaw Nation, The Muscogee (Creek) Nation, and The Seminole Nation of Oklahoma. The Tribal communities in and around the site of Moundville have clear connections and continuities with Muskogean Speaking Tribes, as seen in the archeological and anthropological records, and in oral traditions.

Determinations Made by the Gilcrease Museum

Officials of the Gilcrease Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(A), the one object described in this notice is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American associated funerary object and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of this associated funerary object should submit a written request with information in support of the request to Laura Bryant, Gilcrease Museum, 800 S Tucker Drive, Tulsa, OK 74104, telephone (918) 596–2747, email *laura-bryant@utulsa.edu,* by June 30, 2022. After that date, if no additional requestors have come forward, transfer of control of the associated funerary object to The Tribes may proceed.

The Gilcrease Museum is responsible for notifying The Tribes that this notice has been published.

Dated: May 18, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–11632 Filed 5–27–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

NPS–WASO–NAGPRA–NPS0033969; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: University of Nebraska State Museum, Lincoln, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The University of Nebraska State Museum (UNSM) has completed an inventory of associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations and has determined that there is a cultural affiliation between the associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request to the University of Nebraska State Museum. If no additional requestors come forward, transfer of control of the associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to the University of Nebraska State Museum at the address in this notice by June 30, 2022.

FOR FURTHER INFORMATION CONTACT: Dr. Priscilla C. Grew, NAGPRA Coordinator, University of Nebraska State Museum, Nebraska Hall W436, Lincoln, NE 68588–0550, telephone (402) 472–2095, email *UNSM-NAGPRA@unl.edu*.

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of associated funerary objects under the control of the University of Nebraska State Museum, Lincoln, NE. The associated funerary objects were removed from Dakota and Stanton Counties, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25

U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the associated funerary objects was made by the University of Nebraska State Museum professional staff in consultation with representatives of the Omaha Tribe of Nebraska.

History and Description of the Associated Funerary Objects

In December of 1998, a box containing 23 objects was discovered on the campus of the University of Nebraska-Lincoln. Nine of the objects were labeled ''25DK2A.'' UNSM determined that these items were funerary objects associated with the human remains and other associated funerary objects removed in 1939 from site 25DK2A, a historic cemetery dating to A.D. 1780–1820, in Dakota County, NE, during excavations conducted under the direction of Stanley Bartos, Jr. All the human remains and associated funerary objects under the control of UNSM that are clearly from site 25DK2A have been repatriated to the Omaha Tribe of Nebraska.

In 2017, the box containing the other 14 objects was discovered at UNSM. Consultations conducted in 2017 and 2022 with representatives of the Omaha Tribe of Nebraska resulted in the determination that these 14 items are funerary objects that either are associated with the human remains and other associated funerary objects from site 25DK2A or are associated with the human remains and other associated funerary objects removed in 1940 from site 25DK10, a historic cemetery dating to A.D. 1780–1820, in Dakota County, NE, during excavations conducted under the direction of John Champe. All the human remains and associated funerary objects under the control of UNSM that are clearly from site 25DK10 have been repatriated to the Omaha Tribe of Nebraska. The 14 associated funerary objects are three lots of black glass beads, one lot of turquoise-blue glass beads, one lot of red wire-wrapped glass beads, four lots of mixed-color glass beads, one lot of white glass beads, one lot of black and white glass beads, one bone core of a bear claw, one bison bone rattle, and one brass crucifix pendant.

In May of 2017, one pottery sherd was discovered in the UNSM collections in an envelope labelled ''Nov. 3, '40 Stanton, Nebr. Emil Entenmann's cornfield in fallow on the hill. Central ridge on way to cemetery near bead location found sherd.'' Consultations conducted in 2017 and 2022 with representatives of the Omaha Tribe of Nebraska resulted in the determination that this item is a funerary object that is associated with the human remains and other associated funerary objects removed in 1940 from site 25ST0, a Native American burial from the historic period discovered in Emil Entenmann's cornfield. All the human remains and associated funerary objects under the control of UNSM that are clearly from site 25ST0 have been repatriated to the Omaha Tribe of Nebraska. The associated funerary object is a small gray body sherd decorated with four parallel, incised lines.

Determinations Made by the University of Nebraska State Museum

Officials of the University of Nebraska State Museum have determined that:

- Pursuant to 25 U.S.C. 3001(3)(A), the 15 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American associated funerary objects and the Omaha Tribe of Nebraska.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to Dr. Priscilla C. Grew, NAGPRA Coordinator, University of Nebraska State Museum, Nebraska Hall W436, Lincoln, NE 68588–0550, telephone (402) 472–2095, email *UNSM-NAGPRA@unl.edu,* by June 30, 2022. After that date, if no additional requestors have come forward, transfer of control of the associated funerary objects to the Omaha Tribe of Nebraska may proceed.

The University of Nebraska State Museum is responsible for notifying the Omaha Tribe of Nebraska that this notice has been published.

Dated: May 18, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–11635 Filed 5–27–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0033967; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Walsh Gallery, Seton Hall University, South Orange, NJ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Walsh Gallery at Seton Hall University has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Walsh Gallery. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Walsh Gallery at the address in this notice by June 30, 2022.

FOR FURTHER INFORMATION CONTACT: Laura Hapke, Collections Manager, Walsh Gallery, University Libraries, Seton Hall University, 400 South Orange Avenue, South Orange, NJ 07079, telephone (973) 275–2165, email *laura.hapke@shu.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the

Walsh Gallery, Seton Hall University, South Orange, NJ. The human remains and associated funerary objects were removed from Sussex County, NJ, and Orange County, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Walsh Gallery professional staff in consultation with representatives of the Delaware Nation, Oklahoma; Delaware Tribe of Indians; and the Stockbridge Munsee Community, Wisconsin (hereafter referred to as ''The Tribes'').

History and Description of the Remains

In 1941, human remains representing, at minimum, one individual were removed from Burial 1 at the Rosenkrans site in Sussex County, NJ. Lewis Haggerty excavated the site following the discovery of two slate gorgets. In 1976, Haggerty shipped the human remains and associated funerary objects from this collection to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an individual of unknown sex 10–15 years old. No known individual was identified. The 19 associated funerary objects are five gorgets, the charred remains of a dog or wolf, two pendants, nine points, one knife, and one adz.

In 1943 or 1948, human remains representing, at minimum, one individual were removed from Burial 2 at the Rosenkrans site in Sussex County, NJ. This burial site was first excavated by Kenneth Gleason and Gustave Dumont in 1943. It was subsequently excavated by Lewis Haggerty in 1948. Gustave Dumont lent some of the associated funerary objects excavated from this burial to Herbert Kraft for an article Kraft wrote in 1976. In 1976, Lewis Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1976, copper beads from Burial 2 were sent to the General Electric Company Materials and Process Laboratory in Syracuse, NY, where tests showed that the copper originated in Michigan. In 1981, these human remains and associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a young child of unknown sex. No known individual was identified. The 155 associated funerary objects are 146 copper beads, seven projectile points, one drill, and one red ocher.

Between 1947 and 1948, human remains representing, at minimum, two individuals were removed from Burial 3 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. The burial was covered with a slab of sandstone nearly a meter long, and the human remains had been interred on a wooden slab and surrounded with sand. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains and associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an adult male 40–50 years old, and a child 1–2 years old. No known individuals were identified. The 158 associated funerary objects are seven points, one drill, one red ocher, and 149 copper beads.

Between 1947 and 1948, human remains representing, at minimum, one individual were removed from Burial 4 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty and Gustave Dumont. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains and associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a young adult of unknown sex 15–30 years old. No known individual was identified. The 14 associated funerary objects are one copper boatstone, one limestone block-end-tube, one jasper drill, eight copper beads, one red ocher, and two pieces of unidentified material.

Between 1947 and 1948, human remains representing, at minimum, two individuals were removed from Burial 5 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. An analysis performed by Herbert Kraft in 1976 could not determine whether the two individuals were intentionally buried together or were buried in the same place at different times. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for purposes of research. Charcoal from Burial 5 carbon dated by DICAR Radioisotopes Laboratory sometime between 1963 and 1976 yielded an estimated date for the burial of 420 B.C.E. In 1976, copper beads from Burial 5 were sent to the General Electric Company Materials and Process Laboratory in Syracuse, NY, where tests showed that the copper originated in Michigan. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a child of unknown sex 8–10 years old and a baby 6 months old. No known individuals were identified. The 352 associated funerary objects are 348 copper beads, two swatches of cloth, one gorget, and one copper celt.

Between 1947 and 1948, human remains representing, at minimum, two individuals were removed from Burial 6 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains were donated to Seton Hall University's Archaeology Department, and in 2015, they were transferred to the Walsh Gallery. The human remains belong to an adolescent of unknown sex 10–16 years old and an adult of unknown sex at least 25 years old. No known individuals were identified. No associated funerary objects are present.

Between 1947 and 1948, human remains representing, at minimum, one individual were removed from Burial 7 at the Rosenkrans site in Sussex County,

NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an adult of undetermined age and sex. No known individual was identified. The 31 associated funerary objects are one charred pignut, one carbonized cloth, one bird remain, one turtle remain, one partial elk femur, nine projectile points, one banner stone, one antler point, two boatstones, one blocked-end tube, six whetstones, one lot of celt fragments, one shattered chopper, one side scraper, one pebble smoothing stone, one flake knife or scraper, and one pipe.

Between 1947 and 1948, human remains representing, at minimum, one individual were removed from Burial 8 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. Two large stones covered the burial. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a male 40–50 years old. His front teeth had been either modified or injured during his lifetime, leading Herbert Kraft to hypothesize that the decedent was a shaman. No known individual was identified. The three associated funerary objects are three points.

Between 1947 and 1948, human remains representing, at minimum, one individual were removed from Burial 9 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. Three large stones covered the burial (the stones do not appear to have been collected by Haggerty). After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. Human remains from Burial 9 carbon dated by a researcher named Ritchie sometime between 1963 and 1976 yielded an estimated date for the burial of 610 B.C.E. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains and associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an adult of undetermined sex 20–30 years old. No known individual was identified. The 13 associated funerary objects are nine projectile points, one boatstone, one steatite cone, one lot containing copper beads, charcoal and ash, and one copper awl. The copper awl is currently missing.

Between 1947 and 1948, human remains representing, at minimum, two individuals were removed from Burial 10 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an adult of unknown sex 35–45 years old and a baby 6 months old. The collections manager at Seton Hall University suspects that the elements comprising the adult's skull were coated in a varnish sometime after excavation. No known individuals were identified. The 34 associated funerary objects are one weasel skull, five blocked-end tubes, one boatstone, two drills, one blade, 12 shell beads, one gorget, one unfinished gorget, and 10 projectile points.

In 1947 or 1948, human remains representing, at minimum, one individual were removed from Burial 11 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to an adult of unknown sex 20–25 years old. No known individual was identified. The 15 associated funerary objects are 15 copper beads.

In 1947 or 1948, human remains representing, at minimum, one individual were removed from Rosenkrans site Burial 12 in Sussex County, NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a child of unknown sex approximately 9 years old. No known individual was identified. The 196 associated funerary objects are 106 copper beads and 90 shell beads.

In 1947 or 1948, human remains representing, at minimum, one individual were removed from Burial 13 at the Rosenkrans site in Sussex County, NJ. This burial was excavated by Lewis Haggerty. After excavation, the human remains, and their associated funerary objects stayed in Haggerty's custody. In 1976, Haggerty shipped the human remains and their associated funerary objects to experts at the Smithsonian Institution, the State University College at Buffalo, and other, unrecorded institutions for research purposes. In 1981, these human remains, and their associated funerary objects were donated to Seton Hall University's Archaeology Department, and in 2015, the collection was transferred to the Walsh Gallery. The human remains belong to a child of unknown sex 3–4 years old. No known individual was identified. The 40 associated funerary objects are 39 copper beads and one shard of pottery.

Based on the radiocarbon dates from Burial 9 and Burial 5, the human remains from the Rosenkrans site are estimated to date between approximately 610 B.C.E. and 420 B.C.E. At least 13 burials were excavated at the Rosenkrans site. According to Kraft,

most of these burials are secondary interments, which according to him explains the incomplete nature of the human remains. Based on archeological information, these human remains are Native American. Herbert Kraft identified the human remains and associated funerary objects as ''Middlesex'' and ''Adena-like'' in an article he published in 1976, and as ''Adena Middlesex'' in the Seton Hall University's accession records.

At an unknown date likely between 1950 and 1970, human remains representing, at minimum, one individual were removed from Mashipacong Island in Sussex County, NJ. The human remains were collected by Philip Launer and donated to Seton Hall University in 1988. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

Herbert Kraft's 1985 archaeological survey of Mashipacong Island notes that the artifacts found on different parts of the island show that it was inhabited in the Archaic and Woodland periods. These human remains are believed to be Native American based on geographical information and because Launer focused exclusively on Native American archeology.

At an unknown date likely between 1940 and 1960, human remains representing, at minimum, one individual were removed from Skunk Run in Sussex County, NJ. According to a 1960 report by Philip Launer published in the *Bulletin of the Archaeological Society of New Jersey,* ''on the upper terrace, a single burial with no grave goods was shattered by Mr. Mettler's plow. The plow-shattered bones were collected (. . .)'' and saved by Launer until they were donated to Seton Hall University in 1988. In 2015, the University's archeological collection was transferred to the Walsh Gallery. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present.

The Skunk Run site is believed to be pre-contact in date. Point types collected by Launer suggest the site was inhabited in the Late Archaic to Middle Woodland periods. Launer believed the site was inhabited mostly in the Archaic period, but no date for the human remains was ever recorded in the University's records. The human remains were determined to be Native American based on geographical information.

Between 1955 and 1958, human remains representing, at minimum, one individual were removed by unknown individuals and under unknown circumstances from a site near Port Jervis in Orange, NY. In 1981, these human remains were donated to Seton Hall University, and in 2015, the University's archeological collection was transferred to the Walsh Gallery. The human remains belong to an individual of unknown age and sex. No known individual was identified. No associated funerary objects are present. The human remains were determined to be Native American based on geographical information.

Determinations Made by the Walsh Gallery, Seton Hall University

Officials of the Walsh Gallery, Seton Hall University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 20 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 1,029 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Laura Hapke, Walsh Gallery, University Libraries, Seton Hall University, 400 South Orange Avenue, South Orange, NJ 07079, telephone 973–275–2165, email *laura.hapke@shu.edu,* by June 30, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to The Tribes may proceed.

The Walsh Gallery, Seton Hall University is responsible for notifying The Tribes that this notice has been published.

Dated: May 25, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–11638 Filed 5–27–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2022–0017]

Pacific Wind Lease Sale 1 (PACW–1) for Commercial Leasing for Wind Power on the Outer Continental Shelf in California—Proposed Sale Notice

AGENCY: Bureau of Ocean Energy Management, Interior.

ACTION: Proposed sale notice; request for comments.

SUMMARY: This document is the proposed sale notice (PSN) for the sale of commercial wind energy leases on the Outer Continental Shelf (OCS) in the Humboldt Wind Energy Area (WEA) and Morro Bay WEA offshore California. The Bureau of Ocean Energy Management (BOEM) proposes to offer multiple lease areas (Lease Areas) for sale in each WEA and to conduct simultaneous auctions for Lease Areas within each WEA using a multiple-factor bidding auction format. The PSN contains information pertaining to the areas available for leasing, certain provisions and conditions of the lease, auction details, lease forms, criteria for evaluating competing bids, award procedures, appeal procedures, and lease execution procedures. The issuance of any lease resulting from this sale would not constitute approval of project-specific plans to develop offshore wind energy. Such plans, if submitted by the Lessee, would be subject to subsequent environmental, technical, and public reviews prior to a BOEM decision on whether the proposed development should be authorized.

DATES: Comments should be submitted electronically or postmarked no later than August 1, 2022.

For prospective bidders who want to participate in this lease sale: Unless you have received confirmation from BOEM that you are qualified to participate in a California lease sale, your qualification materials must be submitted during the comment period and must be submitted electronically or postmarked no later than August 1, 2022.

ADDRESSES: Submit comments on the PSN in one of the following ways:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* In the search box on web page, enter BOEM–2022–0017 and click ''search.'' Follow the instructions to submit public comments.
- *Mail or other delivery service:* Enclose your comments in an envelope

labeled ''Comments on California PSN,'' and addressed to: Bureau of Ocean Energy Management, Pacific Regional Office, Mail Stop CM 102, 760 Paseo Camarillo (Suite 102), Camarillo, California 93010–6002.

Qualifications Materials: Prospective bidders who have not yet met the qualifications to participate in a California lease sale should follow the guidance provided at *https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/.*

For more information regarding the submission of public comments and qualification materials, see section V under the caption **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Sara Guiltinan, Bureau of Ocean Energy Management, Pacific Regional Office, Mail Stop CM 102, 760 Paseo Camarillo (Suite 102), Camarillo, California 93010–6002, (805) 384–6345, or *sara.guiltinan@boem.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

a. *Call for Information and Nominations:* On October 19, 2018, BOEM published a call for information and nominations in the **Federal Register** (83 FR 53096) (''2018 Call'') that identified three geographically distinct Call Areas on the OCS offshore California, delineated as the Humboldt Call Area offshore the north coast and the Morro Bay Call Area and the Diablo Canyon Call Area offshore the central coast. Following the 2018 Call, the Morro Bay and Diablo Canyon Call Areas were initially assessed as incompatible for wind energy development by the U.S. Department of Defense (DoD). However, after the initial assessment, BOEM, the State of California, various California elected officials, the National Oceanic and Atmospheric Administration's (NOAA's) Office of National Marine Sanctuaries (ONMS), and DoD continued to have discussions and conduct stakeholder outreach in efforts to accommodate offshore wind development within and adjacent to the Morro Bay Call Area and DoD's mission requirements. More information and results of these meetings and outreach can be viewed at: *https://www.boem.gov/renewable-energy/state-activities/public-information-meetings-and-outreach-efforts.*

In May 2021, the White House, the Department of the Interior, DoD, and the State of California announced an agreement to advance an area, known as the ''Morro Bay 399 Area,'' that could support approximately three gigawatts of offshore wind on roughly 399 square miles (255,487 acres) off California's central coast within and adjacent to the initial 2018 Morro Bay Call Area (*https://www.doi.gov/pressreleases/biden-harris-administration-advances-offshore-wind-pacific*).

On July 29, 2021, BOEM delineated the two extensions in the identified Morro Bay 399Area, known as the East and West Extensions, in a published Call for Information and Nominations in the **Federal Register** (86 FR 40869) (''2021 Call'') to solicit public input and industry interest in the extensions.

In response to the 2018 Call and 2021 Call, BOEM received over 180 comments from the general public, representatives of fishing organizations and interests, offshore wind developers, other ocean industry groups, non-governmental organizations, universities, Tribal governments, local governments, Federal and State agencies, and other stakeholders. In addition to the comments received in response to the 2018 Call and 2021 Call, BOEM received input during outreach and engagement with Tribal governments, the State of California, and public stakeholders in over 80 meetings. The outreach effort and input received are documented in a California Offshore Wind Energy Planning Outreach Summary Report published in September 2018 (*https://www.boem.gov/renewable-energy/california-outreach-summary-report*) and an Outreach Summary Report Addendum published in June 2021 (*https://www.boem.gov/renewable-energy/state-activities/offshore-wind-outreach-addendum*).

A total of 23 offshore wind developers submitted nominations in response to the 2018 Call and 2021 Call with 10 nominations for the Humboldt Call Area and 17 nominations for the Morro Bay Call Area.

b. *Area Identification:* After the close of the 2018 Call and the 2021 Call comment periods, BOEM initiated the Area identification (Area ID) process. Through the Area ID process, BOEM considered information sources, such as: Comments and nominations received on the 2018 Call and 2021 Call; information from the BOEM California Intergovernmental Renewable Energy Task Force; input from California State and Federal agencies; input received via consultation meetings and written comment from federally recognized Tribes; input received via Tribal outreach meetings with federally and non-federally recognized Tribes; the California Offshore Wind Energy Planning Outreach Summary Report and Addendum; California Offshore Wind Energy Gateway data and information (*https://caoffshorewind.databasin.org/*); outreach meetings and comments received under the California Energy Commission Notice of Availability of Outreach on Additional Considerations for Offshore Wind Energy off the Central Coast; comments from relevant stakeholders and ocean users, including the maritime community, environmental non-governmental organizations, offshore wind developers, and the commercial fishing industry; State and local renewable energy goals; and domestic and global offshore wind market and technological trends.

BOEM also considered multiple existing uses of the California coast in developing the Call Areas and WEAs. BOEM found that existing uses and resources with the highest potential to be affected by offshore wind energy development activities in the Call Areas, relative to other uses and resources, include: (i) Commercial and recreational fishing; (ii) avian species; (iii) marine mammals; (iv) maritime navigation; (v) historic properties; (vi) visual impacts; (vii) DoD activities; (viii) places and resources of importance to Tribes; and (ix) other infrastructure. BOEM announced the Area ID by identifying within the Call Areas the Humboldt WEA on July 28, 2021, and the Morro Bay WEA on November 12, 2021. The Area ID announcements and maps of the WEAs are available at: *https://www.boem.gov/renewable-energy/state-activities/california.*

c. *Environmental Reviews:* On July 28, 2021, BOEM announced its intent to prepare an environmental assessment (EA) to consider potential environmental impacts from site characterization activities (*i.e.,* biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (*i.e.,* installation of meteorological buoys) associated with issuing any wind energy leases in the Humboldt WEA. As part of the EA process, BOEM sought comments on the issues and alternatives that should inform the EA and received 52 comments. The written comments, comment summaries, and public meeting recordings and transcripts are available at: *https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-area.* BOEM announced the availability of the draft Humboldt EA on January 11, 2022, and initiated a 30-day public comment period. BOEM received 43 comments on the draft Humboldt EA. Written comments are available at *http://www.regulations.gov/*, under Docket No. BOEM–2021–0085. Public meeting recordings and summaries are available

at: *https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-area.* The EA was subsequently revised based on comments received during the comment period and public meetings. The revised EA and the finding of no significant impact were published on May 5, 2022, and are available at: *https://www.boem.gov/renewable-energy/state-activities/humboldt-wind-energy-final-ea.*

Concurrently with its preparation of the Humboldt EA, BOEM conducted a consistency review under the Coastal Zone Management Act. The California Coastal Commission implements the Coastal Zone Management Act in California. BOEM submitted a consistency determination to the California Coastal Commission on January 24, 2022; Commission staff filed a Staff Report recommending conditional concurrence with BOEM's consistency determination on March 17, 2022 (see Staff Report at *https://documents.coastal.ca.gov/reports/2022/4/Th8a/Th8a-4-2022%20staffreport.pdf*); and, on April 7, 2022, the Commission unanimously concurred with the staff's conditional consistency recommendation. BOEM will update lease conditions to ensure that the activities authorized under the lease are consistent with the conditional concurrence of the Commission.

On November 12, 2021, BOEM announced its intent to prepare an EA to consider potential environmental impacts from site characterization activities (*i.e.,* biological, archaeological, geological, and geophysical surveys and core samples) and site assessment activities (*i.e.,* installation of meteorological buoys) associated with issuing any wind energy leases in the Morro Bay WEA. As part of the EA process, BOEM sought comments on the issues and alternatives that should inform the EA and received 88 unique comments. Written comments are available at *http://www.regulations.gov/,* under Docket No. BOEM–2021–0044. Public meeting recordings and summaries are available at: *https://www.boem.gov/renewable-energy/state-activities/morro-bay-wind-energy-area.* BOEM announced the availability of the draft Morro Bay EA on April 6, 2022, and initiated a 30-day public comment period. On May 4, 2022, BOEM announced the extension of the comment period by 10 days in response to stakeholder request.

Concurrently with its preparation of the Morro Bay EA, BOEM conducted a consistency review under the Coastal Zone Management Act. BOEM submitted a consistency determination to the California Coastal Commission on April 15, 2022.

The Morro Bay EA will be concluded before and inform BOEM's decision whether to proceed with the final sale notice (FSN).

BOEM prepared and executed a programmatic agreement (PA) to guide its consultations under section 106 of the National Historic Preservation Act. The PA provides for consultations to continue through BOEM's decision-making process regarding the issuance of leases, right-of-way grants, and right-of-use and easement grants on the OCS offshore California. The PA also includes BOEM's phased identification and evaluation of historic properties. BOEM is conducting consultations under the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act regarding potential impacts to listed species, designated critical habitat, and essential fish habitat. BOEM will continue to engage as required with Tribal governments throughout the wind energy authorization process, including through Government-to-Government consultation with federally recognized Tribes.

II. Area Proposed for Leasing

The areas available for sale are proposed to be auctioned as multiple leases within two California regions as listed in the table below.

Lease area name	Lease area ID	Acres
North Coast Region:		
Humboldt NE	OCS–P 0561	63,338
Humboldt SW	OCS–P 0562	69,031
Central Coast Region:		
Morro Bay NW	OCS–P 0563	80,062
Morro Bay C	OCS–P 0564	80,418
Morro Bay E	OCS–P 0565	80,418
Total	.....	*373,268*

The proposed Lease Areas include the entirety of the Humboldt and Morro Bay WEAs. The WEAs were subdivided so that each proposed Lease Area:

- Is of roughly equal power generation potential and geographical size;
- is delineated in a manner to maximize energy generation; and
- facilitates fair return to the Federal Government pursuant to the OCS Lands Act through competition for commercially viable Lease Areas.

The Morro Bay WEA has been divided into three Lease Areas and the Humboldt WEA has been divided into two Lease Areas. The Lease Area delineations are based on findings of a National Renewable Energy Laboratory (NREL) study called ''Assessment of Offshore Wind Energy Leasing Areas for Humboldt and Morro Bay Wind Energy Areas, California,'' available at: *https://www.nrel.gov/docs/fy22osti/82341.pdf.* The designation of final Lease Areas in the FSN will be informed by comments received in this PSN and other relevant data.

BOEM is aware of the proposed designation of the Chumash Heritage National Marine Sanctuary, an area comprising approximately 7,000 square miles off the central coast of California adjacent to the Morro Bay WEA. BOEM does not have authority under the OCS Lands Act to issue leases, right-of-way grants, or right-of-use and easement grants within any unit of the National Marine Sanctuary System. Potential bidders should note that future designation of a National Marine Sanctuary adjacent to a Lease Area may have implications for development of OCS leases for commercial wind energy. BOEM is coordinating closely with the NOAA Office of National Marine Sanctuaries to advance offshore wind energy projects and conservation and restoration of ocean and coastal habitats. More information on the proposed designation of Chumash Heritage National Marine Sanctuary is available at: *https://sanctuaries.noaa.gov/chumash-heritage/.*

BOEM is also aware that the U.S. Coast Guard (USCG) is conducting a Port Access Route Study on the Pacific Coast from Washington to California (PACPARS) to evaluate safe access routes for the movement of vessel traffic

proceeding to or from ports along the western seaboard, and, specifically, to determine whether a Shipping Safety Fairway and/or routing measures should be established, adjusted, or modified. BOEM is coordinating closely with the USCG to address potential maritime impacts from any future offshore wind development in the Lease Areas. More information on the PACPARS is available at *http://www.regulations.gov/*, under Docket No. USCG–2021–0345.

BOEM is aware of two planned submarine cable systems that are scheduled for installation in cable corridors that overlap the proposed Lease Areas. A planned submarine telecommunications cable system, known as BIFROST, is expected to be installed in 2023 in a cable corridor that would overlap with the southern portion of the proposed Morro Bay E Lease Area. A planned telecommunications cable, known as ECHO, is expected to be installed in Eureka, California, in 2023 and would overlap with both proposed Humboldt Lease Areas.

A description of the proposed Lease Areas can be found in Addendum ''A'' of the proposed lease, which BOEM has made available with this notice on its website at: *https://www.boem.gov/renewable-energy/state-activities/california.*

a. *Map of the Areas Proposed for Leasing:* A map of the Lease Areas and GIS spatial files X, Y (eastings, northings) UTM Zone 18, NAD83 Datum, and geographic X, Y (longitude, latitude), NAD83 Datum can be found on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/california.*

b. *Potential Future Restrictions to Ensure Navigational Safety:*

i. *USCG Navigational Safety Measures:* Potential bidders should note that the USCG is conducting a PACPARS to evaluate safe access routes for the movement of vessel traffic proceeding to or from ports or places along the western seaboard of the United States and to determine whether a Shipping Safety Fairway and/or routing measures should be established, adjusted, or modified. The PACPARS will evaluate the continued applicability of, and the need for modifications to, current vessel routing measures. The data gathered during the PACPARS may result in the establishment of one or more new vessel routing measures, modification of existing routing measures, or disestablishment of existing routing measures off the Pacific Coast between Washington and California. BOEM may require mitigation measures in the construction and operations plan (COP) once the Lessee's site-specific navigational safety risk assessment is available to inform BOEM's decision-making. The PACPARS may result in additional navigational mitigation measures at the COP review stage.

ii. *Measures for Vessel Transit:* The information currently available does not indicate that vessel routing mitigation measures are warranted, but BOEM may nonetheless consider designating portions of the proposed Lease Areas as areas of no surface occupancy to facilitate vessel transit and continuance of existing uses. Vessels cross the Morro Bay WEA to enter the USCG Recommended Tracks within the Monterey Bay National Marine Sanctuary and traffic lanes outside the San Francisco Bay. Bidders should be aware that a lease stipulation may be included in the FSN that addresses vessel routing measures, depending on the outcome of additional discussions with the USCG, ocean users, and stakeholders, and consideration of comments submitted in response to this PSN.

c. Potential Future Restrictions to Mitigate Potential Conflicts with Department of Defense Activities: In 2018, DoD reviewed the Humboldt and Morro Bay Call Areas (83 FR 53096) in support of BOEM's efforts to deconflict potential wind energy development in the areas in northern and central California, respectively. DoD provided its assessment of the California Offshore Planning Areas, and the 2018 DoD assessment indicated that its mission activities along most of the central coast, including the Morro Bay Call Area, are incompatible with wind energy development. DoD determined that the Humboldt Call Area, located off the coast of northern California, was DoD-mission compatible, with site-specific stipulations.

On May 25, 2021, the Departments of the Interior and Defense and the State of California announced an agreement to accelerate wind energy offshore the central and northern coasts of California. The Department of the Interior, in cooperation with DoD and the State of California, identified the Morro Bay 399 Area that could support approximately three gigawatts of offshore wind on roughly 399 square miles off California's central coast, northwest of Morro Bay. The announcement also acknowledged the critical nature of current and future military testing, training, and operations in the central coast and noted the parties' commitment to ensuring long-term protection of military testing, training, and operations in the area while pursuing new domestic clean energy resources. This announcement came after years of collaboration between the Departments of the Interior and Defense to find areas offshore the central coast of California that are compatible with DoD's training and testing operations. The proposed Lease Areas offshore Morro Bay are all located within the Morro Bay 399 Area and have been determined by DoD to be suitable for development, with site-specific stipulations.

Prospective bidders should be aware that site specific stipulations may be required in consultation with DoD for development within the Lease Areas. For example, the North American Aerospace Defense Command mission may be affected by the development of the Lease Areas. BOEM will coordinate with DoD and the Lessee to deconflict these potential impacts throughout the project review stage. Mitigation measures or terms and conditions of a plan approval may result from this coordination effort.

III. Participation in the Proposed Lease Sale

a. *Bidder Participation:* Entities that are already qualified to participate in an upcoming sale through their response to a Call or submission of qualification materials are not required to take any additional action to affirm their interest. Those entities are listed below:

Company name	Company No.
547 Energy LLC	15123
Algonquin Power Fund (America) Inc	15090
Arevia Power LLC	15129
Avangrid Renewables, LLC	15019
Castle Wind LLC	15085
Central California Offshore Wind LLC	15110
Cademo Corporation	15093
Clearway Renew LLC	15109
EDF Renewables Development, Inc	15027
EDPR Offshore North America LLC	15074
Equinor Wind US LLC	15058
JERA Renewables NA, LLC	15131
Marubeni Power International, Inc	15128
Mission Floating Wind LLC	15087
Northcoast Floating Wind LLC	15088
Northland Power America Inc	15068
Orsted North America Inc	15059
Redwood Coast Energy Authority (RCEA)	15084
Redwood Coast Offshore Wind LLC	15106
RWE Renewables Development, LLC	15080
Shell New Energies US LLC	15140
US Mainstream Offshore, Inc	15120
wpd offshore Alpha, LLC	15060

All other entities who would like to participate in the proposed lease sale must submit the required qualification materials by the end of the 60-day comment period for this PSN.

b. *Affiliated Entities:* On the Bidder's Financial Form (BFF), discussed in section V.(c)(i), below, eligible bidders

must list any other eligible bidders with whom they are affiliated. BOEM considers two entities to be affiliated if (a) one entity (or its parent or subsidiary) has or retains a right, title, or interest in the other entity (or its parent or subsidiary), including the ability to control or direct actions with respect to such entity, either directly or indirectly, individually or through any other party; or (b) the entities are both direct or indirect subsidiaries of the same parent company. BOEM further considers the following regarding affiliated entities:

i. BOEM considers two entities to be affiliated if ownership or common ownership of more than 50 percent of the voting securities, or instruments of ownership or other forms of ownership, of another person constitutes control (person means any individual, firm, corporation, association, partnership, consortium, or joint venture (when established as a separate entity)). Ownership of less than 10 percent constitutes a presumption of non-control that BOEM may rebut.

ii. If there is ownership or common ownership of 10 through 50 percent of the voting securities or instruments of ownership, or other forms of ownership, of another person, BOEM will consider each of the following factors to determine if there is control under the circumstances of a particular case:

a. The extent to which there are common officers or directors.

b. With respect to the voting securities, or instruments of ownership or other forms of ownership: The percentage of ownership or common ownership, the relative percentage of ownership or common ownership compared to the percentage(s) of ownership by other persons, if a person is the greatest single owner, or if there is an opposing voting bloc of greater ownership.

c. Operation of a lease, plant, or other facility.

d. The extent of other owners' participation in operations and day-to-day management of a lease, plant, or other facility.

e. Other evidence of power to exercise control over or common control with another person.

BOEM solicits comments from stakeholders on this definition. See Section 4 below.

c. Affiliated eligible bidders are not permitted to compete against each other in either the North Coast or Central Coast auctions. However, one affiliate may participate in the North Coast and one in the Central Coast because they would not be bidding against each other. Where multiple affiliated bidders have qualified to bid in the same lease sale, bidders must decide prior to the auction which one eligible affiliated bidder (if any) will participate in each of the two simultaneous auctions. If two or more affiliated bidders seek to participate in the auction for the same Region, BOEM will disqualify such bidders from the auction.

IV. Questions for Stakeholders

Stakeholders are encouraged to comment on any matters related to this lease sale that are of interest or concern. However, BOEM has identified certain issues as particularly important in developing this lease sale and encourages commenters to address these issues specifically.

a. *Number, Size, Orientation, and Location of the Proposed Lease Areas:* In this PSN, BOEM proposes five Lease Areas in California. BOEM is seeking feedback on the proposed number, size, orientation, and location of the Lease Areas and welcomes comments on which Lease Areas, if any, should be prioritized for inclusion, or exclusion, from this lease sale or future lease sales.

Considerations for the delineation of Lease Area may include: Equal commercial viability and size; prevailing wind direction and minimal wake effects; maximized energy generating potential; mooring system anchor footprints and extents; possible setbacks at Lease Area boundaries; distance to shore, port infrastructure, and electrical grid interconnections; and fair return to the Federal Government pursuant to the OCS Lands Act through competition for commercially viable lease areas. Additional comments are welcome regarding other considerations for delineating Lease Areas.

b. *Engaging Underserved Communities:* Executive Order 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' directs advancement of equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad,'' establishes a policy to secure environmental justice and spur economic opportunity for disadvantaged communities through investing in and building a clean energy economy and making environmental justice part of every agency's mission.

Consistent with its statutory and regulatory authorities, BOEM is considering lease stipulations to ensure that communities, particularly underserved communities, are considered and engaged throughout the offshore wind energy development process, that potential impacts and benefits from Lessees' projects are documented, and Lessees' project proposals are informed by or altered to address those impacts and benefits.

BOEM invites comments on the appropriate mechanisms and evaluation metrics for lease stipulations to benefit underserved communities, including how the stipulations would further development of the proposed Lease Areas and the purposes of OCS Lands Act. BOEM requests that commenters provide references to any studies that support their recommendations.

c. *Bidding Credits:* As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor auction format, with a multiple-factor bidding system, for this lease sale. The bidding system for this lease sale is proposed as a multiple-factor combination of a monetary bid and up to two non-monetary factors.

BOEM is proposing to grant bidding credits to potential bidders for commitments to:

(1) Support workforce training programs for the offshore wind industry and/or development of a U.S. domestic supply chain for the offshore wind industry, and

(2) establish a community benefit agreement (CBA) with a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development.

In previous commercial lease sales, BOEM has proposed non-monetary auction factors to enhance, through training, the offshore wind workforce or to stand up the domestic supply chain for offshore wind manufacturing, assembly, or services. For this sale, BOEM is also considering non-monetary auction factors to foster development of the Lease Area through cooperation with communities affected by activities on the OCS, as described in section V.(c)(iii) below. BOEM is also exploring an additional bidding credit, targeting other effects from OCS development, as described in section V.(c)(iv) below.

In a multi-factor auction, BOEM appoints a panel to review the requirements and restrictions of the non-monetary component(s) and the bidder's conceptual strategy, submitted with the BFF. Following the panel's review of the bidding credit conceptual strategy, BOEM would notify the bidder if it qualifies for a credit(s) prior to the mock auction. The bid made by a particular bidder in each round would

represent the sum of a monetary (cash) amount and non-monetary factors (bidding credit(s)). The structure of the proposed bidding credits is explained in the subsection below. BOEM would start the auction using the minimum bid price for each Lease Area and would increase those prices incrementally until no more than one active bidder per Lease Area remains in the auction. A bidder would be eligible to elect to qualify for one or both of the bidding credits. A work force training credit or supply chain development credit would be worth 20 percent of the cash bid. A bidder could commit to both workforce training and supply chain development, but the total amount of the credit would still be 20 percent. The proposed CBA bidding credit would be worth 2.5 percent of the cash bid. If a bidder qualifies for all proposed bidding credits, the credits would be additive, for a total potential credit of maximum 22.5 percent of the cash bid. Bidders are encouraged to review the proposed BFF Addendum if they are interested in qualifying for these bidding credits.

i. *Bidding credit calculation:* Bidders interested in a bidding credit would have the option to qualify for:

1. Both proposed bidding credits described below for a cumulative 22.5 percent credit;

2. A workforce training and/or supply chain development credit (with the opportunity to target either workforce training, supply chain development, or a combination thereof) for a 20 percent credit; or

3. The CBA credit for a 2.5 percent credit.

BOEM provides the following example. For a cumulative 22.5 percent bidding credit with a $50 million Asking Price, the bidding credit would be calculated within the auction software as follows:

$$\text{Cash Bid} = \left\{\frac{\text{Asking Price}}{1 + \text{Credit\%}}\right\} = \left\{\frac{\$50 \text{ million}}{1 + 22.5\%}\right\} = \$40{,}816{,}326.53$$

$$\text{Credit} = \$50 \text{ million} - \$40{,}816{,}326.53 = \$9{,}183{,}673.47$$

As proposed, only the 20 percent workforce training and/or supply chain development credit would require an explicit financial commitment. Under BOEM's proposal, bidders seeking a CBA credit would retain the flexibility to determine the optimal benefits (both monetary and non-monetary) on which the parties can agree. Thus, per the example above, the required financial commitment for the workforce training and/or supply chain development credit would be calculated as follows:

$$\text{Commitment} = \text{Credit} * \frac{20\%}{\text{Total Credit\%}} * 80\% = \$9{,}183673.47 * \frac{20\%}{22.5\%} * 0.8 = \$6{,}530{,}612.24$$

BOEM has prepared a table demonstrating the financial commitment calculations if a $50 million asking price is paid for in part with various bidding credits. Any financial commitment is calculated solely from the value of the 20 percent workforce training and/or supply chain development bidding credit, with no financial commitment required for a CBA credit.

Bidding credits qualified for	Asking price	Cash bid	Percent credit	Credit value	Commitment (80% of the 20% credit)
Workforce Training/Supply Chain Development; Lease Area Use CBA (22.5%).	$50 million	$40,816,326.53	22.5	$9,183,673.47	$6,530,612.24
Workforce Training/Supply Chain Development (20%).	50 million	41,666,666.67	20.0	8,333,333.33	6,666,666.67
Lease Area Use CBA Credit (2.5%)	50 million	48,780,487.80	2.5	1,219,512.20	N/A

ii. *20 Percent Bidding Credit Either for Workforce Training or Supply Chain Development or a Combination of Both:* The proposed bidding credit would allow a bidder to receive a credit of 20 percent of its cash bid in exchange for committing to make a qualifying monetary contribution (''Contribution'') to programs or initiatives, as described in the BFF Addendum and lease, that either support workforce training programs for the offshore wind industry, support development of a U.S. domestic supply chain for the offshore wind industry, or support a combination of both. To qualify for the credit, the winning bidder would be required to commit to make a financial Contribution of at least 80 percent of the bidding credit cash value toward a workforce training program and/or the development of a domestic supply chain, as described in the BFF Addendum and lease. The 80 percent Contribution of the bid credit value is designed to incentivize bidders to commit funds to workforce training and to develop the domestic offshore wind supply chain. The discount to the bid credit value recognizes the Lessee's administrative burden associated with fulfilling bidding credit requirements. A mathematical example is shown in section IV.(c)(i) above. If a bidder qualifies to bid for a Lease Area in both regions and seeks to qualify for a credit in both regions, the bidder must submit one bidding credit conceptual strategy, but identify any differences in the strategy for each region.

1. As proposed, the Contribution to workforce training must result in a better trained and/or larger domestic offshore wind work force that would provide for more efficient operations via

an increase in the supply of fully trained personnel.

2. The Contribution to domestic supply chain development must result in a more stable domestic supply chain by reducing the upfront capital or certification cost for manufacturing offshore wind components, including the building of facilities, the purchasing of capital equipment, and the certifying of existing manufacturing facilities.

3. Bidders interested in obtaining the bidding credit could choose to commit to workforce training programs, domestic supply chain initiatives, or a combination of both. Bidders would be required to note, on the BFF, their commitment to earn the bidding credit. A bidder interested in using a bidding credit would be required to submit its bidding credit conceptual strategy with its BFF. The strategy would be required to describe the verifiable actions the Lessee would take and that would allow BOEM to confirm compliance when the Lessee submits its documentation. Bidders are encouraged to review the proposed BFF Addendum if they are considering qualifying for the bidding credit.

4. BOEM proposes to permit a Lessee to defer its payment fulfilling the commitment, with 25 percent due prior to the first COP submittal for the Lease Area, and the remainder due prior to the first Facility Design Report (FDR) submittal to BOEM. Lessees would be required to provide documentation showing that they had met the commitment and complied with the applicable bidding credit requirements no later than the submission to BOEM of the first COP (25 percent) and first FDR (remainder) for the Lease, as described below. Deferring the payment until the COP and FDR would enable the Lessee to identify programs or recipients best suited to meet the bidding credit purpose and goals, as described in the BFF Addendum.

5. As proposed, contributions to workforce training must consist of one or more of the following: (i) Contributions in support of union apprenticeships, labor management training partnerships, stipends for workforce training, or other technical training programs or institutions focused on providing skills necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States; (ii) Contributions toward maritime training necessary for the crewing of vessels to be used for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (iii) Contributions toward training workers in skills or techniques necessary to manufacture or assemble offshore wind components, subcomponents or subassemblies. Examples of these skills and techniques include welding; wind energy technology; hydraulic maintenance; braking systems; mechanical systems, including blade inspection and maintenance; or computers and programmable logic control systems; (iv) Contributions toward training in any other job skills that the Lessee can demonstrate are necessary for the planning, design, construction, operation, maintenance, or decommissioning of offshore wind energy projects in the United States.

6. As proposed, contributions to domestic supply chain development must consist of one or more of the following: (i) Contributions supporting the development of a domestic supply chain for the offshore wind industry, including manufacturing of components and sub-assemblies and the expansion of related services; (ii) Contributions to domestic tier-2 and tier-3 offshore wind component suppliers, including suppliers of components specifically needed to develop floating wind technology, and domestic tier-1 supply chain efforts, including quay-side fabrication; (iii) Contributions for technical assistance grants to help U.S. manufacturers re-tool or certify (*e.g.,* ISO–9001) for offshore wind manufacturing; (iv) Contributions for the development of Jones Act-compliant vessels for the construction, servicing, and/or decommissioning of wind energy projects in the United States; (v) Contributions to establish a new or existing bonding support reserve or revolving fund available to all businesses providing goods and services to offshore wind energy companies, including disadvantaged businesses; (vi) Other Contributions to supply chain development efforts that the Lessee can demonstrate further the manufacture of offshore wind components or subassemblies, or the provision of offshore wind services, in the United States.

7. *Documentation:* Under the proposed sale, if a lease is awarded pursuant to a winning bid that includes a bidding credit for workforce training and/or supply chain development, the Lessee must provide documentation to BOEM showing that the Lessee has met at least 25 percent of the commitment and complied with the applicable bidding credit requirements by no later than the submission of the Lessee's first COP, and must provide documentation that it has met the remainder of the commitment no later than the submission of the first FDR. As proposed, the documentation must enable BOEM to objectively verify the amount of the Contribution and the beneficiary(ies) of the Contribution. At a minimum, the documentation submitted with the first COP, and that submitted with the first FDR, must include: All written agreements between the Lessee and beneficiary(ies) of the Contribution; all receipts documenting the amount, date, financial institution, and the account and owner of account to which the Contribution was made; and sworn statements by the entity that made the Contribution and the beneficiary(ies) of the Contribution, attesting: The amount and date(s) of the Contribution; that the Contribution is being (or will be) used in accordance with the bidding credit requirements in the lease; and that all information provided is true and accurate. The documentation would need to describe how the funded initiative or program has advanced, or is expected to advance, U.S. offshore wind workforce training and/or supply chain development. The documentation should also provide qualitative and/or quantitative information that includes the estimated number of trainees or jobs supported, or the estimated leveraged supply chain investment resulting or expected to result from the Contribution. The documentation must contain any information specified in the conceptual strategy that the Lessee submitted with its BFF. If the Lessee's implementation strategy has changed due to market needs or other factors, the Lessee must explain this change. As proposed, BOEM would reserve all rights to determine that the bidding credit has not been satisfied if changes relative to the Lessee's conceptual strategy, submitted with its BFF, do not meet the criteria for the bidding credit described in the lease.

8. *Enforcement:* The commitment for the bidding credit would be made in the BFF and would be included in a lease addendum that would bind the Lessee and all future assignees of the lease. If BOEM were to determine that a Lessee or assignee had failed to satisfy the requirements of the bidding credit, or if a Lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to the Office of Natural Resources Revenue (ONRR) with interest from the date of lease execution. The interest rate would be the underpayment interest rate identified by ONRR. BOEM could, at its sole discretion, extend the documentation

deadline beyond the COP, FDR or the 10-year timeframe.

iii. *Questions Regarding Bidding Credit for Workforce Training and/or Supply Chain Development:*

1. Is the proposed maximum 20 percent bidding credit for workforce training and/or supply chain development the optimal percentage to support workforce training and supply chain development? If not, please propose percentage(s) that may be optimal and explain why that level is most appropriate to drive the benefits intended by the credit while simultaneously supporting a competitive lease sale. Please also explain how your proposal better supports workforce training programs and/or development of a U.S. domestic supply chain for the offshore wind industry, and how it is consistent with the requirement that the government receive a fair return from the lease auction.

2. As proposed, the winning bidder would be required to commit to make a financial Contribution of at least 80 percent of the bidding credit cash value toward a workforce training program and/or the development of the domestic supply chain. BOEM solicits any views as to whether it should choose a Contribution threshold other than 80 percent, or should eliminate this Contribution discount on the bid credit value.

3. What other activities should qualify for this bidding credit to best support a sustained and robust U.S. offshore wind supply chain, particularly a floating wind supply chain? For example, are there activities related to manufacturing, sourcing of raw materials and components, or other offshore wind-related industries that BOEM should consider as possibly qualifying for this credit? Please explain how the proposed qualifying activity supports the development of a domestic supply chain and how that support can best be documented.

4. Should the sale encompass a bidding credit for a bidder who proposes that its financial commitment include entering into a long-term contract for components needed to build or maintain its project that will also benefit the offshore wind industry as a whole, such as the construction of new manufacturing capacity or investment in expanding or re-tooling existing capacity? Are other effects of such contracts conducive to development of renewable energy on the OCS? How might the bidder document that its contract facilitated such development? Should BOEM require the manufacturer or bidder to demonstrate that the new or expanded capacity also will be used to fulfill contracts with other developers? How much of the value of such a contract should count toward any potential credit, and why?

iv. *Lease Area Use Bidding Credit:* The second bidding credit proposed would allow a bidder to receive a credit of 2.5 percent of its cash bid in exchange for an existing CBA or a commitment to enter into a new CBA with a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development. The CBA is intended to mitigate potential impacts to the community or stakeholder group from renewable energy activity or structures on the Lease Area, and particularly to assist fishing and related industries to manage transitions, gear changes, or other similar impacts which may arise from the development of the Lease Area. To qualify for the credit, the bidder would be required to commit to the bidding credit requirements in the BFF and submit a strategy as described in the BFF Addendum. If a bidder were to qualify to bid for a Lease Area in both regions, and would like to qualify for a CBA credit in each of those regions, bidders need only submit a single Lease Area Use Bidding Credit conceptual strategy, including any measures tailored to the individual regions. The CBA(s) must be between the Lessee (or affiliated entity) and a qualifying community or stakeholder group in each region for which the bidder wishes to receive a credit. A mathematical example showing how this bidding credit would be calculated is available in section V.(c)(i) above.

1. As proposed, bidders interested in pursuing a bidding credit for this CBA must note on the BFF whether they have an existing CBA that conforms with BOEM's requirements or are instead making a commitment to enter into a CBA. Bidders seeking the bidding credit must submit their conceptual strategy with their BFF, further described below and in the BFF Addendum. The conceptual strategy would need to describe the verifiable actions that the Lessee intends to take that would enable BOEM to confirm compliance when the Lessee submits its documentation showing how it is satisfying the requirements for the bidding credit. A Lessee would be required to provide documentation showing that the Lessee has met the commitment and complied with the applicable bidding credit requirements no later than the submission to BOEM of the first FDR for the lease. Deferring the fulfillment of the commitment until the first FDR would enable the Lessee to identify stakeholders with impacts in need of mitigation or the greatest potential to expedite or facilitate orderly OCS renewable energy development.

2. As proposed, a qualifying CBA must meet the following requirements: (i) The CBA must be an agreement between (a) the Lessee or its affiliated entity, or, if appropriate, its assignee(s), and (b) a community or stakeholder group whose use of the geographic space of the Lease Area, or whose use of resources harvested from that geographic space, is directly impacted by the Lessee's potential offshore wind development; (ii) Specify the monetary, material, or other benefits provided, or to be provided, by the Lessee to the directly impacted community or stakeholder group; (iii) Indicate commitment of parties to collaboration and resolution of issues, communication methods, engagement methods, or educational opportunities for the impacted community or stakeholder group; (iv) Specify plans (or strategies) to mitigate potential impacts from the proposed development of the Lease Area on the community or stakeholder group.

3. No part of any CBA otherwise eligible for this credit may include exclusivity or preferential clauses that prevent or disincentivize an entity, community, or stakeholder from entering into similar agreements with other OCS lessees or potential lessees.

4. As proposed, a Lessee may enter into a CBA with a single counterparty or with multiple counterparties and may enter into more than one CBA.

5. *Documentation:* As proposed, if a lease is awarded pursuant to a winning bid that includes a CBA credit, the Lessee must provide written documentation to BOEM demonstrating execution of the CBA commitment no later than submission of the Lessee's first FDR. The documentation must enable BOEM to objectively verify the CBA has met all applicable requirements as outlined in the BFF Addendum and Lease. At a minimum, this documentation must include: All written agreements between the Lessee and beneficiary(ies), including the executed CBA; any receipts proving monetary contributions as required by the CBA, documenting the amount, date, financial institution, and the account and owner of the account to which the contribution was made; and sworn statements by the CBA signatories or their assignees attesting to: The date the CBA was entered; explaining how the CBA addresses (or

will address) the potential impacts to the use of the geographic space of the Lease Area, or resources harvested from that geographic space, arising from the potential development of the Lease Area; and the truth and accuracy of all the information provided. The documentation must contain any information specified in the conceptual strategy that was submitted with the BFF. If the Lessee's conceptual strategy has changed due to market needs or other factors, the Lessee must explain this change.

6. *Enforcement:* The commitment for the Lease Area Use Bidding Credit will be made in the BFF and will be included in a lease addendum that binds the Lessee and all assignees of the lease. If BOEM were to determine that a Lessee or assignee had failed to satisfy the commitment at the FDR stage, or if a Lessee were to relinquish or otherwise fail to develop the lease by the tenth anniversary date of lease issuance, the amount corresponding to the bidding credit awarded would be immediately due and payable to ONRR with interest from the date of lease execution. The interest rate would be the underpayment interest rate identified by ONRR. BOEM could, at its sole discretion, extend the documentation deadline beyond the FDR or the 10-year timeframe.

v. *Potential Additional Credit:* BOEM is exploring whether it has the authority to pursue an additional bidding credit for a CBA addressing impacts attributable to potential offshore wind development not covered under the contemplated Lease Area Use Bidding Credit. BOEM is seeking comments on all aspects of this potential CBA and specifically on how it can be justified under the OCS Lands Act), for example:

1. What goals of the OCS Lands Act would be furthered by such a CBA? What restrictions, if any, does OCS Lands Act impose on such a CBA?

2. What benefits could be promoted by a more general CBA? Would a CBA be effective in promoting benefits, such as job creation, education opportunities, or increased engagement, that mitigate the potential impacts of the development of the Lease Areas?

3. What potential impacts should be addressed? What quantifiable impacts will be felt by local communities associated with cultural and visual resources, the human environment, or other resources? How might a CBA lead to expeditious and orderly development of offshore wind resources in the Lease Areas?

4. What types of groups or legally recognized entities should be eligible to enter into a CBA?

5. What are the key elements of a CBA that BOEM should consider? Should the requirements for eligibility for bidding credits for a CBA include transparency, coalition building, inclusiveness, or enhanced communication?

6. How can BOEM use this potential type of credit to encourage early community engagement, mutual benefits, and a long-lasting dialogue between a potential developer and community or stakeholder group? What types of agreements could BOEM promote that result in mutually beneficial outcomes to both the Lessee and community or stakeholder groups, or lead to expeditious and orderly development of offshore wind resources in the Lease Areas?

vi. *General Questions Regarding CBA credits:* BOEM is interested in comments answering the following questions in this section relevant to CBAs and the associated bidding credits as described in sections IV.(c)(iv) and IV.(c)(v) above.

1. How should BOEM evaluate the agreements? On what metrics can BOEM evaluate CBAs? How can BOEM verify actions to be undertaken pursuant to the CBA?

2. How and when should BOEM enforce and monitor CBA commitments?

3. What level of credit should BOEM offer in exchange for bidders entering into a CBA, and how does that level affect receipt of fair return to the United States?

4. If BOEM grants a bidding credit for a CBA, at what point in BOEM's renewable energy leasing process must the CBA be executed?

5. Should the two CBA credits BOEM discussed above be combined?

6. Should executed CBAs be posted publicly?

7. What disclosures/certifications should be required to be part of any CBA? Anything else BOEM should take into consideration when evaluating the use of CBAs?

8. Should BOEM explicitly allow a Lessee's CBA to include payments into a mitigation or innovation fund? For example, funds established or created to address fishermen's gear changes, technology improvements that minimize impacts, lost revenue, or other various impacts potentially resulting from the development of the Lease Area. If so, what metrics should BOEM use to evaluate whether the use of the fund is acceptable in meeting OCS Lands Act goals such as leading to expeditious and orderly development of the OCS?

9. Is offering a bidding credit to enter into a CBA the most effective method to encourage similar types of agreements between developers and stakeholders or community groups, or is there a more effective format BOEM should consider? Commenters should consider that bidding credits must be consistent with BOEM's authority under the OCS Lands Act.

d. *Limits on the Number of Lease Areas per Bidder:* BOEM recognizes that the offering for sale of two regions (*i.e.,* Humboldt WEA and Morro Bay WEA), hundreds of miles apart, is novel. BOEM is proposing to allow each qualified entity to bid for one lease per region (North Coast Region and Central Coast Regions) and ultimately acquire one Lease Area per region via simultaneous auctions occurring at the same time, as described in section XII.(b)(i) below. BOEM is seeking feedback on this proposal, including feedback on how different leasing scenarios (*e.g.,* number of Lease Areas offered, size of Lease Areas, etc.) may influence the advisability of such a limitation.

e. *The Definition of ''Affiliated Entities'':* BOEM is prohibiting ''affiliated entities'' from bidding against each other in an auction. This measure limits a single entity to bidding on and winning a single lease. BOEM seeks comments on the definition and concepts of affiliation contained in Section 3 of the Proposed Sale Notice. Furthermore, in past lease sales, BOEM's definition of ''affiliated entities'' was tied to direct or indirect ownership or control of one entity over another. This effectively prevented a bidder and several subsidiaries from bidding in the same lease sale. This definition, however, does not explicitly preclude bidding by multiple entities that have formed agreements with the effect of circumventing the spirit of a one-per-customer sale. For example, BOEM's prior auctions arguably did not cover a situation in which a bidder had obtained development rights in other bidders' projects. Accordingly, BOEM requests comment on revising the definition of ''affiliated entities'' for this sale to include bidders that have, prior to the auction, entered into agreement with each other that is related to the disposition of leases offered in either of the auctions. This change would likely be accompanied by a new requirement to disclose any agreements with affiliated bidders regarding the disposition of leases that may be acquired in the auction. BOEM invites comment on whether this adjustment to the definition of ''affiliated'' sufficiently promotes the objectives of a ''one-per-customer'' sale.

f. *Tribal Governments, Ocean Users, Underserved Communities, Agencies, and Other Stakeholders Engagement*

and Reporting: In an effort to require early and regular engagement with Tribal governments, ocean users, underserved communities, agencies, and other stakeholders that may be potentially affected by activities on the OCS (collectively ''Tribes and parties''), BOEM is proposing to require a semi-annual progress report and minimum engagement requirements. Within the progress report, Lessees would be required to identify Tribes and parties potentially affected by proposed activities and provide updates on engagement activities, impacts on or benefits to the Tribes and parties from proposed activities, and how, if at all, a project proposal has been informed or altered to address those impacts or benefits, as well as any planned engagement activities during the next reporting period.

In acknowledgment of the existing and growing consultation burden placed on many Tribes and parties, the stipulation would also require, to the maximum extent practicable, that Lessees coordinate with one another on engagement activities. It is BOEM's intention that this requirement to coordinate engagement apply not only to meetings proposed by Lessees, but also to reasonable requests to coordinate engagement made by Tribes and parties. For example, one possible lease stipulation to facilitate coordinated Tribal engagement could require Lessees to offer coordination meetings at regular intervals throughout the year (*i.e.,* quarterly, biannually, annually, etc.). Coordinated engagement among Tribal Nations and Lessees that may be required would not excuse BOEM from meeting its responsibilities to federally recognized Tribes under Executive Order 13175.

In addition, the proposed stipulation would require that the progress report incorporate separate lease requirements for the development of communication plans for fisheries, Tribes, and agencies, that would serve to guide engagement activities with those groups. Lastly, the progress report would be required to include an update on activities executed under any survey plan.

BOEM seeks comment on this progress report and engagement concept generally. BOEM also seeks specific comments on how to improve the frequency, duration, and sustainability of collaborative engagement among these parties; and on the contents, timing, and review of progress reports.

g. *Uniform Layouts:* BOEM seeks comment on whether BOEM should consider uniform and aligned turbine layouts in the Lease Areas. Would the establishment of uniform turbine layouts negate the need for vessel transit measures and/or areas of no surface occupancy?

h. *Industry Standards for Environmental Protection:* Are there new industry standards (*e.g.,* technology standards, vessel standards, etc.) for environmental protection for any phase of development that BOEM should consider?

i. *Vessel Transit:* BOEM welcomes comments on measures to facilitate vessel transit and continuance of existing uses within the Lease Areas. Such measures may include areas of no surface occupancy where surface structures will not be permitted. If areas of no surface occupancy are warranted, BOEM welcomes comment on the preferred placement and orientation (*e.g.,* length, width, etc.) that would facilitate continuance of existing uses. BOEM asks commenters to submit technical and scientific data in support of their comments.

V. Proposed Lease Sale Deadlines and Milestones

This section describes the major deadlines and milestones in the auction process from publication of this PSN to potential execution of the lease pursuant to this sale.

a. *The PSN Comment Period:*

i. *Submit Comments:* The public is invited to submit comments during this 60-day period, which will expire on August 1, 2022. All comments received or postmarked during the comment period will be made available to the public and considered by BOEM prior to publication of the FSN.

ii. *Public Auction Seminar:* BOEM will host a public seminar to discuss the lease sale process and the auction format. The time and place of the seminar will be announced by BOEM. The announcement will also be posted on the BOEM website at *https://www.boem.gov/renewable-energy/state-activities/california.*

Neither registration nor RSVP is required to attend the auction seminar.

iii. *Submit Qualifications Materials:* All qualification materials must be received by BOEM by August 1, 2022. This includes materials sufficient to establish a company's legal, technical, and financial qualifications pursuant to 30 CFR 585.106–.107. To qualify to participate in this lease sale, qualification materials would need to be developed in accordance with the guidelines available at *https://www.boem.gov/Renewable-Energy-Qualification-Guidelines/.* If you wish to protect the confidentiality of your comments or qualification materials, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information with the caption ''Contains Confidential Information'' and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in section XX entitled, ''Protection of Privileged or Confidential Information.'' Information that is not labeled as privileged or confidential would be regarded by BOEM as suitable for public release.

b. *End of PSN Comment Period to FSN Publication:*

i. *Review Comments:* BOEM will review all comments submitted in response to the PSN during the comment period.

ii. *Finalize Qualifications Reviews:* Prior to the publication of the FSN, BOEM will complete its review of bidder qualification materials submitted during the PSN comment period. The final list of eligible bidders will be published in the FSN.

iii. *Prepare the FSN:* BOEM will prepare the FSN by updating information contained in the PSN where appropriate.

iv. *Publish FSN:* BOEM will publish the FSN in the **Federal Register**.

c. *FSN Waiting Period:* During the period between FSN publication and the lease auction (*i.e.,* minimum 30 days), qualified bidders would be required to take several steps to remain eligible to participate in the auction.

i. *Bidder's Financial Form:* Each bidder would be required to submit a BFF to BOEM to participate in the auction. The BFF would be required to contain each bidder's conceptual strategy for each non-monetary credit for which the bidder wishes to be considered, or qualifying Lease Area Use CBA if applicable. Each bidder would be required to submit to BOEM its BFF no later than the date listed in the FSN. BOEM may consider extensions to this deadline if BOEM determines that the failure to timely submit a BFF was caused by events beyond the bidder's control. The BFF will be available for download at: *https://www.boem.gov/renewable-energy/state-activities/california.*

As proposed, once BOEM has processed a BFF, the bidder would log into *pay.gov* to submit a bid deposit. For purposes of this auction, BOEM will not consider BFFs submitted by bidders for previous lease sales. Bidders must submit an original BFF signed by an authorized signatory by mail to BOEM's Pacific Regional Office for certification. Digital signatures affixed to the paper copy would be acceptable until further notice.

1. Your submission should be accompanied with a transmittal letter on company letterhead.

2. The BFF would be required to be executed by an authorized representative listed in the bidder's legal qualifications. Each bidder would be required to sign the self-certification in the BFF truthfully, under threat of criminal penalty for false statements in accordance with 18 U.S.C. 1001 (fraud and false statements).

3. Additional information regarding the BFF may be found below in section IX entitled, ''Bidder's Financial Form.''

ii. *Bid Deposit:* Each qualified bidder would be required to submit a bid deposit of $5,000,000 in order to bid for one Lease Area. If the FSN allows bidders to win up to two Lease Areas (one per region), a bid deposit of $10,000,000 would be required to bid on two Lease Areas (one per region). Bid deposits would be due no later than the date specified in the FSN. Further information about bid deposits can be found below in section X entitled, ''Bid Deposit.''

d. *Notification of Eligibility for Non-Monetary Credits:* BOEM will determine bidder eligibility for bid credits in each auction in which the bidder participates and will notify each bidder of the agency's determination prior to the mock auction.

e. *Mock Auction:* BOEM proposes to hold a mock auction that is open only to qualified bidders who have met the requirements and deadlines for auction participation, including submission of the bid deposit. Final details of the mock auction will be provided in the FSN.

f. *The Auction:* BOEM, through its contractor, would conduct the auction as described in the FSN. The auction would occur no sooner than 30 days following publication of the FSN in the **Federal Register**. The estimated timeframes described in this PSN assume the auction would occur approximately 45 days after FSN publication. Final dates would be included in the FSN. BOEM would announce the provisional winners of the lease sale after the auction ends.

g. *From the Auction to Lease Execution:*

i. *Notice and Refunds to Non-Winners:* Once the provisional winners have been announced, BOEM would notify the other bidders, include a written explanation of why they did not win, and return their bid deposits.

ii. *Department of Justice (DOJ) Review:* DOJ would have 30 days in which to conduct an antitrust review of the auction, pursuant to 43 U.S.C 1337(c).

iii. *Delivery of the Lease:* BOEM would send three copies of the lease to each winning bidder, with instructions on how to sign the lease. Each winning bidder would be required to pay the first year's rent within 45 calendar days after receiving the lease copies.

iv. *Return the Lease:* Within 10 business days of receiving the lease copies, each winning bidder would be required to file financial assurance, pay any outstanding balance of its bonus bids (*i.e.,* winning monetary bid less the applicable non-monetary bidding credit and bid deposit), and sign and return the three lease copies. A winning bidder would be allowed to request a deadline extension. BOEM could grant the request if BOEM determines the cause of the delay was beyond the winning bidder's control pursuant to 30 CFR 585.224(e).

v. *Execution of Lease:* Once BOEM has received the signed lease copies and verified that all other required obligations have been met, BOEM would determine, in its discretion, whether to sign and execute the lease.

VI. Withdrawal of Blocks

BOEM reserves the right to withdraw all or portions of the Lease Areas prior to executing the leases with the winning bidders.

VII. Lease Terms and Conditions

BOEM has made available the proposed terms and conditions for the commercial leases that might be offered through this proposed sale. BOEM reserves the right to require compliance with additional terms and conditions associated with approval of a site assessment plan (SAP) and COP. The proposed leases are on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/california.* Each lease would include the following attachments:

1. Addendum A (''Description of Leased Area and Lease Activities'');

2. Addendum B (''Lease Term and Financial Schedule'');

3. Addendum C (''Lease-Specific Terms, Conditions, and Stipulations'');

4. Addendum D (''Project Easement''); and

5. Addendum E (''Rent Schedule'').

Addenda A, B, and C provide detailed descriptions of proposed lease terms and conditions. Addenda D and E would be completed at the time of COP approval or approval with modifications. After considering comments on the PSN and proposed lease, BOEM would publish final lease terms and conditions in the FSN.

a. *Required Plans for Potential Development of Executed Leases:* Under 30 CFR 585.601, if site assessment activities will be conducted, the leaseholder would be required to submit a SAP within 12 months of lease issuance. Approval of the SAP will initiate the Lessee's five-year site assessment term. If the Lessee intends to continue its commercial lease with an operations term, the leaseholder would be required to submit a COP at least six months before the end of the site assessment term.

b. *Proposed New or Revised Lease Stipulations:* BOEM proposes to include or revise the following lease stipulations or provisions from previous commercial leases as follows:

i. *Commercial Fisheries:* BOEM proposes to include a stipulation in the lease entitled ''Commercial Fisheries,'' which would contain components of stipulations in prior commercial leases issued by BOEM, including a requirement for a Fisheries Communications Plan (FCP). BOEM is proposing to add elements to this stipulation in response to its extensive engagement with Tribal governments, the fishing industry, and governmental agencies. Major proposed revisions include: (i) Identifying dock space and transit routes that would minimize space use conflicts and potential impacts to protected species; (ii) minimizing both congestion and the creation of obstacles that could result in an increased risk of entanglement; (iii) to the extent practicable, prioritizing Federal and State climate change adaptation strategies for fisheries; and (iv) requirement that the Lessee contact potentially affected commercial fishing communities prior to submitting its COP to discuss potential conflicts between seasonal fishing operations and the Lessee's survey and development activities.

ii. *Protected Species:* In May 2022, BOEM published a Final Humboldt Wind Energy Area EA, that included the most current Measures to Minimize Potential Adverse Impacts to Birds and Typical Mitigation Measures for Protected Marine Species. BOEM proposes to include in the leases these measures, or the most current version of these measures from either the Final Morro Bay Wind Energy EA, or from consultation processes undertaken for/applicable to this lease sale, as appropriate. These measures for protecting birds and marine species are based upon the most up-to-date information. Any additional protective measures arising from consultation processes undertaken for/applicable to this lease sale would be incorporated into the leases.

iii. *Native American Tribes Communications Plan (NATCP):* BOEM proposes to revise the NATCP requirements in previous commercial leases to require the Lessee to work with BOEM and the California Native American Heritage Commission to identify Tribes with cultural and/or historical ties to the Lease Areas and invite those Tribes to participate in the development of the NATCP. The NATCP would also include protocols for unanticipated discovery of any potential pre-contact archaeological resource(s).

iv. *Project Labor Agreements (PLAs) and Supply Chain:* BOEM is committed to a clean energy future, workforce development and safety, and the establishment of a durable domestic supply chain that can sustain the U.S. offshore wind energy industry. To advance this vision, BOEM is proposing two lease stipulations, one that would encourage construction efficiency for projects and the other that would contribute towards establishing a domestic supply chain:

1. The first stipulation would require Lessees to make every reasonable effort to enter into a PLA covering the construction stage of any project proposed for the Lease Areas. The PLA provisions for the construction of an offshore wind project would apply to all contractors.

2. The second stipulation would require Lessees to establish a Statement of Goals in which the Lessee would describe its plans for contributing to the creation of a robust and resilient U.S.-based offshore wind industry supply chain. The Lessee would be required to provide regular progress updates on the achievement of those goals to BOEM, and BOEM would make those updates publicly available.

v. *Research Access:* This stipulation would make explicit BOEM's reservation of the right to access the lease area for purposes of future research and other activities.

vi. *Archaeological Survey Requirements:* BOEM proposes a modification of BOEM's prior lease stipulations regarding archaeological survey requirements. The revised stipulation would require that the Lessee provide a description of the methods it uses to conduct archaeological surveys in support of Plans (*i.e.,* SAP and/or COP), in addition to survey results. The Lessee would be required to coordinate a Tribal pre-survey meeting with Tribes identified by BOEM and in the NATCP. In the post-review discovery clauses, the revised stipulation would require that, in the event of unanticipated discovery of a potential archaeological resource, the Lessee would immediately halt bottom-disturbing activities within the area of discovery by a minimum of 50 meters (164 feet), and the avoidance distance must be calculated from the maximum discernible extent of the archaeological resource. The revised stipulation would also add a requirement in the post-review discovery clauses that the Lessee refer to the NATCP for additional guidance on notifications.

VIII. Lease Financial Terms and Conditions

This section provides an overview of the required annual payments and financial assurances under the leases. Please see the proposed leases for more information.

a. *Rent:* Pursuant to 30 CFR 585.224(b) and 585.503, the first year's rent payment of $3 per acre would be due within 45 calendar days after the Lessee receives the lease copies from BOEM. For example, for a 69,031-acre lease (the size of OCS–P 0562), the rent payment will be $207,093 per year until commercial operations begin. Thereafter, annual rent payments would be due on the anniversary of the effective date of the lease (the ''Lease Anniversary''). Once commercial operations under the lease begin, BOEM would charge rent only for the portions of the Lease Area remaining undeveloped (*i.e.,* non-generating acreage).

If the Lessee submits an application for relinquishment of a portion of its leased area within the first 45 calendar days after receiving the lease copies from BOEM and BOEM approves that application, no rent payment would be due on the relinquished portion of the Lease Area. Later relinquishments of any portion of the Lease Area would reduce the Lessee's rent payments starting in the year following BOEM's approval of the relinquishment.

The Lessee also would be required to pay rent for any project easement associated with the lease. Rent would commence on the date that BOEM approves the COP (or modification thereof) that describes the project easement as outlined in 30 CFR 585.500(a)(5) and 585.507(b). Annual rent for a project easement is $5 per acre, subject to a minimum of $450 per year.

b. *Operating Fee:* For purposes of calculating the initial annual operating fee payment under 30 CFR 585.506, BOEM would apply an operating fee rate to a proxy for the wholesale market value of the electricity expected to be generated from the project during its first 12 months of operations. This initial payment would be prorated to reflect the period between the commencement of commercial operations and the Lease Anniversary. The initial annual operating fee payment would be due within 45 days of the commencement of commercial operations. Thereafter, subsequent annual operating fee payments would be due on or before the Lease Anniversary.

The subsequent annual operating fee payments would be calculated by multiplying the operating fee rate by the imputed wholesale market value of the projected annual electric power production. For the purposes of this calculation, the imputed market value would be the product of the project's annual nameplate capacity, the total number of hours in the year (8,760), the capacity factor, and the annual average price of electricity derived from a regional wholesale power price index. For example, the annual operating fee for a 976 megawatt (MW) wind facility operating at a 40 percent capacity (*i.e.,* capacity factor of 0.4) with a regional wholesale power price of $40 per megawatt hour (MWh) and an operating fee rate of 0.02 would be calculated as follows:

$$\text{Annual Operating Fee} = 976\ \text{MW} \times 8{,}760\,\frac{\text{hrs}}{\text{year}} \times 0.4 \times \frac{\$40}{\text{MWh}}\,\text{Power Price} \times 0.02 = \$2{,}736{,}820.22$$

i. *Operating Fee Rate:* The operating fee rate would be the share of imputed wholesale market value of the projected annual electric power production due to ONRR as an annual operating fee. For the Lease Areas, BOEM proposes to set the fee rate at 0.02 (*i.e.,* 2 percent) for the entire life of commercial operations.

ii. *Nameplate Capacity:* Nameplate capacity would be the maximum rated electric output, expressed in MW, that the turbines of the wind facility under commercial operations can produce at their rated wind speed, as designated by the turbine's manufacturer. For

example, if the Lessee installed 100 turbines, and each is rated by the manufacturer at 12 MW, the nameplate capacity of the wind facility would be 1,200 MW.

iii. *Capacity Factor:* The capacity factor relates to the amount of energy delivered to the grid during a period of time compared to the amount of energy the wind facility would have produced at full capacity during that same period of time. This factor is represented as a decimal between zero (0) and one (1). There are several reasons why the amount of power delivered is less than the theoretical 100 percent of capacity. For a wind facility, the capacity factor is mostly determined by the availability of wind. Transmission line loss and downtime for maintenance or other purposes also affect the capacity factor.

BOEM proposes to set the capacity factor at 0.4 (*i.e.,* 40 percent) for the year in which the commercial operation date occurs and for the first six full years of commercial operations on the lease. At the end of the sixth year, BOEM may adjust the capacity factor to reflect the performance over the previous five years based upon the actual metered electricity generation at the delivery point to the electrical grid. BOEM may make similar adjustments to the capacity factor once every five years thereafter.

iv. *Wholesale Power Price Index:* Under 30 CFR 585.506(c)(2)(i), the wholesale power price, expressed in dollars per MWh, would be determined at the time each annual operating fee payment is due. For the leases offered in this sale, BOEM proposes to use the annual average of CAISO North of Path 15 (NP15) market hub price. Aggregated data from commercial subscription services such as S&P Global Market Intelligence Platform or Hitachi ABB Velocity Suite can also be used and may be posted by BOEM for reference.

c. *Financial Assurance:* Within 10 business days after receiving the lease copies and pursuant to 30 CFR 585.515–.516, each provisional winner would be required to provide an initial lease-specific bond or other BOEM-approved financial assurance instrument in the amount of $100,000. BOEM encourages the provisionally winning bidders to discuss the financial assurance instrument requirements with BOEM as soon as possible after the auction has concluded.

BOEM would base the amount of all SAP, COP, and decommissioning financial assurance on cost estimates for meeting all accrued lease obligations at the respective stages of development. The required amount of supplemental and decommissioning financial assurance would be determined on a case-by-case basis.

The financial terms described above can be found in Addendum ''B'' of the lease, which is available at: *https://www.boem.gov/renewable-energy/state-activities/california.*

IX. Bidder's Financial Form

Each bidder would be required to fill out the BFF referenced in this PSN. A copy of the proposed form is available at: *https://www.boem.gov/renewable-energy/state-activities/california.* BOEM recommends that each bidder designate an email address in its BFF that the bidder would then use to create an account in *pay.gov* (if it has not already done so). BOEM would not consider previously submitted BFFs for previous lease sales to satisfy the requirements of this auction. BOEM may consider BFFs submitted after the deadline set in the FSN if BOEM determines that the failure to timely submit the BFF was caused by events beyond the bidder's control. BOEM would only accept an original, executed paper copy of the BFF. The BFF would be required to be executed by an authorized representative listed in the qualification package on file with BOEM.

X. Bid Deposit

Each qualified bidder would be required to submit a bid deposit no later than the date listed in the FSN. Typically, this deadline is approximately 30 calendar days after the publication of the FSN. BOEM may consider extensions to this deadline only if BOEM determines that the failure to timely submit the bid deposit was caused by events beyond the bidder's control.

Following the auction, bid deposits would be applied against the winning bid and other obligations owed to BOEM. If a bid deposit exceeds that bidder's total financial obligation, BOEM would refund the balance of the bid deposit to the bidder. BOEM would refund bid deposits to the other bidders once BOEM has announced the provisional winner.

If BOEM offers a lease to a provisionally winning bidder and that bidder fails to timely return the signed lease, establish financial assurance, or pay the balance of its bid, BOEM would retain the bidder's $5,000,000 bid deposit for one Lease Area or $10,000,000 bid deposit for two Lease Areas (one per region). In such a circumstance, BOEM would reserve the right to offer a lease to the next highest bidder as determined by BOEM.

XI. Minimum Bid

The minimum bid is the lowest bid BOEM would accept as a winning bid, and it is where BOEM would start the bidding in the auction. BOEM proposes a minimum bid of $100.00 per acre for this lease sale. See chart in section XII.(b) below for total minimum bids for each lease to be offered in these sales.

XII. Auction Procedures

a. *Multiple-Factor Bidding Auction:* As authorized under 30 CFR 585.220(a)(4) and 585.221(a)(6), BOEM proposes to use a multiple-factor bidding auction for this lease sale. Under BOEM's proposal, the bidding system for this lease sale would be a multiple-factor combination of monetary and non-monetary factors. The bid made by a particular bidder in each round would represent the sum of a monetary (cash) amount and a non-monetary factor (bidding credit). BOEM proposes to start the auction using the minimum bid price for the Lease Areas and to increase that price incrementally until no more than one active bidder per Lease Area remains in the auction.

b. *The Auction:* Using an online bidding system to host the auction, BOEM would start the bidding for Leases OCS–P 0561 through 0565, as described below.

Lease area name	Lease area ID	Acres	Minimum bid
North Coast Region:			
Humboldt NE	OCS–P 0561	63,338	$6,333,800
Humboldt SW	OCS–P 0562	69,031	6,903,100
Central Coast Region:			
Morro Bay NW	OCS–P 0563	80,062	8,006,200
Morro Bay C	OCS–P 0564	80,418	8,041,800
Morro Bay E	OCS–P 0565	80,418	8,041,800
Total	.....	*373,268*	.....

The precise auction process will depend on limitations, to be established in the FSN, on the number of Lease Areas a bidder can bid for and win. BOEM is proposing that bidders will be able to bid for at most one Lease Area in the offered Central Coast Region at a time and for at most one Lease Area in the offered North Coast Region at a time. Ultimately, a bidder could win a maximum of one Lease Area in the Central Coast Region and one Lease Area in the North Coast Region, as described in section XIII.(b)(i), below. BOEM also requests comments on an alternative limitation, whereby bidders would be permitted to bid for at most one Lease Area in total at a time, and ultimately win at most one Lease Area in total, as described in section XIII.(b)(ii), below.

i. *If bidders are allowed to bid for and win one Lease Area per region:* The two regions (North Coast and Central Coast) would be offered in two separate auctions that would run simultaneously. A bidder would need to indicate in its BFF which region's auction it is entering (or select both) and it would need to submit a deposit for each region's auction that it is entering. Bidders eligible to bid in each auction must select the correct region's page from the auction homepage before placing a bid. A bidder's eligibility is region-specific. There would be no switching between regions. Thus, if a bidder elects to bid in only one region, it may not bid in the other region at any time in the auction. Once a bidder places an exit bid in a region (or submits no bid in the region at all, in a round when the bidder is eligible to bid), it would become ineligible to continue to bid in that region.

Alternatively, BOEM is considering administering the auction as described in section XIII.(b)(ii) below.

ii. *If bidders are allowed to bid for and win only one Lease Area:* All of the Lease Areas would be offered in a single auction, and there would be no distinctions made between the North Coast and Central Coast Regions within the auction process. A bidder would not be required to select in its BFF the region in which it is bidding and would supply a single deposit. Under this proposal, a bidder could bid for at most one Lease Area at a time and ultimately win at most one Lease Area, but a bidder could switch its bids among Lease Areas between rounds.

iii. *Regardless of whether BOEM ultimately structures the lease sale as described in (i) or (ii), above, BOEM proposes to apply the following auction rules:* Each auction would be conducted in a series of rounds. At the start of each round, BOEM would state an asking price for each Lease Area. If a bidder is willing to meet that asking price for one of the Lease Areas, it would indicate its intent by submitting a bid equal to the asking price. A bid at the full asking price is referred to as a ''live bid.'' To participate in the next round of the auction, a bidder would be required to have submitted a live bid for one of the Lease Areas (or have a carried-forward bid) in each previous round.

As long as there are two or more live bids (including carried-forward bids) for at least one of the Lease Areas in the given auction, the auction would move to the next round. BOEM would raise the asking price for each Lease Area that received two or more live bids in the previous round. Asking price increments would be determined based on several factors, including (but not necessarily limited to) the expected time needed to conduct the auction and the number of rounds that have already occurred. BOEM would reserve the right to increase or decrease bidding increments as it deems appropriate. If there was only one live bid (including carried-forward bids) or no live bids for a Lease Area in the previous round, the asking price would not be increased. A bid would automatically be carried forward if it was uncontested in the previous round, and the bidder who placed the uncontested bid would not be permitted to place any other bid in the current round of the auction.

A bidder that submitted a contested live bid in the previous round would be free to bid on any Lease Area in the given auction in the next round, at the new asking prices.

If a bidder decides to stop bidding before the final round of the auction, there could be circumstances in which the bidder could nonetheless win a lease. For example, that bidder could be ultimately selected in the winner determination that is described in detail below, or the winning bidder might be disqualified at the award stage of the auction. In these circumstances, the bidder would be bound by its bid and thus obligated to pay the full bid amount. Bidders therefore might be bound by any of their bids up to and until the point at which the auction results are finalized.

Between rounds, BOEM would disclose to all bidders that submitted bids in the previous round: (1) The number of live bids (including carried-forward bids) for each Lease Area in the previous round of the auction (*i.e.,* the level of demand at the asking price); and (2) the asking price for each Lease Area in the upcoming round of the auction.

In any round after the first round, a bidder would be allowed to submit an ''exit bid'' only for the same Lease Area as the bidder's contested live bid in the previous round. An exit bid is a bid that is greater than the previous round's asking price, but less than the current round's asking price. An exit bid is *not* a live bid, and it represents the final bid that a bidder may submit in the given auction. A bidder would not be allowed to submit both an exit bid on one of the Lease Areas and a live bid on a different Lease Area in the given auction. During the auction, the exit bid would be seen only by BOEM and not by other bidders.

An auction would end when a round occurs in which each of the Lease Areas in the auction receives one or zero live bids (including carried-forward bids), regardless of the number of exit bids on any Lease Area. If the North Coast Region and Central Coast Region are offered in two separate auctions, then one of these separate auctions may end before the other. After the bidding ends, BOEM would determine the provisionally winning bid for each Lease Area in the given auction by the following two-stage procedure, applying the procedure separately to each auction if there are two separate auctions.

In stage one, the highest bid (live bid or exit bid) received for each Lease Area in the final round would be designated the provisionally winning bid, if there is a single highest bid. In the event of a tie (*i.e.,* if two or more bidders submitted identical highest exit bids for the same Lease Area), the selection of one of the highest exit bids would be deferred until stage two.

In stage two, BOEM would assign to provisionally winning bidders all Lease Areas that were not so assigned to provisionally winning bidders in stage one (either because a Lease Area received two or more identical highest exit bids in the final round or because it received no bids in the final round). BOEM would, in stage two, consider bids from all bidding rounds for Lease Areas that were not assigned in stage one from bidders not assigned a Lease Area in stage one. BOEM would select the combination of such bids that maximizes the sum of the bid amounts of the selected bids, subject to the following constraints: (1) Each Lease Area that received multiple highest exit bids in the final round (but no live bid) must be assigned to one of the bidders that submitted the highest exit bid; (2) at most one bid from each bidder can be selected; and (3) at most one bid for each Lease Area can be selected. If there is a unique combination of bids that solves this maximization problem, then these bids would be deemed to be the

remaining provisionally winning bids. If two or more combinations of bids tie by producing the same maximized sum of bid amounts, the auction system would select one of the combinations by use of pseudorandom numbers. The provisional winners would pay the amounts of their provisionally winning bids, or risk forfeiting their bid deposits. A provisional winner will be disqualified if it is subsequently found to have violated auction rules or BOEM regulations, or otherwise engaged in conduct detrimental to the integrity of the competitive auction. If a bidder submits a bid that BOEM determines to be a provisionally winning bid, the bidder must sign the applicable lease documents, establish financial assurance, and submit the balance (if any) of its bonus bid (*i.e.,* winning monetary bid less the applicable non-monetary bidding credit and bid deposit) within 10 business days of receiving the lease copies, pursuant to 30 CFR 585.224. BOEM would reserve the right not to issue the lease to a provisionally winning bidder if that bidder fails to: Timely return the signed lease form, establish adequate financial assurance, pay the balance of its winning bid, or otherwise fail to comply with applicable regulations or the terms of the FSN. In that case, the bidder would forfeit its bid deposit.

BOEM would publish the provisional winners and the provisionally winning bid amounts shortly after the conclusion of the sale. Full bid results, including round-by-round results of the entire sale, including exit bids, would be published on BOEM's website after review of the results and announcement of the provisional winners.

c. *Additional Information Regarding the Auction Format:*

i. *Authorized Individuals and Bidder Authentication:* A company that is eligible to participate in the auction would identify on its BFF up to three individuals who would be authorized to bid on behalf of the company, including their names, business telephone numbers, and email addresses. After BOEM processes the bid deposits, the auction contractor would send several emails to the authorized individuals. The emails would contain user login information and instructions for accessing the bidder manual for the auction system and the auction system technical supplement (ASTS).

The auction system would require software tokens for two-factor authentication. To set up the tokens, authorized individuals would download an app onto their smartphone or tablet with a recent operating system. One of the emails sent to authorized individuals would contain instructions for installing the app and the credentials needed to activate the software token. A short telephone conversation with the auction contractor could also be needed to use the credentials. The login information, along with the tokens, would be tested during the mock auction. If an eligible bidder failed to submit a bid deposit or did not participate in the auction, BOEM would de-activate that bidder's tokens and login information.

ii. *Timing of Auction:* The FSN will provide specific information regarding when bidders can enter the auction system and when the auction will start.

iii. *Messaging service:* BOEM and the auction contractors would use the auction platform messaging service to keep bidders informed on issues of interest during the auction. For example, BOEM could change the schedule at any time, including during the auction. If BOEM changes the schedule during an auction, it would use the messaging feature to notify bidders that a revision has been made and will direct bidders to the relevant page. BOEM would also use the messaging system for other updates during the auction.

Bidders could place bids at any time during the round. At the top of the bidding page, a countdown clock shows how much time remains in the round. Bidders would have until the scheduled time to place bids. Bidders should do so according to the procedures described in the FSN and the ASTS. Information about the round results would be made available only after the round has closed, so there would be no strategic advantage to placing bids early or late in the round.

The ASTS elaborates on the auction procedures described in this PSN. In the event of any inconsistency between the Bidder Manual, the ASTS, and the FSN, the FSN would be controlling.

iv. *Alternate Bidding Procedures:* It would be the responsibility of the bidder to ensure it has a working internet connection and backup procedures in place in case its internet connection is disrupted during the auction. Such backup procedures may include redundant internet connections, multiple individuals authorized to place bids on behalf of the company, geographically dispersing individuals who are authorized to bid (with different internet connections), or placing bids using a mobile data connection. The bidder would be responsible for testing its backup procedures ahead of time. This could be done during the mock auction, for example.

XIII. Rejection or Non-Acceptance of Bids

BOEM would reserve the right and authority to reject any and all bids that do not satisfy the requirements and rules of the auction, the FSN, or applicable regulations and statutes.

XIV. Anti-Competitive Review

Bidding behavior in this sale would be subject to Federal antitrust laws. Following the auction, but before the acceptance of bids and the issuance of the lease, BOEM would ''allow the Attorney General, in consultation with the Federal Trade Commission, thirty days to review the results of [the] lease sale.'' 43 U.S.C. 1337(c)(1). If a provisionally winning bidder is found to have engaged in anti-competitive behavior in connection with this lease sale, BOEM will reject its provisionally winning bid. Compliance with BOEM's auction procedures and regulations would not be an absolute defense to violations of antitrust laws.

Anti-competitive behavior determinations would be fact-specific. However, such behavior could manifest itself in several different ways, including, but not limited to:

1. An express or tacit agreement among potential bidders not to bid in an auction, or to bid a particular price;

2. An agreement among potential bidders not to bid;

3. An agreement among bidders not to bid against each other; or

4. Other agreements among bidders that have the potential to affect the final auction price.

Pursuant to 43 U.S.C. 1337(c)(3), BOEM will decline to award a lease if the Attorney General, in consultation with the Federal Trade Commission, determines that awarding the lease could be inconsistent with antitrust laws.

For more information on whether specific communications or agreements could constitute a violation of Federal antitrust law, please see *https://www.justice.gov/atr/business-resources* and consult legal counsel.

XV. Process for Issuing the Lease

Once all post-auction reviews have been completed to BOEM's satisfaction, BOEM would issue three unsigned copies of the lease to each provisionally winning bidder. Within 10 business days after receiving the lease copies, the provisionally winning bidders would be required to:

1. Sign and return the lease copies on the bidder's behalf;

2. File financial assurance, as required under 30 CFR 585.515–537; and

3. Pay by electronic funds transfer (EFT) the balance (if any) of the bonus bid (winning monetary bid less the applicable non-monetary bidding credit and bid deposit). BOEM would require bidders to use EFT procedures (not *pay.gov,* the website bidders used to submit bid deposits) for payment of the balance of the bonus bid, following the detailed instructions contained in the ''Instructions for Making Electronic Payments'' available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/eft-payment-instructions-ca.*

BOEM would not execute the lease until the three requirements above have been satisfied. BOEM could extend the 10 business-day deadline if BOEM determines the delay was caused by events beyond the provisionally winning bidder's control.

If a provisionally winning bidder does not meet these requirements or otherwise fails to comply with applicable regulations or the terms of the FSN, BOEM reserves the right not to issue the lease to that bidder. In such a case, the provisionally winning bidder would forfeit its bid deposit. Also, in such a case, BOEM reserves the right to identify the next highest bid for that Lease Area submitted during the lease sale by a bidder who has not won one of the other Lease Areas and to offer the lease to that bidder pursuant to its bid.

Within 45 calendar days after receiving the lease copies, each provisionally winning bidder would be required to pay the first year's rent using the ''ONRR Renewable Energy Initial Rental Payments'' form available at: *https://www.pay.gov/public/form/start/27797604/.*

Subsequent annual rent payments would be required to be made following the detailed instructions contained in the ''Instructions for Making Electronic Payments,'' available on BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/california.*

XVI. Non-Procurement Debarment and Suspension Regulations

Pursuant to 43 CFR part 42, subpart C, an OCS renewable energy Lessee would be required to comply with the Department of the Interior's non-procurement debarment and suspension regulations at 2 CFR parts 180 and 1400. The Lessee would also be required to communicate this requirement to persons with whom the Lessee does business relating to this lease by including this term as a condition in their contracts and other transactions.

XVII. Final Sale Notice

The development of the FSN would be informed through the EAs, related consultations, and comments received during the PSN comment period. The FSN will provide the final details concerning the offering and issuance of an OCS commercial wind energy lease in the Lease Areas offshore California. The FSN will be published in the **Federal Register** at least 30 days before the lease sale is conducted and will provide the date and time of the auction.

XVIII. Changes to Auction Details

The Regional Director of BOEM's Pacific Regional Office has the discretion to change any auction detail specified in the FSN, including the date and time, if s/he deems that events outside BOEM's control may interfere with a fair and proper lease sale. Such events may include, but are not limited to, natural disasters (*e.g.,* earthquakes, hurricanes, floods, and blizzards), wars, riots, act of terrorism, fire, strikes, civil disorder, Federal Government shutdowns, cyberattacks against relevant information systems, or other events of a similar nature. In case of such events, BOEM would notify all qualified bidders via email, phone, and BOEM's website at: *https://www.boem.gov/renewable-energy/state-activities/california.* Bidders should call (703) 787–1121 if they have concerns.

XIX. Appeals

The bid rejection procedures are provided in BOEM's regulations at 30 CFR 585.225 and 585.118(c). Under 30 CFR 585.225:

(a) If BOEM rejects your bid, BOEM will provide a written statement of the reasons and will refund any money deposited with your bid, without interest.

(b) You may ask the BOEM Director for reconsideration, in writing, within 15 business days of bid rejection, under 30 CFR 585.118(c)(1). The Director will send you a written response either affirming or reversing the rejection.

The procedures for requesting reconsideration of a bid rejection are described in 30 CFR 585.118(c).

XX. Public Participation

BOEM does not consider anonymous comments; please include your name and address as part of your comment. You should be aware that your entire comment, including your name, address, and any other personal identifiable information (PII) included in your comment, may be made publicly available. All submissions from identified individuals, businesses, and organizations may be available for public viewing on regulations.gov.

In order for BOEM to withhold from disclosure your PII, you must identify any information contained in your comment that, if released, would constitute a clearly unwarranted invasion of your personal privacy. You must also briefly describe any possible harmful consequences of the PII disclosure, such as embarrassment, injury, or other harm. BOEM is unable to guarantee that your PII will be protected from public disclosure because a court may determine that the benefits of disclosure about who may influence public policy outweigh possible harms.

XXI. Protection of Privileged or Confidential Information

BOEM will protect privileged or confidential information that you submit consistent with the Freedom of Information Act (FOIA) and 30 CFR 585.113. Exemption 4 of FOIA applies to ''trade secrets and commercial or financial information obtained from a person'' that is privileged or confidential (5 U.S.C. 552(b)(4)). If you wish to protect the confidentiality of such information, clearly mark it ''Contains Privileged or Confidential Information'' and consider submitting such information as a separate attachment. BOEM will not disclose such information, except as required by FOIA. Information that is not labeled as privileged or confidential may be regarded by BOEM as suitable for public release. Further, BOEM will not treat as confidential aggregate summaries of otherwise non-confidential information.

a. *Access to Information (54 U.S.C. 307103):* BOEM is required, after consultation with the Secretary of the Interior, to withhold the location, character, or ownership of historic resources if it determines that disclosure may, among other things, cause a significant invasion of privacy, risk harm to the historic resources, or impede the use of a traditional religious site by practitioners. Tribal entities and other interested parties should designate information that they wish to be held as confidential and provide the reasons why BOEM should do so.

(Authority: 43 U.S.C. 1337(p)); 30 CFR 585.211 and 585.216)

Amanda Lefton,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2022–11537 Filed 5–27–22; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1315]

Certain Digital Set-Top Boxes and Systems and Services Including the Same; Institution of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 22, 2022, under section 337 of the Tariff Act of 1930, as amended, on behalf of Broadband iTV, Inc., of Austin, Texas. Supplements to the complaint were filed on April 27, 2022, May 3, 2022, May 10, 2022, and May 12, 2022. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes and systems and services including the same by reason of infringement of certain claims of U.S. Patent No. 9,866,909 (''the '909 patent''); U.S. Patent No. 10,555,014 (''the '014 patent''); U.S. Patent No. 9,936,240 (''the '240 patent''); and U.S. Patent No. 11,277,669 (''the '669 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute. The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Hiner, Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2021).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 24, 2022, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain products identified in paragraph (2) by reason of infringement of one or more of claims 1–4 and 10–16 of the '909 patent; claims 1, 3–5, 7, 9, 10, and 12 of the '014 patent; claims 1–9 and 12–15 of the '240 patent; and claims 1–3 and 5–16 of the '669 patent, whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Pursuant to section 210.10(b)(1) of the Commission's Rules of Practice and Procedure, 19 CFR 210.10(b)(1), the plain language description of the accused products or category of accused products, which defines the scope of the investigation, is ''(i) imported set-top boxes, including streaming devices, for receiving television services and (ii) services and systems that incorporate the imported set-top boxes, and components of such systems, including servers, mobile streaming apps, content delivery networks, and ingestion tools;''

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Broadband iTV, Inc., 900 South Capital of Texas Highway, Building IV, Suite 480, Austin, TX 78746.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Comcast Corporation, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, PA 19103.

Comcast Cable Communications, LLC, One Comcast Center, 1701 John F. Kennedy Blvd., Philadelphia, PA 19103.

NBCUniversal Media, LLC, 100 Universal City Plaza, Universal City, CA 91608.

Charter Communications, Inc., 400 Washington Blvd., Stamford, CT 06902.

Charter Communications Operating, LLC, 12405 Powerscourt Dr., St. Louis, MO 63131.

Charter Communications Holding, Company, LLC, 12405 Powerscourt Dr., St. Louis, MO 63131.

Spectrum Management Holding, Company, LLC, 12405 Powerscourt Dr., St. Louis, Missouri 63131.

Altice USA, Inc., One Court Square West, Long Island City, NY 11101.

CSC Holdings, LLC, One Court Square, Long Island City, NY 11101.

Cablevision Systems Corp., 1111 Stewart Ave, Bethpage, New York 11714.

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), as amended in 85 FR 15798 (March 19, 2020), such responses will be considered by the Commission if received not later than 20 days after the date of service by the complainant of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 24, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–11547 Filed 5–27–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Telemanagement Forum

Notice is hereby given that, on April 22, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), TM Forum, A New Jersey Non-Profit Corporation (''The Forum'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following entities have become members of the Forum: Bit2win Srl, Roma, ITALY; ESRI, Redlands, CA; Aerospike, Mountain View, CA; CloudBlue, Irvine, CA; Lindsay Rodgers, Yorkshire, UNITED KINGDOM; Netcomp Peru, Lima, PERU; DFG CONSULTING, d.o.o., Ljubljana, SLOVENIA; Net AI Tech Ltd, Edinburgh, SCOTLAND; Effortel Technologies, Brussels, BELGIUM; Bruhati Solutions Ltd, Maidenhead, UNITED KINGDOM; MyRepublic Group Limited, Singapore, SINGAPORE; Nordcloud Oy, Helsinki, FINLAND; John Von Neumann Institute, Ho Chi Minh, VIETNAM; Mobifone Corporation, Hanoi, VIETNAM; Johan Vandenberghe, Kuurne, BELGIUM; KPMG International, London, UNITED KINGDOM; Jordan Mobile Telephone Services Company, Amman, JORDAN; ARABIAN NETWORK FOR PROJECTS LTD CO, Riyadh, SAUDI ARABIA; Ooredoo Group, Doha, QATAR; MASTEC QUADGEN WIRELESS LLP, Bangalore, INDIA; SEGMA COM, Giza, EGYPT; Business International Partners, Montevideo, URUGUAY; CENTRUM ROZWOJU SZKÓL WYŻSZYCH TEB AKADEMIA SP. Z O.O., Poznań, POLAND; Snowflake Inc., San Mateo, CA.

Also, the following members have changed their names: AsiaInfo Technologies (China) Co. Ltd., AsiaInfo Technologies (China), Inc., Beijing, PEOPLE'S REPUBLIC OF CHINA; VoltDB, Inc., Volt Active Data, Bedford, MA; InfoVista, Infovista, Herndon, VA; Six DEE Telecom Solutions Pvt Ltd, 6d Technologies, Bangalore, INDIA; PT Indosat TBK, Indosat Ooredoo Hutchison, Jakarta Pusat, INDONESIA; SATEC GROUP, alvatross by SATEC, Madrid, SPAIN.

In addition, the following parties have withdrawn as parties to this venture: American University of Ras Al Khaimah, Electronics and Communication Engineering and Computer Engineering, Ras Al Khaimah, UNITED ARAB EMIRATES; Avistas, Irving, TX; AWTG Limited, London, UNITED KINGDOM; Brno University of Technology, Faculty of Electrical Engineering and Communications, Brno, CZECH REPUBLIC; CommScope, Suwanee, GA; Consilience Technologies, Naperville, IL; Creativity Software, Surrey, UNITED KINGDOM; Eastwind, Ekaterinburg, RUSSIA; Eskadenia Software Telecom Billing, Amman, JORDAN; Fingerprint Consultancy, Cairo, EGYPT; Florida Institute of Technology, Melbourne, FL; Future Internet Consulting and Development Solutions S.L., Madrid, SPAIN; G. L. Bajaj Institute of Technology and Management, Greater Noida, INDIA; GETREVE LIMITED, London, UNITED KINGDOM; Go plc, Marsa, MALTA; HAWE Telekom Sp. z o. o., Warszawa, POLAND; Innovation Consulting Group, Riyadh, SAUDI ARABIA; Liberty Global Services B.V., Schiphol Rijk, NETHERLANDS; Manhattan College, Computer Information Systems, Riverdale, NY; Munich University of Applied Sciences, Munich, GERMANY; NMS Prime, Marienberg, GERMANY; OmniSci, San Francisco, CA; Openet, Dublin, IRELAND; Ovetix, Cape Town, SOUTH AFRICA; PortaOne, Inc, Coquitlam, CANADA; Safarifone Private Limited, Islamabad, PAKISTAN; Saudi eGovernment Program, Riyadh, SAUDI ARABIA; Smart City and Intelligent Computing Research Center of Lanzhou University, Lanzhou, PEOPLE'S REPUBLIC OF CHINA; Stevens Institute of Technology, Hoboken, NJ; Synergy Consulting, Dubai, UNITED ARAB EMIRATES; Teradata Corporation, San Diego, CA; Triple-Innovations Ltd, Zagreb, CROATIA; Universidad Pontificia Bolivariana, Engineering Faculty in Information and Communication Technology, Medellin, COLOMBIA; University of Antwerp, Department of Mathematics and Computer Science, Antwerp, BELGIUM; University of Split, Faculty of Electrical Engineering, Mechanical Engineering, and Naval Architecture, Split, CROATIA; University of Texas M.D. Anderson Cancer Center, Houston, TX; Vanrise Solutions, Beirut, LEBANON; Virgin Media, Hook, UNITED KINGDOM; Zeotap GmbH, Berlin, GERMANY; Z-Lift Solutions Inc., Makati City, PHILIPPINES; ZDSL.com, Kuala Lumpur, MALAYSIA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open and TM Forum intends to file additional written notifications disclosing all changes in membership.

On October 21, 1988, TM Forum filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on December 8, 1988 (53 FR 49615).

The last notification was filed with the Department on January 26, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13759).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–11515 Filed 5–27–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Border Security Technology Consortium

Notice is hereby given that, on May 2, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Border Security Technology Consortium (''BSTC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Huckworthy LLC, Cape Charles, VA; LAINE LLC dba LAINE Technologies, Goose Creek, SC; ManTech International Corporation, Herndon, VA; MetroStar Systems LLC, Reston, VA; Scientific Research Corporation, Atlanta, GA; The NOMAD Group LLC, Morristown, NJ; UEC Electronics, Hanahan, SC; and Universal Strategic Advisors LLC, Irvine, CA, have been added as parties to this venture.

Lastly, Border Security Technology Consortium (''BSTC'') has changed its name to Homeland Security Technology Consortium (''HSTech'').

No other changes have been made in either the membership or planned activity of the group research project.

Membership in this group research project remains open, and BSTC (now HSTech) intends to file additional written notifications disclosing all changes in membership.

On May 30, 2012, BSTC (now HSTech) filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 18, 2012 (77 FR 36292).

The last notification was filed with the Department on January 18, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13760).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–11512 Filed 5–27–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on May 6, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), PXI Systems Alliance, Inc. (''PXI Systems'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Millimeter Wave Systems, LLC, Amherst, MA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and PXI Systems intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 3, 2001 (66 FR 13971).

The last notification was filed with the Department on February 24, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 11, 2022 (87 FR 14044).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–11516 Filed 5–27–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—National Fire Protection Association

Notice is hereby given that, on April 28, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), National Fire Protection Association (''NFPA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities.

The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, NFPA has provided an updated and current list of its standards development activities, related technical committee and conformity assessment activities.

Information concerning NFPA regulations, technical committees, current standards, standards development and conformity assessment activities are publicly available at *nfpa.org.*

On September 20, 2004, NFPA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 21, 2004 (69 FR 61869). The last notification was filed with the Department on January 28, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 10, 2022 (87 FR 13755).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–11514 Filed 5–27–22; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Utility Broadband Alliance, Inc.

Notice is hereby given that, on May 12, 2022, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Utility Broadband Alliance, Inc. (''UBBA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Thales, Bellevue, WA; Baicells Tech, Plano, TX; Ceragon Networks, Richardson, TX; Cambridge Consultants, Boston, MA; Netscout, Westford, MA; Aclara (Hubbell), St. Louis, MO; and Streamwide, Lyndhurst, NJ, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and UBBA intends to file additional written notifications disclosing all changes in membership.

On May 4, 2021, UBBA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 10, 2021 (86 FR 30981).

The last notification was filed with the Department on January 28, 2022. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 11, 2022 (87 FR 14043).

Suzanne Morris,

Chief, Premerger and Division Statistics, Antitrust Division.

[FR Doc. 2022–11508 Filed 5–27–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Shah M. Mairuz Zaman, M.D.; Decision and Order

On December 30, 2021, a former Acting Assistant Administrator, Diversion Control Division, Drug Enforcement Administration (hereinafter, Government), issued an Order to Show Cause (hereinafter, OSC)

to Shah M. Mairuz Zaman, M.D. (hereinafter, Registrant) of Poughkeepsie, New York. OSC, at 1 and 3. The OSC proposed the revocation of Registrant's Certificate of Registration No. AM9630080. *Id.* at 1. It alleged that Registrant is ''without authority to handle controlled substances in New York, the state in which [he is] registered with DEA.'' *Id.* at 2 (citing 21 U.S.C. 824(a)(3)).

Specifically, the OSC alleged that on September 14, 2021, the New York State Education Department, Office of Professional Misconduct indefinitely suspended Registrant's state medical license and required its surrender after finding that Registrant ''had committed professional misconduct by failing to pay child support and maintenance.'' *Id.*

The OSC notified Registrant of the right to request a hearing on the allegations or to submit a written statement while waiving the right to a hearing, the procedures for electing each option, and the consequences for failing to elect either option. *Id.* (citing 21 CFR 1301.43). The OSC also notified Registrant of the opportunity to submit a corrective action plan. *Id.* at 3 (citing 21 U.S.C. 824(c)(2)(C)).

Adequacy of Service

In a Declaration dated April 25, 2022, a Diversion Investigator (hereinafter, the DI) assigned to the New York Field Division stated that on February 1, 2022, she and another DI traveled to Registrant's registered address to attempt service of the OSC, but Registrant was not there, and a receptionist at the registered address ''stated that she had not seen [Registrant] in months, that his office had been cleaned out, that his mailbox was completely full, and that he had left no forwarding address.'' Request for Final Agency Action (hereinafter RFAA), Exhibit (hereinafter, RFAAX) 3 (DI's Declaration), at 2. The DI also stated that on the same day, she and the second DI tried to serve the OSC to Registrant at three additional addresses that DEA had determined were potential residences of Registrant, but these attempts were unsuccessful as Registrant was not found at any of them. *Id.* Finally, the DI stated that on February 2, 2022, she sent a copy of the OSC to Registrant via his registered email address. *Id.* The DI stated that she did not receive any indication that the email was not delivered and that her review of her email system showed that the email had been delivered. *Id.* at 2–3; *see also id.* at Appendix (hereinafter, App.) B.

The Government forwarded its RFAA, along with the evidentiary record, to this office on April 27, 2022. In its RFAA, the Government represents that neither Registrant, nor any attorney representing Registrant, has requested a hearing or submitted a written statement. RFAA, at 1–2. The Government seeks revocation of Registrant's DEA registration because Registrant lacks authority to handle controlled substances in New York, the state in which he is registered with the DEA. *Id.* at 1.

Based on the DI's Declaration, the Government's written representations, and my review of the record, I find that the Government accomplished service of the OSC on Registrant on February 2, 2022. I also find that more than thirty days have now passed since the Government accomplished service of the OSC. Further, based on the DI's Declaration, the Government's written representations, and my review of the record, I find that neither Registrant, nor anyone purporting to represent the Registrant, requested a hearing, submitted a written statement while waiving Registrant's right to a hearing, or submitted a corrective action plan. Accordingly, I find that Registrant has waived the right to a hearing and the right to submit a written statement or corrective action plan. 21 CFR 1301.43(d) and 21 U.S.C. 824(c)(2)(C). I, therefore, issue this Decision and Order based on the record submitted by the Government, which constitutes the entire record before me. 21 CFR 1301.43(e).

Findings of Fact

Registrant's DEA Registration

Registrant is the holder of DEA Certificate of Registration No. AM9630080 at the registered address of 243 North Road, Suite 201-South, Poughkeepsie, New York 12601. RFAAX 1 (Certificate of Registration). Pursuant to this registration, Registrant is authorized to dispense controlled substances in schedules II through V as a practitioner. *Id.* Registrant's registration expires on May 31, 2024. *Id.*

The Status of Registrant's State License

On September 8, 2021, the University of the State of New York issued a Report of the Regents Review Committee (hereinafter, Report) as part of a disciplinary proceeding against Registrant.[1] RFAAX 3, App. A, at 2. According to the Report, Registrant was the respondent in post-divorce proceedings in the Columbia County Supreme Court, which determined that Registrant was in default for child and/or spousal support. *Id.* Accordingly, the Columbia County Supreme Court ordered the disciplinary proceeding against Registrant to suspend his license as a physician in the state of New York. *Id.* The Report found that Registrant's failure to pay child and/or spousal support constituted professional misconduct and recommended that his license be indefinitely suspended. *Id.* at 5–6. On September 14, 2021, the University of the State of New York issued an order indefinitely suspending Registrant's New York medical license until Registrant ''has made full payment of all arrears of child support and maintenance.'' *Id.* at 9–10. On September 17, 2021, the New York State Education Department, Office of Professional Discipline notified Registrant by letter of the order and directed Registrant to surrender his New York medical license and registration. *Id.* at 1.

According to New York's online records, of which I take official notice, Registrant's New York medical license is still indefinitely suspended.[2] Office of the Professions Verification Searches, *www.op.nysed.gov/opsearches.htm* (last visited date of signature of this Order). Accordingly, I find that Registrant is not currently licensed to engage in the practice of medicine in New York, the state in which he is registered with the DEA.

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (hereinafter, CSA) ''upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled

[1] It is noted that Registrant's name is listed in the New York licensing actions in Appendix A as ''Shah Mohammad Maniruz Zaman''; however, substantial evidence on the record supports my finding that this person is the same as Registrant.

[2] Under the Administrative Procedure Act, an agency ''may take official notice of facts at any stage in a proceeding—even in the final decision.'' United States Department of Justice, Attorney General's Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), ''[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.'' Accordingly, Registrant may dispute my finding by filing a properly supported motion for reconsideration of finding of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by email to the other party and to Office of the Administrator, Drug Enforcement Administration at *dea.addo.attorneys@dea.usdoj.gov.*

substances.'' With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper, M.D.,* 76 FR 71,371 (2011), *pet. for rev. denied,* 481 F. App'x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.,* 43 FR 27,616, 27,617 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined the term ''practitioner'' to mean ''a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper,* 76 FR at 71,371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39,130, 39,131 (2006); *Dominick A. Ricci, M.D.,* 58 FR 51,104, 51,105 (1993); *Bobby Watts, M.D.,* 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton,* 43 FR at 27,617.

According to the New York Controlled Substances Act (hereinafter, the Act), ''[i]t shall be unlawful for any person to manufacture, sell, prescribe, distribute, dispense, administer, possess, have under his control, abandon, or transport a controlled substance except as expressly allowed by this article.'' N.Y. Pub. Health Law § 3304 (McKinney 2022). Further, the Act defines a ''practitioner'' as ''[a] physician . . . or other person licensed, or otherwise permitted to dispense, administer or conduct research with respect to a controlled substance in the course of a licensed professional practice . . . .'' *Id.* at § 3302(27). Finally, New York regulations state that ''[a] prescription for a controlled substance may be issued only by a practitioner who is . . . authorized to prescribe controlled substances pursuant to his licensed professional practice . . . .'' N.Y. Comp. Codes R. & Regs. tit. 10, § 80.64 (2022).

Here, the undisputed evidence in the record is that Registrant currently lacks authority to practice medicine in New York. As already discussed, a physician must be a licensed practitioner to dispense a controlled substance in New York. Thus, because Registrant lacks authority to practice medicine in New York and, therefore, is not authorized to handle controlled substances in New York, Registrant is not eligible to maintain a DEA registration. Accordingly, I will order that Registrant's DEA registration be revoked.

Order

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. AM9630080 issued to Shah M. Mairuz Zaman, M.D. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(f), I hereby deny any pending application of Shah M. Mairuz Zaman, M.D. to renew or modify this registration, as well as any other pending application of Shah M. Mairuz Zaman, M.D. for additional registration in New York. This Order is effective June 30, 2022.

Anne Milgram,

Administrator.

[FR Doc. 2022–11511 Filed 5–27–22; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

[OMB Number 1123–0013]

Agency Information Collection Activities; Proposed eCollection eComments Requested; United States Victims of State Sponsored Terrorism Fund Application Form

AGENCY: Criminal Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The U.S. Department of Justice, Criminal Division, United States Victims of State Sponsored Terrorism Fund, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 1, 2022.

FOR FURTHER INFORMATION CONTACT: Additional comments, especially on the estimated public burden or associated response time, suggestions, or need for a copy of the proposed information collection instrument with instructions, or additional information, should be directed to either the Special Master, United States Victims of State Sponsored Terrorism Fund, or the Chief, Program Management and Training Unit, Money Laundering and Asset Recovery Section, Criminal Division, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530–0001, telephone (202) 353–2046.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of these four points:

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. Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; 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 submission of responses.

Overview of this information collection:

1. *Type of Information Collection:* Revision of a currently approved collection.

2. *The Title of the Form/Collection:* Application Form for the United States Victims of State Sponsored Terrorism Fund (USVSST Fund).

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form number: N/A. The U.S. Victims of State Sponsored Terrorism Fund, U.S. Department of Justice, Criminal Division.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

The USVSST Fund was established to provide compensation to certain

individuals who were injured as a result of acts of international terrorism by a state sponsor of terrorism. Under the Justice for United States Victims of State Sponsored Terrorism Act (Act), 34 U.S.C. 20144(c), as amended, an eligible claimant is (1) a U.S. person, as defined in 34 U.S.C. 20144(j)(8), with a final judgment issued by a U.S. district court under state or federal law against a state sponsor of terrorism and arising from an act of international terrorism, for which the foreign state was found not immune under provisions of the Foreign Sovereign Immunities Act, codified at 28 U.S.C. 1605A or 1605(a)(7) (as such section was in effect on January 27, 2008); (2) a U.S. person, as defined in 34 U.S.C. 20144(j)(8), who was taken and held hostage from the United States Embassy in Tehran, Iran, during the period beginning November 4, 1979, and ending January 20, 1981; or the spouse and child of that U.S. person at that time, who is also identified as a member of the proposed class in case number 1:00–CV–03110 (EGS) of the United States District Court for the District of Columbia; or (3) the personal representative of a deceased individual in either of those two categories.

The information collected from the USVSST Fund's Application Form will be used to determine whether applicants are eligible for compensation from the USVSST Fund, and if so, the amount of compensation to be awarded. The Application Form consists of parts related to eligibility and compensation. The eligibility parts seek the information required by the Act to determine whether a claimant is eligible for payment from the USVSST Fund, including information related to participation in federal lawsuits against a state sponsor of terrorism under the Foreign Sovereign Immunities Act. The compensation parts seek the information required by the Justice for United States Victims of State Sponsored Terrorism Act, as amended, to determine the amount of compensation for which the claimant is eligible. Specifically, the compensation parts seek information regarding the amount of compensatory damages awarded the claimant in a final judgment as well as any payments from sources other than the USVSST Fund, as defined in 34 U.S.C. 20144(j)(6), that the claimant received, is entitled to receive, or is scheduled to receive, as a result of the act of international terrorism by a state sponsor of terrorism.

5. *An estimate of the total number of applicants and the amount of time estimated for an average applicant to respond:* It is estimated that 700 respondents may complete the Application Form. It is estimated that respondents will complete the paper form or the electronic form in an average of 1.25 hours.

6. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 875 hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

Dated: May 25, 2022.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2022–11621 Filed 5–27–22; 8:45 am]

BILLING CODE 4410–14–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0197]

Occupational Safety and Health State Plans; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice; correction.

SUMMARY: The Occupational Safety and Health Administration (OSHA) published a document in the **Federal Register** on April 19, 2022 soliciting public comments concerning the proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements specified in the regulation on Occupational Safety and Health State Plans. The document contained incorrect docket numbers and Secretary of Labor Order No. This notice corrects these errors.

DATES: This correction is effective May 31, 2022.

FOR FURTHER INFORMATION CONTACT: Seleda Perryman or Theda Kenney, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor; telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of April 19, 2022 (87 FR 23268–23270), correct the Docket Number as described below.

1. On page 23269, in the first paragraph, in the fourth line, change the Docket Number to read:

[Docket No. OSHA–2011–0197]

* * * * *

2. On page 23269, in the third column, in the paragraph titled ''Public Participation,'' change the Docket Number to read:

[Docket No. OSHA–2011–0197]

* * * * *

3. On page 23270, in the first column, in the paragraph titled ''V. Authority and Signature,'' change the Secretary of Labor Order No. to read:

[8–2020 (85 FR 58393)]

* * * * *

Authority and Signature

James S. Frederick, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 8–2020 (85 FR 58393).

Signed at Washington, DC, on May 23, 2022.

James S. Frederick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–11541 Filed 5–27–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2016–0005]

Preparations for the 42nd Session of the UN Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of public meetings.

SUMMARY: This notice is to advise interested persons that OSHA will conduct a virtual public meeting in advance of certain international meetings. The first meeting will be held in advance of the official 42nd session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) to be held as a hybrid (in-person and virtual) meeting July 6–8, 2022, in Geneva, Switzerland. OSHA, along with the U.S. Interagency Globally Harmonized System of Classification and Labelling of Chemicals (GHS) Coordinating Group,

plans to consider the comments and information gathered at this public meeting when developing the U.S. Government positions for the UNSCEGHS meeting.

DATES: The virtual public meeting will take place on June 15, 2022. Specific information for each meeting will be posted when available on the OSHA website at *https://www.osha.gov/dsg/hazcom/hazcom_international.html#meeting-notice.*

ADDRESSES: The meetings will be virtually hosted through the DOT Headquarters Conference Center, 1200 New Jersey Avenue SE, Washington, DC 20590.

Written Comments: Interested parties may submit comments between June 4 through July 5, 2022, on the Working and Informal Papers for the 42nd sessions of the UNSCEGHS to the docket established for International/Globally Harmonized System (GHS) efforts at: *http://www.regulations.gov,* Docket No. OSHA–2016–0005.

Registration to Attend and/or to Participate in the Virtual Meeting: These meetings will be open to the public on a first-come, first served basis, as space is limited. Advanced meeting registration information will be posted on the PHMSA website. DOT is committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, such as sign language, interpretation, or other ancillary aids, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Attendees may use the same form to pre-register for both meetings. Failure to pre-register may delay your access into the DOT Headquarters conference call line. Conference call-in and ''Teams meeting'' capability will be provided for both meetings. Information on how to access the conference call and ''Teams meeting'' will be posted when available at: *https://www.phmsa.dot.gov/international-program/international-program-overview* under Upcoming Events. This information will also be posted on OSHA's Hazard Communication website on the international tab at: *https://www.osha.gov/dsg/hazcom/hazcom_international.html#meeting-notice.*

FOR FURTHER INFORMATION CONTACT:

At the Department of Transportation: Please contact Mr. Steven Webb or Mr. Aaron Wiener, Office of Hazardous Materials Safety, Department of Transportation, telephone: (202) 366–8553.

At the Department of Labor: Please contact Ms. Maureen Ruskin, OSHA Directorate of Standards and Guidance, Department of Labor, telephone: (202) 693–1950, email: *ruskin.maureen@dol.gov.*

SUPPLEMENTARY INFORMATION: OSHA will conduct a virtual public meeting in advance of the 42nd session of the United Nations Sub-Committee of Experts on the Globally Harmonized System of Classification and Labelling of Chemicals (UNSCEGHS) to be held as a hybrid meeting in early July 2022, in Geneva, Switzerland. This virtual public meeting will occur jointly with the Department of Transportation (DOT), Pipeline and Hazardous Materials Safety Administration (PHMSA) (see FR Doc. 2020–09076 Filed 4–28–20) to discuss proposals in preparation for the 60th session of the United Nations Sub-Committee of Experts on the Transport of Dangerous Goods (UNSCETDG) to be held as a hybrid meeting June 27—July 6, 2022. Advanced meeting registration information will be posted on the PHMSA website (see Docket No. PHMSA–2019–0224; Notice No. 2020–02).

For each of these meetings, OSHA and PHMSA will solicit public input on U.S. government positions regarding proposals submitted by member countries in advance of each meeting.

The OSHA Meeting

OSHA is hosting an open informal public meeting of the official 42nd session of the UNSCEGHS which will represent the third and final meeting scheduled for the 2020–2022 biennium. Information on the work of the UNSCEGHS including meeting agendas, working and informal papers, reports, and documents from previous sessions can be found on the United Nations Economic Commission for Europe (UNECE) Transport Division website located at: *http://www.unece.org/trans/danger/publi/ghs/ghs_welcome_e.html.*

The PHMSA Meeting

Additional information regarding the UNSCETDG and related matters can be found on PHMSA's website at: *https://www.phmsa.dot.gov/international-program/international-program-overview.*

Authority and Signature

James S. Fredrick, Deputy Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, authorized the preparation of this notice under the authority granted by sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), and Secretary's Order 1–2012 (77 FR 3912), (Jan. 25, 2012).

Signed at Washington, DC, on May 23, 2022.

James S. Fredrick,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2022–11542 Filed 5–27–22; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Subject 60-Day Notice for the ''2022 Final Descriptive Report Update''; Proposed Collection; Comment Request

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

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA), as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the NEA is soliciting comments concerning the proposed information collection in final descriptive reports for NEA grant and cooperative agreement awardees. A copy of the current information collection request can be obtained by contacting the office listed below in the address section of this notice.

DATES: Written comments must be submitted to the office listed in the address section below within 60 days from the date of this publication in the **Federal Register**.

ADDRESSES: Send comments to Sunil Iyengar, National Endowment for the Arts, via email (*research@arts.gov*).

SUPPLEMENTARY INFORMATION: The NEA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Dated: May 25, 2022.

Meghan Jugder,

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

[FR Doc. 2022–11603 Filed 5–27–22; 8:45 am]

BILLING CODE 7537–01–P

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel for Ocean Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub., L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name and Committee Code: Proposal Review Panel for Ocean Sciences—Mid-Award Site Visit Review of JRSO for the Division of Ocean Sciences (#10752).

Date and Time: July 19–21, 2022; 9:00 a.m.–5:00 p.m. (Central).

Place: JOIDES Resolution Science Operator (JRSO); International Ocean Discovery Program (IODP), Texas A&M University, 1000 Discovery Drive, College Station, TX 77845 (In-Person).

Type of Meeting: Part-Open.

Contact Persons: James Allan, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; Telephone: (703) 292–8144.

Purpose of Meeting: NSF site visit to conduct a renewal review during year 3 of the award period as stipulated in the cooperative agreement..

Agenda: All times are Central Daylight Time (CDT).

Tuesday, July 19, 2022

9:00 a.m.–9:15 a.m.: NSF and Panel introduction (Open)
9:15 a.m.–11:00 a.m.: Initial Report of the *JOIDES Resolution* Science Operator (JRSO) (Open)
11:00 a.m.–12:00 p.m.: Co-Chief Review Reports for FY2020 and 2021 (Open)
12:00 p.m.–1:00 p.m.: Lunch (onsite)
1:00 p.m.–2:00 p.m.: JRSO response to Co-Chief Review Reports (Open; break in middle)
2:00 p.m.–4:00 p.m.: JRSO discussion of major challenges and successes in the operational context, and how they are responding (Open)
(1) COVID–19 Pandemic Effects and Mitigation (Open)
(2) Rebuilding of the vessel drill rig and refurbishment of the thrusters and other items (Open)
(3) Management/oversight of vessel and wireline logging contracts (Open)
(4) Scheduling, including clearance and environmental issues (Open)
(5) Staffing science party (Open)
(6) Management of JRSO staff (Closed)
4:00 p.m.–5:00 p.m.: Site Visit Panel discussion of presentations and overnight questions to JRSO (Closed)

Wednesday, July 20, 2022

9:00 a.m.–10:00 a.m.: Meet with JRSO staff (Open)
10:00 a.m.–11:00 a.m.: JRSO response to overnight questions (Open)
11:00 a.m.–12:00 p.m.: Effectiveness of IODP Programmatic Planning Structure (Open)
12:00 p.m.–1:00 p.m.: Lunch (onsite)
1:00 p.m.–2:00 p.m.: JRSO discussion of major challenges in providing services and innovation to IODP science community, and how they are responding (Open)
2:00 p.m.–4:00 p.m.: JRSO Presentation on 5-year post-IODP legacy activities (Open)
4:00 p.m.–5:00 p.m.: Site Visit Panel Discussion on Panel Report structure and overnight questions to JRSO (Closed)

Thursday, July 21, 2022

9:00 a.m.–10:00 a.m.: Site Visit Panel discussion; work on Report (Closed)
10:00 a.m.–11:00 a.m.: Response of JRSO to Panel questions (Open)
11:00 a.m.–12:00 p.m.: Site Visit Panel discussion; work on Report (Closed)
12:00 p.m.–1:00 p.m.: Lunch (Closed)
1:00 p.m.–3:30 p.m.: Site Visit Panel discussion; work on Report (Closed)
3:30 p.m.–4:00 p.m.: Break
4:00 p.m.–5:00 p.m.: Site Visit Panel presents Report and Recommendations to JRSO (Closed)

Reason for Closing: Topics to be discussed and evaluated during closed portions of the site review will include information of a proprietary or confidential nature, including technical information, and information on personnel. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: May 25, 2022.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2022–11618 Filed 5–27–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[IA–21–061; NRC–2022–0121]

In the Matter of Ms. Traci Hollingshead

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order to Ms. Traci Hollingshead, an employee of Avera McKennan Hospital, to document commitments made as part of a settlement agreement made between the NRC and Ms. Holllingshead following an alternative dispute resolution mediation session held on April 19, 2022. The mediation addressed an apparent violation involving deliberate misconduct which caused Avera McKennan to be in violation of NRC requirements. Ms. Hollingshead has implemented various corrective actions to identify the problem and restore compliance at Avera McKennan. Further, Ms. Hollingshead has committed to developing training on the events which led to the violation and lessons learned from the issue. Ms. Hollingshead will present the training to Avera McKennan staff and to additional outside hospital staff involved in nuclear medicine. The Confirmatory Order is effective upon issuance.

DATES: The Confirmatory Order was issued on May 19, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0121 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0121. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at

https://www.nrc.gov/reading-rm/adams.html. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Confirmatory Order to Ms. Traci Hollingshead is available in ADAMS under Accession No. ML22130A043.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817–200–1182, email: *Jeremy.Groom@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order

United States of America

Nuclear Regulatory Commission

In the Matter of TRACI HOLLINGSHEAD) IA–21–061

Confirmatory Order

(Effective Upon Issuance)

I

Traci Hollingshead is employed by Avera McKennan in Sioux Falls, South Dakota. Avera McKennan and Avera McKennan/Nuclear Medicine (collectively known as Avera McKennan or the licensee) are the holders of Materials License Nos. 40–16571–01 and 40–16571–02 respectively, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR).

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on April 19, 2022.

II

On February 13, 2019, the NRC's Office of Investigations (OI) opened an investigation (OI case No. 4–2019–007) at Avera McKennan. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR 30.10(a)(1), which requires, in part, that an employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation issued by the Commission, *i.e.,* 10 CFR 35.63(a). Traci Hollingshead disagrees that a violation of 10 CFR 35.63(a) occurred and disagrees that deliberate misconduct was associated with the apparent violation.[1] The parties agree to disagree on whether the violation occurred. By letter dated December 21, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21354A850), the NRC notified Traci Hollingshead of the results of the investigation and provided Traci Hollingshead with the opportunity to: (1) Provide a response in writing, (2) attend a predecisional enforcement conference, or (3) participate in an ADR mediation session in an effort to resolve this concern.

In response to the NRC's offer, Traci Hollingshead requested the use of the NRC ADR process. On April 19, 2022, the NRC and Traci Hollingshead met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the April 19, 2022 ADR session.

III

During the ADR session, Traci Hollingshead and the NRC reached a preliminary settlement agreement.

The NRC recognizes the corrective actions that Traci Hollingshead has already implemented associated with the apparent violations:

A. Facilitated the reporting of the modified dippers to Avera McKennan management.

B. Performed an informal evaluation of the consequences of the modified dippers and whether a medical event occurred.

C. Agreed with another manager that ordering new dippers and replacement of the modified dippers when received would be appropriate.

D. With another manager, communicated to technicians that the new dippers were ordered and that modified dippers should not be used after new dippers arrived.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

A. Traci Hollingshead will develop live training for Avera McKennan staff involved in NRC-regulated material. The training will include at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. The other manager involved with Avera McKennan case EA–21–027 may co-present the training with Traci Hollingshead. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Traci Hollingshead will submit the training to the NRC for approval.

2. Within 18 months of the NRC approval of the training and if supported by Avera McKennan, Traci Hollingshead will provide a total of five live training sessions split between the personnel of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02) involved with NRC regulated activities.

3. Within 1 month of the completion of each training session, Traci Hollingshead will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan does not agree to support Traci Hollingshead providing any of the five training sessions to personnel involved with NRC regulated activities, Traci Hollingshead will provide a written notice to the NRC within 1 month of the unwillingness of Avera McKennan to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan provided for not supporting the training sessions.

B. Traci Hollingshead will develop three live training sessions, one for each of the following: Avera St. Mary's Hospital (40–07328–03), Avera St. Luke's (40–18000–01), and Avera Sacred Heart Hospital (40–01683–01) that includes at least the following: (1) A summary of the events that led to the

[1] Traci Hollingshead's view on the apparent violation is available at ML22117A183.

discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. The other manager involved with Avera McKennan case EA–21–027 may co-present the training with Traci Hollingshead.

1. Within 3 months of the issuance date of the Confirmatory Order, Traci Hollingshead will submit the training to the NRC for approval.

2. Within 18 months of NRC approval of the training, Traci Hollingshead will provide the three training sessions to the licensees identified in Condition B.

3. Within 1 month of the completion of each training session, Traci Hollingshead will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan or the recipient licensee does not agree to support Traci Hollingshead providing any of the three training sessions to personnel involved with NRC regulated activities, Traci Hollingshead will provide a written notice to the NRC within 1 month of the unwillingness of Avera McKennan or the recipient licensee to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan or the recipient licensee provided for not supporting the training sessions.

C. Documents that are required to be sent to the NRC as a result of the Confirmatory Order Conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees not to issue a notice of violation for the apparent violation discussed in the NRC Investigation Report 4–2019–007 issued to Traci Hollingshead dated December 21, 2021.

On May 16, 2022, Traci Hollingshead consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Traci Hollingshead further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that Traci Hollingshead has waived her right to a hearing.

IV

I find that the corrective actions Traci Hollingshead has already implemented, as described in Section III above, combined with the commitments as set forth in Section V are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Traci Hollingshead's commitments be confirmed by this Confirmatory Order. Based on the above and Traci Hollingshead's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered, effective upon issuance, that:*

A. Traci Hollingshead will develop live (*e.g.,* in person or virtual) training for Avera McKennan staff involved in NRC-regulated material. The training will include at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. Shannon Gray may co-present the training with Traci Hollingshead. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Traci Hollingshead will submit the training to the NRC for approval.

2. Within 18 months of the NRC approval of the training and if supported by Avera McKennan, Traci Hollingshead will provide a total of five live training sessions split between the personnel of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02) involved with NRC regulated activities.

3. Within 1 month of the completion of each training session, Traci Hollingshead will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan does not agree to support Traci Hollingshead providing any of the five training sessions to personnel involved with NRC regulated activities, Traci Hollingshead will provide a written notice to the NRC within 1 month of being informed of Avera McKennan's unwillingness to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan provided for not supporting the training sessions.

B. Traci Hollingshead will develop three live (*e.g.,* in person or virtual) training sessions, one for each of the following hospitals: Avera St. Mary's Hospital (License 40–07328–03), Avera St. Luke's (License 40–18000–01), and Avera Sacred Heart Hospital (License 40–01683–01) that includes at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. Shannon Gray may co-present the training with Traci Hollingshead.

1. Within 3 months of the issuance date of the Confirmatory Order, Traci Hollingshead will submit the training to the NRC for approval.

2. Within 18 months of NRC approval of the training, Traci Hollingshead will provide the three training sessions to the licensees identified in Condition B.

3. Within 1 month of the completion of each training session, Traci Hollingshead will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan or any of the three involved hospitals do not agree to support Traci Hollingshead providing any of the three training sessions to personnel involved with NRC regulated activities, Traci Hollingshead will provide a written notice to the NRC within 1 month of being informed of Avera McKennan's or any of the involved hospitals' unwillingness to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan or the recipient licensee provided for not supporting the training sessions.

C. Documents that are required to be sent to the NRC as a result of the

Confirmatory Order Conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

The Regional Administrator, Region IV, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by Traci Hollingshead of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Traci Hollingshead, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a

hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Traci Hollingshead) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 19th day of May 2022.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

[FR Doc. 2022–11530 Filed 5–27–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 030–11252 and 030–39216; License Nos. 40–16571–01 and –02; EA–21–027; NRC–2022–0122]

In the Matter of Avera McKennan Hospital

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order to Avera McKennan and Avera McKennan/Nuclear Medicine (collectively known as Avera McKennan) to document commitments made as part of a settlement agreement made between the NRC and Avera McKennan following an alternative dispute resolution mediation session held on April 20, 2022. The mediation addressed two apparent violations involving Avera McKennan's willful failure to accurately determine and record the activity of each dosage before medical use and the failure to maintain required information that was complete and accurate. Avera McKennan has committed to various measures intended to restore its ability to accurately measure dose activity, monitor the performance of its nuclear medicine technologists, and to train its employees and contractors on the NRC enforcement actions that may result from deliberate misconduct. The Confirmatory Order is effective upon issuance.

DATES: The Confirmatory Order was issued on May 19, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0122 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0122. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the For **FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Confirmatory Order to Avera McKennan is available in ADAMS under Accession No. ML22130A588.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817–200–1182, email: *Jeremy.Groom@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order

United States of America

Nuclear Regulatory Commission

In the Matter of: AVERA MCKENNAN, AVERA MCKENNAN/NUCLEAR MEDICINE

Docket No. 030–11252, License No. 40–16571–01

Docket No. 030–39216, License No. 40–16571–02

EA–21–027

Confirmatory Order Modifying License (Effective Upon Issuance)

I

Avera McKennan and Avera McKennan/Nuclear Medicine (collectively known as Avera McKennan or the licensee) are the holders of Materials License Nos. 40–16571–01 and 40–16571–02 respectively, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR). The licenses authorize the operation of facilities in accordance with conditions specified therein. The facilities are located on the licensee's sites in South Dakota.

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on April 20, 2022.

II

On February 13, 2019, the NRC's Office of Investigations (OI) opened an investigation (OI case No. 4–2019–007) at Avera McKennan. Based on the evidence developed during its investigation, the NRC identified two apparent violations involving the failure to determine, by direct measurement, the activity of dosages before medical use as required by 10 CFR 35.63(a); and the failure to maintain information that was complete and accurate in all material respects as required by 10 CFR 30.9. It is Avera McKennan's view that no violation of requirements occurred.[1] The parties agree to disagree on whether violations occurred. By letter dated December 21, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21355A366), the NRC notified Avera McKennan of the results of the investigation and provided Avera McKennan with an opportunity to: (1)

[1] Avera McKennan's view on the apparent violations is available at ML22117A183.

Attend a predecisional enforcement conference or (2) participate in an ADR mediation session in an effort to resolve these concerns.

In response to the NRC's offer, Avera McKennan requested the use of the NRC ADR process. On April 20, 2022, the NRC and Avera McKennan met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the April 20, 2022 ADR session.

III

During the ADR session, Avera McKennan and the NRC reached a preliminary settlement agreement.

''Avera McKennan'' refers to the licensees of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02). ''Contractors'' refers to individuals performing NRC licensed activities under either the Avera McKennan license (License 40–16571–01) or the Avera McKennan/Nuclear Medicine license (License 40–16571–02).

The NRC recognizes the corrective actions that Avera McKennan has already implemented associated with the apparent violations:

A. Avera McKennan ordered new dippers for use in all dose calibrators and replaced the modified dippers for all dose calibrators.

B. Avera McKennan communicated that the new dippers were ordered and that modified dippers should not be used after new dippers arrived.

C. Avera McKennan transitioned from the use of molybdenum generators to create individual dosages to the use of unit doses supplied by a third-party radiopharmacy.

D. Avera McKennan implemented a field observation program that includes an annual one-on-one observation of each nuclear medicine technologist focused on ensuring radiation safety. Each annual observation includes formal documentation of any improvement, if needed.

E. Avera McKennan has retained the use of an outside entity to provide an independent assessment of Avera McKennan performance.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

Communications

A. Avera McKennan will develop a communication that will: Include a summary of the events that resulted in the Confirmatory Order, stress the importance of complying with NRC regulations and the conditions of the license, and emphasize the importance of ensuring documents are complete and accurate, and the consequences for engaging in willful violations. Avera McKennan will submit the communication to the NRC for review and approval within 2 months of the issuance date of the Confirmatory Order.

B. Within 2 months of NRC approval of the communication, Avera McKennan will issue the Condition A communication as a stand-alone communication from a senior hospital official to all authorized users, nuclear medicine technologists, all other employees performing in NRC licensed activities and Contractors. Avera McKennan will retain a copy of the communication presented and a record of the personnel receiving the communication.

C. Beginning on the date Avera McKennan has issued the Condition A communication and until December 31, 2026, Avera McKennan will provide the Condition A communication to all new employees performing NRC licensed activities or Contractors prior to those individuals performing NRC licensed activities. Avera McKennan will also provide the Condition A communication to current employees or Contractors with new duties performing NRC licensed activities prior to those individuals performing the new duties. Avera McKennan will retain a record of the personnel receiving the communication.

D. Within 6 months of the date Avera McKennan has issued the Condition A communication, Avera McKennan will issue an additional communication to all authorized users, nuclear medicine technologists, all other employees involved in NRC licensed activities, and Contractors reemphasizing its intolerance of willful misconduct and update such workforce on the status of compliance with this Confirmatory Order. Avera McKennan will continue to issue this communication at intervals not to exceed 12 months until December 31, 2026. Avera McKennan will retain a copy of the communication presented and a record of the personnel receiving the communication. Avera McKennan will document the reason for any person not obtaining the communication and the additional efforts used to provide the communication.

Training

E. Avera McKennan will develop a training program to provide to all authorized users, nuclear medicine technologists, all other employees involved in NRC licensed activities, and Contractors. The training will address what is meant by willfulness and the potential enforcement actions that the NRC may take against employees who engage in deliberate misconduct and the associated NRC enforcement actions that may be taken against a licensee. The training will request that the recipients provide feedback on the training. Avera McKennan will submit this training program to the NRC for review and approval within 6 months of the issuance date of the Confirmatory Order.

F. Within 6 months of NRC approval of the training program, Avera McKennan will provide this training to all authorized users, nuclear medicine technologists, all other employees involved in NRC licensed activities, and Contractors. Avera McKennan will continue to provide this training at least once every calendar year until December 31, 2026. Avera McKennan will maintain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

G. Beginning on the date Avera McKennan has first provided the Condition E training and until December 31, 2026, Avera McKennan will provide the Condition E training to all new employees or Contractors within 3 months of starting work in NRC licensed activities. Avera McKennan will also provide the Condition E training to current employees or Contractors with new duties performing NRC licensed activities. Avera McKennan will retain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

H. Until December 31, 2024, while Ms. Shannon Gray remains employed by Avera McKennan, Avera McKennan will support and allow Ms. Gray to provide a total of eight live training sessions to personnel involved in NRC licensed activities at Avera McKennan, Avera St. Mary's Hospital (40–07328–03), Avera St. Luke's (40–18000–01), and Avera Sacred Heart Hospital (40–01683–01). Until December 31, 2024, while Ms. Traci Hollingshead remains employed by Avera McKennan, Avera McKennan will support and allow Ms. Hollingshead to provide a total of eight

live training sessions to personnel involved in NRC licensed activities at Avera McKennan, Avera St. Mary's Hospital (40–07328–03), Avera St. Luke's (40–18000–01), and Avera Sacred Heart Hospital (40–01683–01). These eight live training sessions may be co-presented by Ms. Gray and Ms. Hollingshead.

Field Observation Program, Applicable to License 40–16571–02 Only

I. Avera McKennan will develop or maintain a field observation program for Avera McKennan/Nuclear Medicine license (License 40–16571–02). Avera McKennan will observe NRC licensed activities performed by each nuclear medicine technologist. The observations shall include, at a minimum, mobile medical operations, dosage measurements, and dosimetry practices. Avera McKennan will submit the field observation program to the NRC for review and approval within 2 months of the issuance date of the Confirmatory Order.

J. Within 2 months of NRC approval of the field observation program, Avera McKennan will conduct a field observation developed in Condition I and will document the results of the field observation. Avera McKennan will then perform an annual field observation for each nuclear medicine technologist until December 31, 2026, and will document the results of each field observation.

Assessment, Applicable to License 40–16571–02 Only

K. Avera McKennan will engage an outside entity to perform a comprehensive assessment of Avera McKennan/Nuclear Medicine's radiation safety program. The outside entity should have familiarity and experience with 10 CFR 35.80 mobile nuclear medicine authorizations. The assessment will include an evaluation of the corrective actions associated with NRC Inspection Report 030–39216/2021–002 and Investigation Report 4–2019–007 dated December 21, 2021, and the corrective actions associated with the Notice of Violation, NRC Inspection Report 030–11252/2017–001 and Investigation Report 4–2016–021 dated December 21, 2017. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Avera McKennan will submit the qualifications of the outside entity to the NRC for review and approval.

2. Within 6 months of the NRC approval of the outside entity, Avera McKennan will submit a copy of the assessment report and Avera McKennan's written response to the assessment report to the NRC. Avera McKennan's written response will either address how it will implement the recommendations and corrective actions of the assessment report, including a proposed timeline; or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

Organizational Health Survey

L. Avera McKennan will engage an outside entity to develop and conduct an organizational health survey to identify safety culture concerns that could contribute to willful misconduct. The outside entity will also develop recommendations and corrective actions based on the results of the survey.

1. Within 6 months of the issuance date of the Confirmatory Order, Avera McKennan will submit the qualifications of the outside entity to the NRC for review and approval.

2. Within 6 months of the NRC approval of the outside entity, the outside entity will conduct the organizational health survey and will develop recommendations and corrective actions based on the results organizational health survey.

3. Within 6 months of the conducting the Condition L.2 organization health survey, Avera McKennan will submit the survey results and a written response to the NRC. Avera McKennan's written response will either address how it will implement the recommendations and corrective actions of the survey, including a proposed timeline, or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

M. Between 24 to 36 months after the completion of the survey in Condition L, the outside entity will conduct a second organizational health survey and will develop recommendations and corrective actions based on the results of the survey.

Effectiveness Reviews

N. By December 31 of calendar years 2022, 2024, and 2026 or 6 months after the last organizational health survey is conducted, whichever is later, Avera McKennan will perform an effectiveness review of the corrective actions implemented as a result of this Confirmatory Order. The effectiveness review will include: The lessons learned from feedback from the communications and training, if any is received; and the results of the radiation safety program assessment, field observations, and the organizational health surveys. Avera McKennan will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the effectiveness review. Avera McKennan will send a copy of the effectiveness review and provide, as applicable, a copy of any additional corrective actions and modifications made to previously developed corrective actions as a result of the effectiveness review to the NRC.

Administrative Items

O. By March 31 of each calendar year 2023 through 2028, Avera McKennan will provide in writing to the NRC a summary of the actions implemented the previous calendar year as a result of the Confirmatory Order.

P. Until December 31, 2028, Avera McKennan will retain a copy of all documentation created to demonstrate compliance with the conditions of the Confirmatory Order.

Q. Documents that are required to be sent to the NRC as a result of the Confirmatory Order conditions will be sent the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov*.

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees not to issue a Notice of Violation and not impose a civil penalty for the apparent violations discussed in NRC Inspection Report 030–39216/2021–002 and Investigation Report 4–2019–007 (EA–21–027) to Avera McKennan dated December 21, 2021.

On May 17, 2022, Avera McKennan consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Avera McKennan further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that it has waived its right to a hearing.

IV

I find that the corrective actions that Avera McKennan has already implemented, as described in Section III above, combined with the commitments as set forth in Section V below are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Avera McKennan's commitments be confirmed by this Confirmatory Order. Based on the above and Avera McKennan's

consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, IT IS HEREBY ORDERED, EFFECTIVE UPON ISSUANCE, THAT LICENSE NOS. 40–16571–01 AND 40–16571–02 ARE MODIFIED AS FOLLOWS:

For the purposes of this Confirmatory Order, ''Avera McKennan'' refers to the licensees of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02). ''Contractors'' refers to individuals performing NRC licensed activities under either the Avera McKennan license (License 4016571–01) or the Avera McKennan/Nuclear Medicine license (License 401657102).

Communications

A. Avera McKennan will develop a communication that will: Include a summary of the events that resulted in the Confirmatory Order, stress the importance of complying with NRC regulations and the conditions of the license, emphasize the importance of ensuring documents are complete and accurate, and discuss the consequences for engaging in willful violations. Avera McKennan will submit the communication to the NRC for review and approval within 2 months of the issuance date of the Confirmatory Order.

B. Within 2 months of NRC approval of the communication, Avera McKennan will issue the Condition A communication as a stand-alone communication from a senior hospital official to all authorized users, nuclear medicine technologists, all other employees and Contractors performing in NRC licensed activities. Avera McKennan will retain a copy of the communication presented and a record of the personnel receiving the communication.

C. Beginning on the date Avera McKennan has issued the Condition A communication and until December 31, 2026, Avera McKennan will provide the Condition A communication to all new employees and Contractors performing NRC licensed activities prior to those individuals performing NRC licensed activities. Avera McKennan will also provide the Condition A communication to current employees and Contractors with new duties performing NRC licensed activities prior to those individuals performing the new duties. Avera McKennan will retain a record of the personnel receiving the communication.

D. Within 6 months of the date Avera McKennan has issued the Condition A communication, Avera McKennan will issue an additional communication to all authorized users, nuclear medicine technologists, all other employees and Contractors involved in NRC licensed activities reemphasizing its intolerance of willful misconduct and update such workforce on the status of compliance with this Confirmatory Order. Avera McKennan will continue to issue this communication at intervals not to exceed 12 months until December 31, 2026. Avera McKennan will retain a copy of the communication presented and a record of the personnel receiving the communication. Avera McKennan will document the reason for any person not obtaining the communication and the additional efforts used to provide the communication.

Training

E. Avera McKennan will develop a training program to provide to all authorized users, nuclear medicine technologists, all other employees and Contractors involved in NRC licensed activities. The training will address what is meant by willfulness and the potential enforcement actions that the NRC may take against employees who engage in deliberate misconduct and the associated NRC enforcement actions that may be taken against a licensee. The training will request that the recipients provide feedback on the training. Avera McKennan will submit this training program to the NRC for review and approval within 6 months of the issuance date of the Confirmatory Order.

F. Within 6 months of NRC approval of the training program, Avera McKennan will provide this training to all authorized users, nuclear medicine technologists, all other employees and Contractors involved in NRC licensed activities. Avera McKennan will continue to provide this training at least once every calendar year until December 31, 2026. Avera McKennan will maintain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

G. Beginning on the date Avera McKennan has first provided the Condition E training and until December 31, 2026, Avera McKennan will provide the Condition E training to all new employees and Contractors within 3 months of starting work in NRC licensed activities. Avera McKennan will also provide the Condition E training to current employees and Contractors with new duties performing NRC licensed activities. Avera McKennan will retain a record of the individuals receiving the training, a summary of the feedback on the training, the instructor providing the training (if applicable), and the date of the training.

H. Until December 31, 2024, while Ms. Shannon Gray remains employed by Avera McKennan, Avera McKennan will support and allow Ms. Gray to provide a total of eight live (*e.g.,* in person or virtual) training sessions to personnel involved in NRC licensed activities at Avera McKennan, Avera St. Mary's Hospital (License 40–07328–03), Avera St. Luke's (License 40–18000–01), and Avera Sacred Heart Hospital (License 40–01683–01). Until December 31, 2024, while Ms. Traci Hollingshead remains employed by Avera McKennan, Avera McKennan will support and allow Ms. Hollingshead to provide a total of eight live training sessions to personnel involved in NRC licensed activities at Avera McKennan, Avera St. Mary's Hospital (License 40–07328–03), Avera St. Luke's (License 40–18000–01), and Avera Sacred Heart Hospital (License 40–01683–01). These eight live training sessions may be co-presented by Ms. Gray and Ms. Hollingshead.

Field Observation Program, Applicable to License 40–16571–02 Only

I. Avera McKennan will develop or maintain a field observation program for Avera McKennan/Nuclear Medicine license (License 40–16571–02). Avera McKennan will observe NRC licensed activities performed by each nuclear medicine technologist. The observations shall include, at a minimum, mobile medical operations, dosage measurements, and dosimetry practices. Avera McKennan will submit the field observation program to the NRC for review and approval within 2 months of the issuance date of the Confirmatory Order.

J. Beginning December 31, 2022, or within 2 months of NRC approval, whichever date is later, Avera McKennan will implement the field observation program developed under Condition I. Upon the program's implementation, and until December 31, 2026, Avera McKennan will perform annual field observations of each nuclear medicine technologist and will maintain documentation of the observations.

Assessment, Applicable to License 40–16571–02 Only

K. Avera McKennan will engage an outside entity to perform a

comprehensive assessment of Avera McKennan/Nuclear Medicine's radiation safety program. The outside entity should have familiarity and experience with 10 CFR 35.80 mobile nuclear medicine authorizations. The assessment will include an evaluation of the corrective actions associated with NRC Inspection Report 030–39216/2021–002 and Investigation Report 4–2019–007 dated December 21, 2021, and the corrective actions associated with the Notice of Violation, NRC Inspection Report 030–11252/2017–001 and Investigation Report 4–2016–021 dated December 21, 2017. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Avera McKennan will submit the qualifications of the outside entity to the NRC for review and approval.

2. Within 6 months of the NRC approval of the outside entity, Avera McKennan will submit a copy of the assessment report and Avera McKennan's written response to the assessment report to the NRC. Avera McKennan's written response will either address how it will implement the recommendations and corrective actions of the assessment report, including a proposed timeline; or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

Organizational Health Survey

L. Avera McKennan will engage an outside entity to develop and conduct an organizational health survey to identify safety culture concerns that could contribute to willful misconduct. The outside entity will also develop recommendations and corrective actions based on the results of the survey.

1. Within 6 months of the issuance date of the Confirmatory Order, Avera McKennan will submit the qualifications of the outside entity to the NRC for review and approval.

2. Within 6 months of the NRC approval of the outside entity, the outside entity will conduct the organizational health survey and will develop recommendations and corrective actions based on the results organizational health survey.

3. Within 6 months of the conducting the Condition L.2 organization health survey, Avera McKennan will submit the survey results and a written response to the NRC. Avera McKennan's written response will either address how it will implement the recommendations and corrective actions of the survey, including a proposed timeline, or provide an explanation and justification for why the recommendation(s) and corrective action(s) will not be implemented.

M. Between 24 to 36 months after the completion of the survey in Condition L, the outside entity will conduct a second organizational health survey and will develop recommendations and corrective actions based on the results of the survey.

Effectiveness Reviews

N. By December 31, 2022; December 31, 2024; and December 31, 2026 or 6 months after the second organizational health survey described in Condition M is conducted, whichever is later, Avera McKennan will perform an effectiveness review of the corrective actions implemented as a result of this Confirmatory Order. The effectiveness review will include: The lessons learned from feedback from the communications and training, if any is received; and the results of the radiation safety program assessment, field observations, and the organizational health surveys. Avera McKennan will modify its corrective actions, as needed and consistent with this Confirmatory Order, based on the results of the effectiveness review. Avera McKennan will send a copy of the effectiveness review and provide, as applicable, a copy of any additional corrective actions and modifications made to previously developed corrective actions as a result of the effectiveness review to the NRC.

Administrative Items

O. By March 31 of each calendar year 2023 through 2028, Avera McKennan will provide in writing to the NRC a summary of the actions implemented the previous calendar year as a result of the Confirmatory Order.

P. Until December 31, 2028, Avera McKennan will retain a copy of all documentation created to demonstrate compliance with the conditions of the Confirmatory Order.

Q. Documents that are required to be sent to the NRC as a result of the Confirmatory Order conditions will be sent the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

In the event of the transfer of the license(s) of Avera McKennan to another entity, the terms and conditions set forth hereunder shall continue to apply to the new entity and accordingly survive any transfer of ownership or license. The Regional Administrator, Region IV, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by Avera McKennan or its successors of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Avera McKennan, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding

if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the presiding officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Avera McKennan) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

For the Nuclear Regulatory Commission,

Scott A. Morris,

Regional Administrator, NRC Region IV.

Dated this 23rd day of May 2022.

[FR Doc. 2022–11528 Filed 5–27–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2022–0001]

Sunshine Act Meetings

TIME AND DATE: Weeks of May 30, June 6, 13, 20, 27, July 4, 2022. The schedule for Commission meetings is subject to change on short notice. The NRC Commission Meeting Schedule can be found on the internet at: *https://www.nrc.gov/public-involve/public-meetings/schedule.html.*

PLACE: The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* Braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301–287–0745, by videophone at 240–428–3217, or by email at *Anne.Silk@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

STATUS: Public.

Members of the public may request to receive the information in these notices electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301–415–1969, or by email at

Wendy.Moore@nrc.gov or *Betty.Thweatt@nrc.gov.*

MATTERS TO BE CONSIDERED:

Week of May 30, 2022

Wednesday, June 1, 2022

10 a.m. Transformation at the NRC—Sustaining Progress as Modern, Risk-Informed Regulator; (Contact: Aida Rivera-Varona: 301–415–4001)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Friday, June 3, 2022

10 a.m. Meeting with Advisory Committee on Reactor Safeguards; (Contact: Larry Burkhart: 301–287–3775)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of June 6, 2022—Tentative

There are no meetings scheduled for the week of June 6, 2022.

Week of June 13, 2022

Tuesday, June 14, 2022

10 a.m. Briefing on Human Capital and Equal Employment Opportunity; (Contact: Nicole Newton: 301–415–8316)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Thursday, June 16, 2022

10 a.m. Briefing on Results of the Agency Action Review Meeting; (Contact: Nicole Fields: 630–829–9570)

Additional Information: The meeting will be held in the Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland. The public is invited to attend the Commission's meeting in person or watch live via webcast at the Web address—*https://video.nrc.gov/.*

Week of June 20, 2022—Tentative

There are no meetings scheduled for the week of June 20, 2022.

Week of June 27, 2022—Tentative

There are no meetings scheduled for the week of June 27, 2022.

Week of July 4, 2022—Tentative

There are no meetings scheduled for the week of July 4, 2022.

CONTACT PERSON FOR MORE INFORMATION: For more information or to verify the status of meetings, contact Wesley Held at 301–287–3591 or via email at *Wesley.Held@nrc.gov.*

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: May 26, 2022.

For the Nuclear Regulatory Commission.

Wesley W. Held,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2022–11704 Filed 5–26–22; 11:15 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0107]

Information Collection: Domestic Licensing of Source Material

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, ''Domestic Licensing of Source Material.''

DATES: Submit comments by June 30, 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 C. 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–2021–0107 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–2021–0107.
- *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. ML22129A093 and ML22129A092, respectively.
- *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 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.*

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, ''Domestic Licensing of Source Material.'' 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 February 18, 2022, 87 FR 9392.

1. *The title of the information collection:* Part 40 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Domestic Licensing of Source Material.''

2. *OMB approval number:* 3150–0020.

3. *Type of submission:* Revision.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* Reports required under 10 CFR part 40 are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications need to be submitted every 15 to 40 years. Information in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

6. *Who will be required or asked to respond:* Applicants for and holders of NRC licenses authorizing the receipt, possession, use, or transfer of radioactive source material.

7. *The estimated number of annual responses:* 1,341.

8. *The estimated number of annual respondents:* 582 (72 NRC licensees + 510 Agreement State licensees).

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 16,422 hours (11,284 hours reporting + 5,123 hours recordkeeping + 15 hours third party disclosure).

10. *Abstract:* The NRC regulations in 10 CFR part 40 establish procedures and criteria for the issuance of licenses to receive title to, receive, possess, use, transfer, or deliver source and byproduct material. The application, reporting, recordkeeping, and third-party notification requirements are necessary to permit the NRC to make a determination as to whether the possession, use, and transfer of source and byproduct material is in conformance with the Commission's regulations for protection of public health and safety.

For the Nuclear Regulatory Commission.

Dated: May 25, 2022.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–11562 Filed 5–27–22; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA–21–060; NRC–2022–0123]

In the Matter of Ms. Shannon Gray

AGENCY: Nuclear Regulatory Commission.

ACTION: Confirmatory Order; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a Confirmatory Order to Ms. Shannon Gray, an employee of Avera McKennan Hospital, to document commitments made as part of a settlement agreement made between the NRC and Ms. Gray following an alternative dispute resolution mediation session held on April 19, 2022. The mediation addressed an apparent violation involving deliberate misconduct which caused Avera McKennan to be in violation of NRC requirements. Ms. Gray has implemented various corrective actions to identify the problem and restore compliance at Avera McKennan. Further, Ms. Gray has committed to developing training on the events which led to the violation and lessons learned from the issue. Ms. Gray will present the training to Avera McKennan staff and to additional outside hospital staff involved in nuclear medicine. The Confirmatory Order is effective upon issuance.

DATES: The Confirmatory Order was issued on May 19, 2022.

ADDRESSES: Please refer to Docket ID NRC–2022–0123 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2022–0123. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301–415–0624; email: *Stacy.Schumann@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The Confirmatory Order to Ms. Shannon Gray is available in ADAMS under Accession No. ML22120A037.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jeremy Groom, Region IV, U.S. Nuclear Regulatory Commission, telephone: 817–200–1182, email: *Jeremy.Groom@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated: May 24, 2022.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

Attached—Confirmatory Order

United States of America Nuclear Regulatory Commission

In the Matter of SHANNON GRAY
IA–21–060

Confirmatory Order (Effective Upon Issuance)

I

Shannon Gray is employed by Avera McKennan in Sioux Falls, South Dakota. Avera McKennan and Avera McKennan/Nuclear Medicine (collectively known as Avera McKennan or the licensee) are the holders of Materials License Nos. 40–16571–01 and 40–16571–02 respectively, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 30 of Title 10 of the *Code of Federal Regulations* (10 CFR).

This Confirmatory Order (CO) is the result of an agreement reached during an Alternative Dispute Resolution (ADR) mediation session conducted on April 19, 2022.

II

On February 13, 2019, the NRC's Office of Investigations (OI) opened an investigation (OI case No. 4–2019–007) at Avera McKennan. Based on the evidence developed during its investigation, the NRC identified an apparent violation of 10 CFR 30.10(a)(1), which requires, in part, that an employee of a licensee may not engage in deliberate misconduct that causes a licensee to be in violation of any rule or regulation issued by the Commission *i.e.,* 10 CFR 35.63(a). Shannon Gray disagrees that a violation of 10 CFR 35.63(a) occurred and disagrees that deliberate misconduct was associated with the apparent violation.[1] The parties agree to disagree on whether the violation occurred. By letter dated December 21, 2021 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML21354A776), the NRC notified Shannon Gray of the results of the investigation and provided Shannon Gray with the opportunity to: (1) Provide a response in writing, (2) attend a predecisional enforcement conference, or (3) participate in an ADR mediation session in an effort to resolve this concern.

In response to the NRC's offer, Shannon Gray requested the use of the NRC ADR process. On April 19, 2022, the NRC and Shannon Gray met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR process is one in which a neutral mediator, with no decision-making authority, assists the parties in reaching an agreement to resolve any differences regarding the dispute. This Confirmatory Order is issued pursuant to the agreement reached during the April 19, 2022 ADR session.

III

During the ADR session, Shannon Gray and the NRC reached a preliminary settlement agreement.

The NRC recognizes the corrective actions that Shannon Gray has already implemented associated with the apparent violations:

A. Discovered the problem with the modified dippers and reported to Avera McKennan management.

B. Agreed with another manager that an informal evaluation of the consequences of the modified dippers would be performed.

C. Initiated the ordering new dippers and replacement of the modified dippers when received.

D. With another manager, communicated to technicians that the new dippers were ordered and that modified dippers should not be used after new dippers arrived.

Additional commitments made in the preliminary settlement agreement, as signed by both parties, consist of the following:

A. Shannon Gray will develop live training for Avera McKennan staff involved in NRC-regulated material. The training will include at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. The other manager involved with Avera McKennan case EA–21–027 may co-present the training with Shannon Gray. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Shannon Gray will submit the training to the NRC for approval.

2. Within 18 months of the NRC approval of the training and if supported by Avera McKennan, Shannon Gray will provide a total of five live training sessions split between the personnel of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02) involved with NRC regulated activities.

3. Within 1 month of the completion of each training session, Shannon Gray will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan does not agree to support Shannon Gray providing any of the five training sessions to personnel involved with NRC regulated activities, Shannon Gray will provide a written notice to the NRC within 1 month of the unwillingness of Avera McKennan to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan provided for not supporting the training sessions.

B. Shannon Gray will develop three live training sessions, one for each of the following: Avera St. Mary's Hospital (40–07328–03), Avera St. Luke's (40–18000–01), and Avera Sacred Heart Hospital (40–01683–01) that includes at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. The other manager involved with Avera McKennan case EA–21–027 may co-present the training with Shannon Gray.

1. Within 3 months of the issuance date of the Confirmatory Order, Shannon Gray will submit the training to the NRC for approval.

2. Within 18 months of NRC approval of the training, Shannon Gray will provide the three training sessions to the licensees identified in Condition B.

3. Within 1 month of the completion of each training session, Shannon Gray will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan or the recipient licensee does not agree to support Shannon Gray providing any of the three training sessions to personnel involved with NRC regulated activities, Shannon Gray will provide a written notice to the NRC within 1 month of the unwillingness of Avera McKennan or the recipient licensee to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan or the recipient licensee provided for not supporting the training sessions.

[1] Shannon Gray's view on the apparent violation is available at ML22117A183.

C. Documents that are required to be sent to the NRC as a result of the Confirmatory Order Conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

Based on the completed actions described above, and the commitments described in Section V below, the NRC agrees not to issue a Notice of Violation for the apparent violation discussed in the NRC Investigation Report 4–2019–007 issued to Shannon Gray dated December 21, 2021.

On May 16, 2022, Shannon Gray consented to issuing this Confirmatory Order with the commitments, as described in Section V below. Shannon Gray further agreed that this Confirmatory Order is to be effective upon issuance, the agreement memorialized in this Confirmatory Order settles the matter between the parties, and that Shannon Gray has waived her right to a hearing.

IV

I find that the corrective actions that Shannon Gray has already implemented, as described in Section III above, combined with the commitments as set forth in Section V below, are acceptable and necessary, and I conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that Shannon Gray's commitments be confirmed by this Confirmatory Order. Based on the above and Shannon Gray's consent, this Confirmatory Order is effective upon issuance.

V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered, effective upon issuance, that:*

A. Shannon Gray will develop live (*e.g.,* in person or virtual) training for Avera McKennan staff involved in NRC-regulated material. The training will include at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. Traci Hollingshead may co-present the training with Shannon Gray. This will include the following actions:

1. Within 3 months of the issuance date of the Confirmatory Order, Shannon Gray will submit the training to the NRC for approval.

2. Within 18 months of the NRC approval of the training and if supported by Avera McKennan, Shannon Gray will provide a total of five live training sessions split between the personnel of Avera McKennan (License 40–16571–01) and Avera McKennan/Nuclear Medicine (License 40–16571–02) involved with NRC regulated activities.

3. Within 1 month of the completion of each training session, Shannon Gray will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan does not agree to support Shannon Gray providing any of the five training sessions to personnel involved with NRC regulated activities, Shannon Gray will provide a written notice to the NRC within 1 month of being informed of Avera McKennan's unwillingness to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan provided for not supporting the training sessions.

B. Shannon Gray will develop three live (*e.g.,* in person or virtual) training sessions, one for each of the following hospitals: Avera St. Mary's Hospital (License 40–07328–03), Avera St. Luke's (License 40–18000–01), and Avera Sacred Heart Hospital (License 40–01683–01) that includes at least the following: (1) A summary of the events that led to the discovery of physically modified dose calibrators at Avera McKennan, (2) the importance of compliance with NRC regulations, (3) the consequences of engaging in willful violations, (4) what to do if there is a perceived or actual medical issue that conflicts with NRC regulations, and (5) any personal lessons-learned associated with this issue. Traci Hollingshead may co-present the training with Shannon Gray.

1. Within 3 months of the issuance date of the Confirmatory Order, Shannon Gray will submit the training to the NRC for approval.

2. Within 18 months of NRC approval of the training, Shannon Gray will provide the three training sessions to the licensees identified in Condition B.

3. Within 1 month of the completion of each training session, Shannon Gray will submit to the NRC the date of the training, a list of the personnel receiving the training, a summary of the feedback received on the training, and any lessons learned from providing the training.

4. In the event that Avera McKennan or any of the three involved hospitals do not agree to support Shannon Gray providing any of the three training sessions to personnel involved with NRC regulated activities, Shannon Gray will provide a written notice to the NRC within 1 month of being informed of Avera McKennan's or any of the involved hospitals' unwillingness to support any particular training session. The written notice will include the date of the notification and any details that Avera McKennan or the recipient licensee provided for not supporting the training sessions.

C. Documents that are required to be sent to the NRC as a result of the Confirmatory Order Conditions will be sent to the Director, Division of Radiological Safety and Security, U.S. Nuclear Regulatory Commission, Region IV, by email to *R4Enforcement@nrc.gov.*

The Regional Administrator, Region IV, may, in writing, relax, rescind, or withdraw any of the above conditions upon demonstration by Shannon Gray of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this Confirmatory Order, other than Shannon Gray, may request a hearing within thirty (30) calendar days of the date of issuance of this Confirmatory Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on

making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *https://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *https://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *https://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd*, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

If a person (other than Shannon Gray) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearings. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this Confirmatory Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated this 19th day of May 2022.

For the Nuclear Regulatory Commission.

Scott A. Morris,

Regional Administrator, NRC Region IV.

[FR Doc. 2022–11529 Filed 5–27–22; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Information Collection Request; Submission for OMB Review

AGENCY: Peace Corps.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Peace Corps will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval. In accordance with the Paperwork Reduction Act of 1995, we invite comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: Submit comments on or before June 30, 2022.

ADDRESSES: Comments should be addressed to Virginia Burke, FOIA/Privacy Act Officer. Virginia Burke can be contacted by email at *pcfr@peacecorps.gov*. Email comments must be made in text and not in attachments.

FOR FURTHER INFORMATION CONTACT: Virginia Burke, FOIA/Privacy Act Officer, at (202) 692–1887, or *PCFR@peacecorps.gov*.

SUPPLEMENTARY INFORMATION:

Title: Onboarding Form for Peace Corps Volunteer Applicants.

OMB Control Number: 0420–0563.

Agency Form Number: PC–2174.

Type of Request: Intent to seek reinstatement, with change, of a previously approved information collection for which approval has expired, for three years.

Originating Office: Office of Volunteer Recruitment and Selection.

Affected Public: This collection will request information from Peace Corps Volunteer applicants who are invited to join the Peace Corps.

Respondents Obligation to Reply: Voluntary.

Burden to the Public:

Peace Corps Response Interview Assessment:

(a) *Annual Estimated Number of Respondents:* 5,000.

(b) *Frequency of Response:* One time.

(c) *Estimated Average Burden per Response:* 60 minutes.

(d) *Annual estimated Total Reporting Burden:* 5,000 hours.

(e) *Estimated annual cost to respondents:* 0.00.

General description of collection and purpose: The Peace Corps uses the Onboarding Portal to collect essential administrative information from invitees for use during Peace Corps Volunteer service, including such information as first, middle and last name, birthdate, Social Security number, primary contact information, designated emergency contact names an contact information, legal history updates, direct deposit information associated with a bank account, student loan history, and life insurance designations. The information is used by the Peace Corps to establish specific services for invitees for the purposes of supporting the Peace Corps Volunteer during service. The Information Collection expired on August 31, 2020, during the Corona Virus 2019 pandemic. We are seeking reinstatement with minor changes of this information collection and a three-year clearance.

Request for Comment: Peace Corps invites comments on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity 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 automated collection techniques, when appropriate, and other forms of information technology.

This notice is issued in Washington, DC, on May 24, 2022.

Virginia Burke,

FOIA/Privacy Act Officer, Management.

[FR Doc. 2022–11524 Filed 5–27–22; 8:45 am]

BILLING CODE 6051–01–P

OFFICE OF PERSONNEL MANAGEMENT

President's Commission on White House Fellowships Advisory Committee: Closed Meeting

AGENCY: President's Commission on White House Fellowships, Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The President's Commission on White House Fellowships (PCWHF) was established by an Executive Order in 1964. The PCWHF is an advisory committee composed of Special Government Employees appointed by the President. The Advisory Committee meets in June to interview potential candidates for recommendation to become a White House Fellow.

The meeting is closed.

Name of Committee: President's Commission on White House Fellowships Selection Weekend.

Date: June 2–5, 2022.

Time: 7:00 a.m.—5:30 p.m.

Place: St. Regis Hotel, 16th and K Street, Washington, DC 20006.

Agenda: The Commission will interview 30 National Finalists for the selection of the new class of White House Fellows.

FOR FURTHER INFORMATION CONTACT: Rosemarie Vela, 712 Jackson Place NW, Washington, DC 20503, Phone: 202–395–4522.

U.S. Office of Personnel Management.

Stephen Hickman,

Federal Register Liaison.

[FR Doc. 2022–11616 Filed 5–27–22; 8:45 am]

BILLING CODE 6325–69–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2 p.m. on Thursday, June 2, 2022.

PLACE: The meeting will be held via remote means and/or at the Commission's headquarters, 100 F Street NE, Washington, DC 20549.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission's website at *https://www.sec.gov.*

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

CONTACT PERSON FOR MORE INFORMATION: For further information; please contact

Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Authority: 5 U.S.C. 552b.

Dated: May 26, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–11737 Filed 5–26–22; 4:15 pm]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94975; File No. SR–DTC–2022–004]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of a Proposed Rule Change To Require Applicants and Members To Maintain or Upgrade Their Network or Communications Technology

May 24, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19–4 thereunder,[2] notice is hereby given that on May 11, 2022, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. 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 proposed rule change of DTC consists of modifications to Rules[3] to revise certain provisions in the Rules relating to the requirement of applicants for DTC membership, Participants and Pledgees, (collectively, ''Participants'') of DTC, to require that each Participant upgrade its network technology, and communications technology or protocols to meet standards that DTC shall publish from time to time, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

DTC is proposing to adopt a requirement that each Participant provide documentation demonstrating that the Participant's network technology, and communication technology or protocols meet the standards that DTC is currently requiring. The determination to require changes or upgrades is incorporated into DTC's procedures and includes an evaluation of the external threat landscape, threats to DTC's technology infrastructure and information assets, industry cybersecurity priorities, a review of the root causes of incidents, and an evaluation of the current state of the network infrastructure as expressed using third-party assessments. For existing Participants and Pledgees, a new requirement is being proposed to require such Participants to upgrade their network technology, and communication technology or protocols within the timeframe published by DTC. The proposed changes are described in greater detail below.

(i) Background of the Requirement

Currently, DTC does not require, either as part of its application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that are being used to connect to or communicate with DTC. In the current environment, DTC maintains multiple network and communications methods and protocols, some either obsolete or many years older than the current standard in order to support Participants using these older technologies, which leaves communications between DTC and its Participants vulnerable to interception or the introduction of unknown entries, and requires DTC to expend additional resources, both in personnel and equipment, to maintain older communications channels. In addition, Participant's use of older technology delays the implementation by DTC to upgrade its internal systems, which, by doing so, risks losing connectivity with a number of Participants. Given DTC's critical role in the marketplace, this is a risk that needs to be addressed.

DTC believes that it should require current network technology, and current communication technology and protocol standards for Participants connecting to its network. For example, The National Institute of Standards and Technology or NIST[4] Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use TLS[5] 1.2 and should be configured to use TLS 1.3 as well. These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0.[6] The internet Engineer Task Force (''IETF'')[7] formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating, ''These versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.''[8] TLS 1.0 (published in 1999) does not support many modern, strong cipher (encryption) suites and TLS 1.1 (published in 2006) is a security improvement over TLS 1.0 but still does not support certain stronger cipher or encryption suites.[9] Another communications technology, File Transfer Protocol (''FTP'') is considered an insecure protocol, because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. This makes it highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware into downloads via FTP. Following the guidance from NIST and

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms not defined herein are defined in the Rules, *available at https://dtcc.com/~/media/Files/Downloads/legal/rules/DTC_rules.pdf.*

[4] The National Institute of Standards and Technology (''NIST'') is part of the U.S. Department of Commerce.

[5] Transport Layer Security (''TLS''), the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.

[6] A government-only application is an application where the intended users are exclusively government employees or contractors working on behalf of the government. The full NIST publication is available at *https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.*

[7] The internet Engineering Task Force (''IETF'') is an open standards organization, which develops and promotes voluntary internet standards, in particular the technical standards that comprise the internet protocol suite (TCP/IP).

[8] *https://datatracker.ietf.org/doc/rfc8996/.*

[9] *Id.*

other standards organizations, the proposed change would require the use of TLS 1.2, Secure FTP (''SFTP''), along with other modern technology and communication standards and protocols to communication with Participants.

(ii) Proposed Rule Changes

To implement the proposed changes DTC would revise Rule 2, Section 11 to add the requirement that applicants for membership confirm their network technology, and communications technology and protocols to be at the levels specified by DTC, as part of their application. Rule 2, Section 11 would also be amended to add the requirement that each Participant or Pledgee maintain or upgrade their network technology, or communications technology, or protocols on the systems that connect to DTC to the version being required and within the time periods as provided through the Important Notice mechanism on the DTC website. Rule 21 would be updated to provide that a Participant or Pledgee who fails to perform the upgrade to their network technology, or communications technology, or protocols and in the required timeframe would be subject to the disciplinary sanctions as specified in the Rules.

(iii) Implementation Timeframe and Notification Requirements

In order to provide Participants and Pledgees adequate time to complete a required network technology, or communications technology or protocol upgrade, the time for a Participant or Pledgee to complete a required upgrade shall be set forth in the form of a notice posted on DTC's website, with the timeline determined for the due date of any upgrade. DTC maintains a security policy and control standards that include a review of industry, vendor and U.S. Government best practice guidelines and timelines for security reviews which are used to determine whether an upgrade may be required. Due dates for an upgrade shall be published on the website based on DTC's reasonable estimates of the complexity or potential cost of an upgrade, an estimate of potential licensing fees, an estimate of the resources that may be needed to support an upgrade, or the urgency to remediate published vulnerabilities.

Applicants to become a Participant or Pledgee shall be required to test connectivity to DTC using the current network technology or communications technology or protocols with their application for membership upon the effective date of the proposal.

2. Statutory Basis

DTC believes that the proposal is consistent with the requirements of the Act [10] and the rules and regulations thereunder applicable to a registered clearing agency. In particular, DTC believes that the proposed rule changes is consistent with Section 17A(b)(3)(F) of the Act,[11] and Rules 17Ad–22(e)(17)(i) and (ii), (21), (23) [12], promulgated under the Act as discussed below.

Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act [13] requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of DTC or for which it is responsible and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

DTC believes that the proposed rule change requiring Participants to meet DTC's standards for network technology, or communications technology or protocols is consistent with this provision of the Act. By conditioning an entity's application to DTC on its use of DTC's current network technology and communications technology or protocols, DTC should be better enabled to reduce the cyber risks of electronically connecting to entities by reducing the risks of communication interception. Accordingly, the proposed requirement would allow DTC to reduce both DTC's and its Participant's exposure to interception or the introduction of malware while communicating between the entities. Intercepting communications or the introduction of malware or altered data could potentially compromise DTC's ability to promptly and accurately settle securities transactions and safeguard securities funds. The proposal is designed to mitigate those risks and thereby promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of DTC or for which it is responsible and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. Providing a clear and consistent standard at the current level of network and communication security and technology would allow Participants to better understand their obligations with respect to such technology and communication requirements and providing a uniform obligation for Participants with respect to such requirements. As such, DTC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[14]

17Ad 22(e)(21)(iv)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad 22(e)(21)(iv) promulgated under the Act. Rule 17Ad–22(e)(21)(iv) requires DTC to, *inter alia,* establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its Participants and the markets it serves with regard to the use of network technology and communication technologies or protocols. The proposed rule change would enhance DTC's security through the use of current network technology, or communication technology or protocols, and would allow DTC to reduce its and its Participants' exposure to interception or the introduction of malware while communicating between the entities. This would eliminate the current use of multiple generations of network technology and communications technology and protocols, including ones that NIST no longer permits for use on government systems due to their insecurity. The proposed rule would require, after appropriate notice to Participants, future network technology and communication or protocol upgrades as technology and threats evolve to maintain secure connectivity.

Therefore, by the reviewing and updating the efficiency and effectiveness of Participants' use of network technology and communication technology or protocols and procedures, DTC believes the proposed change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv), promulgated under the Act.

Rule 17Ad–22(e)(17)(i)

DTC believes the proposed change is designed to reduce the following risks: (1) The risk of the communications between DTC and its Participants being intercepted or introducing malware or other unknown harmful elements into DTC's network that could cause harm to DTC; (2) the risk that a cyberattack or other unknown harmful elements could be introduced from a Participant that

[10] 15 U.S.C. 78a *et seq.*

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(17), (e)(21), (e)(23).

[13] 15 U.S.C. 78q–1(b)(3)(F).

[14] *Id.*

could cause harm to other Participants.[15]

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(i) promulgated under the Act,[16] which requires DTC to establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.

The use of old, obsolete, or insecure network technology or communications technologies or protocols, including communications between DTC and its Participants that are unencrypted, allowing for potential interception or making the communication highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware, are examples of plausible sources of operational risks that DTC seeks to reduce. By requiring all Participants, after appropriate notice, to upgrade their network technology or communications technology or protocols to current standards, DTC seeks to enhance the security of its systems and the communications between it and its Participants.

Because the proposed changes would help identify and manage such operational risks, DTC believes that it is consistent with the requirements of Rule 17Ad–22(e)(17)(i), promulgated under the Act.[17]

Rule 17Ad–22(e)(17)(ii)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(ii) promulgated under the Act, which requires DTC to establish, implement, maintain and enforce written policies and procedures reasonably designed ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[18]

The use of unencrypted network technology and communications technology or protocols can allow a third-party to intercept messages, insert malware, or change the message content, often without the knowledge of either the sender or recipient of the messages or files. Requiring Participants to upgrade their network technology and communications technology or protocols to more modern and secure methods, may eliminate many of the earlier threats.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, DTC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii), promulgated under the Act.[19]

Rule 17Ad–22(e)(22)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(22) promulgated under the Act, which requires DTC to use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.[20]

The requirement to use industry approved communications technology or protocols, including those that NIST specifies as acceptable for use in government systems is a cornerstone of the changes being proposed by DTC. The use of older, obsolete, or insecure network technology or communications technology or protocols, including those specified to not be used by the IETF [21] represents a risk to efficient payment, clearing and settlement.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, DTC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(22), promulgated under the Act.[22]

Rule 17Ad–22(e)(23)

The proposed rule change is also designed to be consistent with Rule 17Ad–22(e)(23)(i), (ii) and (iv) promulgated under the Act, which requires DTC to publicly disclose all relevant rules and material procedures, provide sufficient information to enable Participants to identify and evaluate the risks, fees, potential monetary fines, and other material costs they incur by participating in the covered clearing agency, and to provide a comprehensive public disclosure that describes DTC's material rules, policies, and procedures regarding DTC's legal, governance, risk management and operating framework.[23]

Network technology, or communications technology or protocols that are being updated would be posted on the DTC website and Participants may subscribe to receive updates to such information as it occurs. This allows current or prospective Participants the ability to understand the risks and potential costs they may incur as a Participant, including the potential costs to upgrade its network technology or communications technology or protocols to the standards published by DTC.

Therefore, by providing Participants with public and readily available access to the required network technology, or communications technology or protocols, DTC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(23)(i)(ii) and (iv), promulgated under the Act.[24]

(B) Clearing Agency's Statement on Burden on Competition

DTC does not believe the proposed changes to require Participants to have, or to upgrade their network technology or communications technology or protocols would have any impact, or impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[25] Although the addition of the requirement to upgrade to current network technology or communications technology or protocols would be adding obligations on Participants with respect to how they communicate with DTC, such obligations would be reasonable because the requirements to protect client and customer data would allow DTC to reduce both its and its Participants' exposure to interception or the introduction of malware while communicating between the entities.

DTC believes that the proposed change described herein is necessary in furtherance of the purposes of Section 17A(b)(3)(F) of the Act,[26] and Rules 17Ad–22(e)(17), (e)(21), (e)(22), and (e)(23).[27] The proposed changes to require Participants to upgrade their network technology, and communications technology or protocols, will (i) allow DTC to protect it and its Participants and would promote the prompt and accurate clearance and settlement of securities consistent with the requirements of Section 17A(b)(3)(F) of the Act,[28] (ii) identify potential operational risks from the use of obsolete and insecure network technology and communications technology or protocols consistent with Rule 17Ad–

[15] 17 CFR 240.17Ad–22(e)(17).

[16] 17 CFR 240.17Ad–22(e)(17)(i).

[17] *Id.*

[18] 17 CFR 240.17Ad–22(e)(17)(ii).

[19] *Id.*

[20] 17 CFR 240.17Ad–22(e)(22).

[21] *https://datatracker.ietf.org/doc/rfc8996/.*

[22] 17 CFR 240.17Ad–22(e)(22).

[23] 17 CFR 240.17Ad–23(e)(i), (ii), and (iv).

[24] *Id.*

[25] 15 U.S.C. 78q–1(b)(3)(I).

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17Ad–22(e)(1), (e)(17), (e)(21), (e)(22) and (e)(23).

[28] *Id.*

22(e)(17)(i),[29] (iii) through the requirement of the use of current network technology and communications technology or protocols, ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity, consistent with Rule 17Ad–22(e)(17)(ii),[30] and (iv) through the use of requiring relevant internationally accepted communication procedures and standards, facilitate efficient payment, clearing, and settlement, consistent with Rules 17Ad–22(e)(22).[31]

DTC believes that the proposed change described herein is appropriate in furtherance of the Act because the NIST standards and frameworks provides a common language and systematic methodology for managing cybersecurity risk. The IETF, initially supported by the U.S. Government,[32] develops the internet and other technical standards used in communications between devices, and together, these are two of the leading providers of standards used by organizations to protect data and interoperability. DTC maintains policies to review current risks and standards, incorporating input from industry, vendors, and the U.S. Government to determine best practice guidelines and timelines for security reviews.

Therefore, DTC does not believe that the proposed change would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[33]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the SEC does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the SEC's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right not to respond to any comments received.

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–DTC–2022–004 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–DTC–2022–004. 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 DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–DTC–2022–004 and should be submitted on or before June 21, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11534 Filed 5–27–22; 8:45 am]

BILLING CODE 8011–01–P

[29] 17Ad–22(e)(17)(i).

[30] 17Ad–22(e)(17)(ii).

[31] *Id.*

[32] *https://www.internetsociety.org/internet/history-of-the-internet/ietf-internet-society/.*

[33] 15 U.S.C. 78q–1(b)(3)(I).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34- 94977; File No. SR–NSCC–2022–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of a Proposed Rule Change To Require Applicants and Members To Maintain or Upgrade Their Network or Communications Technology

May 24, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 11, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change of NSCC consists of modifications to NSCC's Rules & Procedures (''Rules'') [3] to revise certain provisions in the Rules relating to the requirement of applicants for NSCC membership, Members, Limited Members and Sponsored Members,[4] (collectively, ''Participants'') of NSCC, to require that each Participant upgrade its network technology, and communications technology or protocols to meet standards that NSCC shall publish from time to time, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NSCC is proposing to adopt a requirement that each Participant provide documentation demonstrating that the Participant's network technology, and communication technology or protocols meet the standards that NSCC is currently requiring. The determination to require changes or upgrades is incorporated into NSCC's procedures and includes an evaluation of the external threat landscape, threats to NSCC's technology infrastructure and information assets, industry cybersecurity priorities, a review of the root causes of incidents, and an evaluation of the current state of the network infrastructure as expressed using third party assessments. For existing Members, Limited Members, and Sponsored Members, a new requirement is being proposed to require such Participants to upgrade their network technology, and communication technology or protocols within the timeframe published by NSCC. The proposed changes are described in greater detail below.

(i) Background of the Requirement

Currently, NSCC does not require, either as part of its application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that are being used to connect to or communicate with NSCC. In the current environment, NSCC maintains multiple network and communications methods and protocols, some either obsolete or many years older than the current standard in order to support Participants using these older technologies, which leaves communications between NSCC and its Participants vulnerable to interception or the introduction of unknown entries, and requires NSCC to expend additional resources, both in personnel and equipment, to maintain older communications channels. In addition, Participant's use of older technology delays the implementation by NSCC to upgrade its internal systems, which, by doing so, risks losing connectivity with a number of Participants. Given NSCC's critical role in the marketplace, this is a risk that needs to be addressed.

NSCC believes that it should require current network technology, and current communication technology and protocol standards for Participants connecting to its network. For example, The National Institute of Standards and Technology or NIST [5] Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use TLS [6] 1.2 and should be configured to use TLS 1.3 as well. These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0.[7] The internet Engineer Task Force (''IETF'') [8] formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating, ''These versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.'' [9] TLS 1.0 (published in 1999) does not support many modern, strong cipher (encryption) suites and TLS 1.1 (published in 2006) is a security improvement over TLS 1.0 but still does not support certain stronger cipher or encryption suites.[10] Another communications technology, File Transfer Protocol (''FTP'') is considered an insecure protocol, because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. This makes it highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware into downloads via FTP. Following the guidance from NIST and other standards organizations, the proposed change would require the use of TLS 1.2, Secure FTP (''SFTP''), along with other modern technology and communication standards and protocols to communication with Participants.

(ii) Proposed Rule Changes

To implement the proposed changes, NSCC would revise Rule 2A, Section 1C to add the requirement that applicants for membership must confirm their network technology, and communications technology and protocols to be at the levels specified by NSCC, as part of their application. Rule 2B, Section 2A would be amended to add the requirement that each Member, Limited Member, or Sponsored Member maintain or upgrade their network technology, or communications technology or protocols on the systems that connect to NSCC to the version being required and within the time periods as provided through the Important Notice mechanism on NSCC's website. Rule 7, Section 6 would be changed to provide that NSCC may require self-regulatory organizations, derivatives clearing organizations, and organizations who act either directly or through a subsidiary or affiliated organization and communicate with NSCC maintain or upgrade their

[3] Capitalized terms not defined herein are defined in the Rules, *available at https://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[4] Sponsored Members are a future program and will be the subject of a separate proposed rule change.

[5] The National Institute of Standards and Technology (''NIST'') is part of the U.S. Department of Commerce.

[6] Transport Layer Security (''TLS''), the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.

[7] A government-only application is an application where the intended users are exclusively government employees or contractors working on behalf of the government. The full NIST publication is available at *https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.*

[8] The internet Engineering Task Force (''IETF'') is an open standards organization, which develops and promotes voluntary internet standards, in particular the technical standards that comprise the internet protocol suite (TCP/IP).

[9] *https://datatracker.ietf.org/doc/rfc8996/*

[10] *Id.*

network technology, or communications technology or protocols on the systems that connect to NSCC to the version being required and within the time periods in the same manner as Members, Limited Members or Sponsored Members. Addendum P, Section 3 of the Rules would be updated to provide that a Member, Limited Member or Sponsored Member who fails to perform the upgrade to their network technology, or communications technology or protocols and in the required timeframe would be subject to a monetary fine as specified in the Rules.

(iii) *Implementation Timeframe and Notification Requirements*

In order to provide Members, Limited Members, or Sponsored Members adequate time to complete a required network technology, or communications technology or protocol upgrade, the time for a Member, Limited Member, or Sponsored Member to complete a required upgrade shall be set forth in the form of a notice posted on NSCC's website pursuant to Section 7 of Rule 45, with the timeline determined for the due date of any upgrade. NSCC maintains a security policy and control standards that include a review of industry, vendor and U.S. Government best practice guidelines and timelines for security reviews which are used to determine whether an upgrade may be required. Due dates for an upgrade shall be published on the website based on NSCC's reasonable estimates of the complexity or potential cost of an upgrade, an estimate of potential licensing fees, an estimate of the resources that may be needed to support an upgrade, or the urgency to remediate published vulnerabilities.

Applicants for membership shall be required to test connectivity to NSCC using the current network technology or communications technology or protocols with their application for membership upon the effective date of the proposal.

2. Statutory Basis

NSCC believes that the proposal is consistent with the requirements of the Act[11] and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes that the proposed rule changes is consistent with Section 17A(b)(3)(F) of the Act,[12] and Rules 17Ad–22(e)(17)(i) and (ii), (21), and (23),[13] promulgated under the Act as discussed below.

Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act[14] requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

NSCC believes that the proposed rule change requiring Participants to meet NSCC's standards for network technology, or communications technology or protocols is consistent with this provision of the Act. By conditioning an entity's application to NSCC on its use of NSCC's current network technology and communications technology or protocols, NSCC should be better enabled to reduce the cyber risks of electronically connecting to entities by reducing the risks of communication interception. Accordingly, the proposed requirement would allow NSCC to reduce both NSCC's and its Participant's exposure to interception or the introduction of malware while communicating between the entities. Intercepting communications or the introduction of malware or altered data could potentially compromise NSCC's ability to promptly and accurately settle securities transactions and safeguard securities funds. The proposal is designed to mitigate those risks and thereby promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. Providing a clear and consistent standard at the current level of network and communication security and technology would allow Participants to better understand their obligations with respect to such technology and communication requirements and providing a uniform obligation for Participants with respect to such requirements. As such, NSCC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[15]

17Ad 22(e)(21)(iv)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad 22(e)(21)(iv) promulgated under the Act. Rule 17Ad–22(e)(21)(iv) requires NSCC to, *inter alia,* establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its Participants and the markets it serves with regard to the use of network technology and communication technologies or protocols. The proposed rule change would enhance NSCC's security through the use of current network technology, or communication technology or protocols, and would allow NSCC to reduce its and its Participants' exposure to interception or the introduction of malware while communicating between the entities. This would eliminate the current use of multiple generations of network technology and communications technology and protocols, including ones that NIST no longer permits for use on government systems due to their insecurity. The proposed rule would require, after appropriate notice to Participants, future network technology and communication or protocol upgrades as technology and threats evolve to maintain secure connectivity.

Therefore, by reviewing and updating the efficiency and effectiveness of its Participants' use of network technology and communication technology or protocols and procedures, NSCC believes the proposed change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv), promulgated under the Act.

Rule 17Ad–22(e)(17)(i)

NSCC believes the proposed change is designed to reduce the following risks: (1) The risk of the communications between NSCC and its Participants being intercepted or introducing malware or other unknown harmful elements into NSCC's network that could cause harm to NSCC; (2) the risk that a cyberattack or other unknown harmful elements could be introduced from a Participant that could cause harm to other Participants.[16]

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(i) promulgated under the Act,[17] which requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying plausible sources of

[11] 15 U.S.C. 78a *et seq.*

[12] 15 U.S.C. 78q–1(b)(3)(F).

[13] 17 CFR 240.17Ad–22(e)(17), (e)(21), (e)(23).

[14] 15 U.S.C. 78q–1(b)(3)(F).

[15] *Id.*

[16] 17 CFR 240.17Ad–22(e)(17).

[17] 17 CFR 240.17Ad–22(e)(17)(i).

operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.

The use of old, obsolete, or insecure network technology or communications technologies or protocols, including communications between NSCC and its Participants that are unencrypted, allowing for potential interception or making the communication highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware, are examples of plausible sources of operational risks that NSCC seeks to reduce. By requiring all Participants, after appropriate notice, to upgrade their network technology or communications technology or protocols to current standards, NSCC seeks to enhance the security of its systems and the communications between it and its Participants.

Because the proposed changes would help identify and manage such operational risks, NSCC believes that it is consistent with the requirements of Rule 17Ad–22(e)(17)(i), promulgated under the Act.[18]

Rule 17Ad 22(e)(17)(ii)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(ii) promulgated under the Act, which requires NSCC to establish, implement, maintain and enforce written policies and procedures reasonably designed ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[19]

The use of unencrypted network technology and communications technology or protocols can allow a third party to intercept messages, insert malware, or change the message content, often without the knowledge of either the sender or recipient of the messages or files. Requiring Participants to upgrade their network technology and communications technology or protocols to more modern and secure methods, may eliminate many of the earlier threats.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, NSCC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii), promulgated under the Act.[20]

Rule 17Ad–22(e)(22)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(22) promulgated under the Act, which requires NSCC to use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.[21]

The requirement to use industry approved communications technology or protocols, including those that NIST specifies as acceptable for use in government systems is a cornerstone of the changes being proposed by NSCC. The use of older, obsolete, or insecure network technology or communications technology or protocols, including those specified to not be used by the IETF [22] represents a risk to efficient payment, clearing and settlement.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, NSCC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(22), promulgated under the Act.[23]

Rule 17Ad–22(e)(23)

The proposed rule change is also designed to be consistent with Rule 17Ad 22(e)(23)(i), (ii) and (iv) promulgated under the Act, which requires NSCC to publicly disclose all relevant rules and material procedures, provide sufficient information to enable Participants to identify and evaluate the risks, fees, potential monetary fines, and other material costs they incur by participating in the covered clearing agency, and to provide a comprehensive public disclosure that describes NSCC's material rules, policies, and procedures regarding NSCC's legal, governance, risk management and operating framework.[24]

Network technology, or communications technology or protocols that are being updated would be posted on the NSCC website and Participants may subscribe to receive updates to such information as it occurs. This allows current or prospective Participants the ability to understand the risks and potential costs they may incur as a Participant, including the potential costs to upgrade its network technology or communications technology or protocols to the standards published by NSCC.

Therefore, by providing Participants with public and readily available access to the required network technology, or communications technology or protocols, NSCC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(23)(i)(ii) and (iv), promulgated under the Act.[25]

(B) Clearing Agency's Statement on Burden on Competition

NSCC does not believe the proposed change to require Participants to have, or to upgrade their network technology or communications technology or protocols would have any impact, or impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[26] Although the addition of the requirement to upgrade to current network technology or communications technology or protocols would be adding obligations on Participants with respect to how they communicate with NSCC, such obligations would be reasonable because the requirements to protect client and customer data would allow NSCC to reduce both its and its Participant's exposure to interception or the introduction of malware while communicating between the entities.

NSCC believes that the proposed change described herein is necessary in furtherance of the purposes of Section 17A(b)(3)(F) of the Act,[27] and Rules 17Ad–22(e)(17), (e)(21), (e)(22), and (e)(23).[28] The proposed changes to require Participants to upgrade their network technology, and communications technology or protocols, will (i) allow NSCC to protect it and its Participants and would promote the prompt and accurate clearance and settlement of securities consistent with the requirements of Section 17A(b)(3)(F) of the Act,[29] (ii) identify potential operational risks from the use of obsolete and insecure network technology and communications technology or protocols consistent with Rule 17Ad 22(e)(17)(i),[30] (iii) through the requirement of the use of current network technology and communications technology or protocols, ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity, consistent with Rule 17Ad 22(e)(17)(ii),[31] and (iv) through the use of requiring relevant

[18] *Id.*

[19] 17 CFR 240.17Ad–22(e)(17)(ii).

[20] *Id.*

[21] 17 CFR 240.17Ad–22(e)(22).

[22] *https://datatracker.ietf.org/doc/rfc8996/.*

[23] 17 CFR 240.17Ad–22(e)(22).

[24] 17 CFR 240.17Ad–23(e)(i), (ii), and (iv).

[25] *Id.*

[26] 15 U.S.C. 78q–1(b)(3)(I).

[27] 15 U.S.C. 78q–1(b)(3)(F).

[28] 17 CFR 240.17Ad–22(e)(1), (e)(17), (e)(21), (e)(22) and (e)(23).

[29] *Id.*

[30] 17Ad 22(e)(17)(i).

[31] 17Ad 22(e)(17)(ii).

internationally accepted communication procedures and standards, facilitate efficient payment, clearing, and settlement, consistent with Rules 17Ad–22(e)(22).[32]

NSCC believes that the proposed change described herein is appropriate in furtherance of the Act because the NIST standards and frameworks provides a common language and systematic methodology for managing cybersecurity risk. The IETF, initially supported by the U.S. Government,[33] develops the internet and other technical standards used in communications between devices, and together, these are two of the leading providers of standards used by organizations to protect data and interoperability. NSCC maintains policies to review current risks and standards, incorporating input from industry, vendors, and the U.S. Government to determine best practice guidelines and timelines for security reviews.

Therefore, NSCC does not believe that the proposed changes would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[34]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

NSCC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the SEC does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the SEC's instructions on how to submit comments, available at *https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

NSCC reserves the right not to respond to any comments received.

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–NSCC–2022–004 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–NSCC–2022–004. 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 NSCC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–NSCC–2022–004 and should be submitted on or before June 21, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11535 Filed 5–27–22; 8:45 am]

BILLING CODE 8011–01–P

[32] *Id.*

[33] *https://www.internetsociety.org/internet/history-of-the-internet/ietf-internet-society/.*

[34] 15 U.S.C. 78q–1(b)(3)(I).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–94972; File No. SR–FICC–2022–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing of a Proposed Rule Change To Require Applicants and Members To Maintain or Upgrade Their Network or Communications Technology

May 24, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 20, 2022, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. 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 proposed rule change of FICC consists of modifications to FICC's Government Securities Division (''GSD'') Rulebook (''GSD Rules''), FICC's Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules''), and the Electronic

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Pool Notification (''EPN'') Rules of MBSD (''EPN Rules,'' and, together with the GSD Rules and the MBSD Rules, the ''Rules'') [3] to revise certain provisions in the Rules relating to the requirement of applicants and Members, (collectively, ''Participants'') of FICC, to require that each Participant upgrade its network technology, and communications technology or protocols to meet standards that FICC shall publish from time to time, as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

FICC is proposing to adopt a requirement that each Participant provide documentation demonstrating that the Participant's network technology, and communication technology or protocols meet the standards that FICC is currently requiring. The determination to require changes or upgrades is incorporated into FICC's procedures and includes an evaluation of the external threat landscape, threats to FICC's technology infrastructure and information assets, industry cybersecurity priorities, a review of the root causes of incidents, and an evaluation of the current state of the network infrastructure as expressed using third party assessments. For existing Participants, a new requirement is being proposed to require such Participants to upgrade their network technology, and communication technology or protocols within the timeframe published by FICC. The proposed changes are described in greater detail below.

(i) Background of the Requirement

Currently, FICC does not require, either as part of its application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that are being used to connect to or communicate with FICC. In the current environment, FICC maintains multiple network and communications methods and protocols, some either obsolete or many years older than the current standard in order to support Participants using these older technologies, which leaves communications between FICC and its Participants vulnerable to interception or the introduction of unknown entries, and requires FICC to expend additional resources, both in personnel and equipment, to maintain older communications channels. In addition, Participant's use of older technology delays the implementation by FICC to upgrade its internal systems, which, by doing so, risks losing connectivity with a number of Participants. Given FICC's critical role in the marketplace, this is a risk that needs to be addressed.

FICC believes that it should require current network technology, and current communication technology and protocol standards for Participants connecting to its network. For example, The National Institute of Standards and Technology or NIST [4] Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use TLS [5] 1.2 and should be configured to use TLS 1.3 as well. These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0.[6] The internet Engineer Task Force (''IETF'') [7] formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating, ''These versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.'' [8] TLS 1.0 (published in 1999) does not support many modern, strong cipher (encryption) suites and TLS 1.1 (published in 2006) is a security improvement over TLS 1.0 but still does not support certain stronger cipher or encryption suites.[9] Another communications technology, File Transfer Protocol (''FTP'') is considered an insecure protocol, because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. This makes it highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware into downloads via FTP. Following the guidance from NIST and other standards organizations, the proposed change would require the use of TLS 1.2, Secure FTP (''SFTP''), along with other modern technology and communication standards and protocols to communication with Participants.

(ii) Proposed Rule Changes

GSD Rules

FICC is proposing to modify GSD Rules Rule 2A, Section 5, Rule 3, Section 2, and Rule 3B, Section 3(c)(ii) and insert a new Rule 3A, Section 2(b)(v), which would be changed to add the requirement that applicants for Comparison-Only Members, Netting Members, Sponsoring Members, and CCIT Members respectively, must confirm their network technology, and communications technology and protocols to be at the levels specified by FICC, as part of their application. Rule 3, Section 2, Rule 3A, Section 2(e), and Rule 3B, Section 5(b)(i) would be amended to add the requirement that each Participant type maintain or upgrade their network technology, or communications technology or protocols on the systems that connect to the Corporation to the version being required and within the time periods as provided through the Important Notice mechanism on the Corporation's website. The GSD Rules Fine Schedule

[3] Capitalized terms not defined herein are defined in the Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.* References to ''Members'' in this filing include the Participants of GSD and MBSD, including GSD Netting Members, GSD Comparison-Only Members, GSD Sponsoring Members, GSD CCIT Members, GSD Funds-Only Settling Bank Members, MBSD Clearing Members, MBSD Cash Settling Bank Members, and MBSD EPN Users, as such terms are defined in the respective Rules.

[4] The National Institute of Standards and Technology (''NIST'') is part of the U.S. Department of Commerce.

[5] Transport Layer Security (''TLS''), the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.

[6] A government-only application is an application where the intended users are exclusively government employees or contractors working on behalf of the government. The full NIST publication is available at *https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.*

[7] The internet Engineering Task Force (''IETF'') is an open standards organization, which develops and promotes voluntary internet standards, in particular the technical standards that comprise the internet protocol suite (TCP/IP).

[8] *https://datatracker.ietf.org/doc/rfc8996/.*

[9] *Id.*

would be updated to provide that any Participant who fails to perform the upgrade to their network technology, or communications technology or protocols and in the required timeframe would be subject to a monetary fine, as specified in the Rules.

Also, FICC is proposing to re-number Rule 3A, Section 2(e) through Section 2(h) to Section 2(f) through Section 2(i) due to the insertion of a new Section 2(e); Rule 3B, Section 3(c)(ii) to Section 3(c)(iii) due to the insertion of a new Section 3(c)(ii); and Rule 3B, Section 5(i) and Section 5(ii) to Section 5(ii) and Section 5(iii) due to the insertion of a new Section 5(i).

MBSD Rules

To implement the proposed changes described herein, FICC would revise Rule 2A, Section 2(a) which would be changed to add the requirement that applicants for Clearing Members must confirm their network technology, and communications technology and protocols to be at the levels specified by FICC, as part of their application. Rule 3, Section 2 would be amended to add the requirement that each Clearing Member to maintain or upgrade their network technology, or communications technology or protocols on the systems that connect to the Corporation to the version being required and within the time periods as provided through the Important Notice mechanism on the Corporation's website. In addition, Rule 3, Section 2 would also be updated to provide that any Participant who fails to perform the upgrade to their network technology, or communications technology or protocols and in the required timeframe would be subject to a monetary fine, as specified in the Rules. Rule 3A, Section (d)(i)(2) would be amended to add the requirement that each Cash Settling Bank Member to maintain or upgrade their network technology, or communications technology or protocols on the systems that connect to the Corporation to the version being required and within the time periods as provided through the Important Notice mechanism on the Corporation's website. The Schedule of Charges for both the Broker Account Group and the Dealer Account Group would be updated to provide that a Clearing Member or Cash Settling Bank Member who fails to perform the upgrade to their network technology, or communications technology or protocols and in the required timeframe would be subject to a monetary fine, as specified in the Rules.

Also, FICC is proposing to re-number Rule 3A, Section (d)(i)(2) to Section (d)(i)(3) due to the insertion of a new Section (d)(i)(2).

EPN Rules

FICC is proposing to revise EPN Rules Article III, Rule 1, Section 2(b) which would be changed to add the requirement that applicants for EPN Users must confirm their network technology, and communications technology and protocols to be at the levels specified by FICC, as part of their application. Article III, Rule 1, Section 3(f) would be amended to add the requirement that each EPN User to maintain or upgrade their network technology, or communications technology or protocols on the systems that connect to the Corporation to the version being required and within the time periods as provided through the Important Notice mechanism on the Corporation's website.

Also, FICC is proposing to re-number Article III Rule 1, Section 2(b) to Section 2(c) due to the insertion of a new Section 2(b) and Article III, Rule 1, Section 3(f) would be re-numbered to Section 3(g) due to the insertion of a new Section 3(f).

In addition, Article V, Rule 3, would be amended to add the requirement that a Participant who fails to perform the upgrade to their network technology, or communications technology or protocols and in the required timeframe may be subject to a monetary fine, as specified in the Rules.

(iii) Implementation Timeframe and Notification Requirements

In order to provide Participants adequate time to complete a required network technology, or communications technology or protocol upgrade, the time for a Participant to complete a required upgrade shall be set forth in the form of a notice posted on FICC's website with the timeline determined for the due date of any upgrade. FICC maintains a security policy and control standards that include a review of industry, vendor and U.S. Government best practice guidelines and timelines for security reviews which are used to determine whether an upgrade may be required. Due dates for an upgrade shall be published on the website based on FICC's reasonable estimates of the complexity or potential cost of an upgrade, an estimate of potential licensing fees, an estimate of the resources that may be needed to support an upgrade, or the urgency to remediate published vulnerabilities.

Applicants for membership shall be required to test connectivity to FICC using the current network technology or communications technology or protocols with their application for membership upon the effective date of the proposal.

2. Statutory Basis

FICC believes that the proposal is consistent with the requirements of the Act[10] and the rules and regulations thereunder applicable to a registered clearing agency. In particular, FICC believes that the proposed rule changes is consistent with Section 17A(b)(3)(F) of the Act,[11] and Rules 17Ad–22(e)(17)(i) and (ii), (21), and (23),[12] promulgated under the Act as discussed below.

Section 17A(b)(3)(F)

Section 17A(b)(3)(F) of the Act[13] requires, in part, that the Rules be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible and to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions.

FICC believes that the proposed rule change requiring Participants to meet FICC's standards for network technology, or communications technology or protocols is consistent with this provision of the Act. By conditioning an entity's application to FICC on its use of FICC's current network technology and communications technology or protocols, FICC should be better enabled to reduce the cyber risks of electronically connecting to entities by reducing the risks of communication interception. Accordingly, the proposed requirement would allow FICC to reduce both FICC's and its Participants exposure to interception or the introduction of malware while communicating between the entities. Intercepting communications or the introduction of malware or altered data could potentially compromise FICC's ability to promptly and accurately settle securities transactions and safeguard securities funds. The proposal is designed to mitigate those risks and thereby promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible and to remove impediments to and perfect

[10] 15 U.S.C. 78a *et seq.*

[11] 15 U.S.C. 78q–1(b)(3)(F).

[12] 17 CFR 240.17Ad–22(e)(17), (e)(21), (e)(23).

[13] 15 U.S.C. 78q–1(b)(3)(F).

the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. Providing a clear and consistent standard at the current level of network and communication security and technology would allow Participants to better understand their obligations with respect to such technology and communication requirements and providing a uniform obligation for Participants with respect to such requirements. As such, FICC believes the proposed rule change is consistent with Section 17A(b)(3)(F) of the Act.[14]

17Ad 22(e)(21)(iv)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad 22(e)(21)(iv) promulgated under the Act. Rule 17Ad–22(e)(21)(iv) requires FICC to, inter alia, establish, implement, maintain and enforce written policies and procedures reasonably designed to be efficient and effective in meeting the requirements of its Participants and the markets it serves with regard to the use of network technology and communication technologies or protocols. The proposed rule change would enhance FICC's security through the use of current network technology, or communication technology or protocols, and would allow FICC to reduce its and its Participants' exposure to interception or the introduction of malware while communicating between the entities. This would eliminate the current use of multiple generations of network technology and communications technology and protocols, including ones that NIST no longer permits for use on government systems due to their insecurity. The proposed rule would require, after appropriate notice to Participants, future network technology and communication or protocol upgrades as technology and threats evolve to maintain secure connectivity.

Therefore, by reviewing and updating the efficiency and effectiveness of Participants' use of network technology and communication technology or protocols and procedures, FICC believes the proposed change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv), promulgated under the Act.

Rule 17Ad–22(e)(17)(i)

FICC believes the proposed change is designed to reduce the following risks: (1) The risk of the communications between FICC and its Participants being intercepted or introducing malware or other unknown harmful elements into FICC's network that could cause harm to FICC; (2) the risk that a cyberattack or other unknown harmful elements could be introduced from a Participant that could cause harm to other Participants.[15]

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(i) promulgated under the Act,[16] which requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.

The use of old, obsolete, or insecure network technology or communications technologies or protocols, including communications between FICC and its Participants that are unencrypted, allowing for potential interception or making the communication highly vulnerable to sniffing attacks that allow an attacker to collect usernames and passwords from the network and inject malware, are examples of plausible sources of operational risks that FICC seeks to reduce. By requiring all Participants, after appropriate notice, to upgrade their network technology or communications technology or protocols to current standards, FICC seeks to enhance the security of its systems and the communications between it and its Participants.

Because the proposed change would help identify and manage such operational risks, FICC believes that it is consistent with the requirements of Rule 17Ad–22(e)(17)(i), promulgated under the Act.[17]

Rule 17Ad 22(e)(17)(ii)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(17)(ii) promulgated under the Act, which requires FICC to establish, implement, maintain and enforce written policies and procedures reasonably designed ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity.[18]

The use of unencrypted network technology and communications technology or protocols can allow a third party to intercept messages, insert malware, or change the message content, often without the knowledge of either the sender or recipient of the messages or files. Requiring Participants to upgrade their network technology and communications technology or protocols to more modern and secure methods, may eliminate many of the earlier threats.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, FICC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii), promulgated under the Act.[19]

Rule 17Ad–22(e)(22)

In addition, the proposed rule change is designed to be consistent with Rule 17Ad–22(e)(22) promulgated under the Act, which requires FICC to use, or at a minimum accommodate, relevant internationally accepted communication procedures and standards in order to facilitate efficient payment, clearing, and settlement.[20]

The requirement to use industry approved communications technology or protocols, including those that NIST specifies as acceptable for use in government systems is a cornerstone of the changes being proposed by FICC. The use of older, obsolete, or insecure network technology or communications technology or protocols, including those specified to not be used by the IETF [21] represents a risk to efficient payment, clearing and settlement.

Therefore, by requiring Participants to upgrade their network technology or communications technology or protocols, FICC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(22), promulgated under the Act.[22]

Rule 17Ad–22(e)(23)

The proposed rule change is also designed to be consistent with Rule 17Ad 22(e)(23)(i), (ii) and (iv) promulgated under the Act, which requires FICC to publicly disclose all relevant rules and material procedures, provide sufficient information to enable Participants to identify and evaluate the risks, fees, potential monetary fines, and other material costs they incur by participating in the covered clearing agency, and to provide a comprehensive public disclosure that describes FICC's material rules, policies, and procedures regarding FICC's legal, governance, risk management and operating framework.[23]

Network technology, or communications technology or

[14] *Id.*

[15] 17 CFR 240.17Ad–22(e)(17).

[16] 17 CFR 240.17Ad–22(e)(17)(i).

[17] *Id.*

[18] 17 CFR 240.17Ad–22(e)(17)(ii).

[19] *Id.*

[20] 17 CFR 240.17Ad–22(e)(22).

[21] *https://datatracker.ietf.org/doc/rfc8996/.*

[22] 17 CFR 240.17Ad–22(e)(22).

[23] 17 CFR 240.17Ad–23(e)(i), (ii), and (iv).

protocols that are being updated would be posted on the FICC website and Participants may subscribe to receive updates to such information as it occurs. This allows current or prospective Participants the ability to understand the risks and potential costs they may incur as a Participant, including the potential costs to upgrade its network technology or communications technology or protocols to the standards published by FICC.

Therefore, by providing Participants with public and readily available access to the required network technology, or communications technology or protocols, FICC believes that the proposed change is consistent with the requirements of Rule 17Ad–22(e)(23)(i)(ii) and (iv), promulgated under the Act.[24]

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe the proposed change to require Participants to have, or to upgrade their network technology or communications technology or protocols would have any impact, or impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[25] Although the addition of the requirement to upgrade to current network technology or communications technology or protocols would be adding obligations on Participants with respect to how they communicate with FICC, such obligations would be reasonable because the requirements to protect client and customer data would allow FICC to reduce both its and its Participants' exposure to interception or the introduction of malware while communicating between the entities.

FICC believes that the proposed change described herein is necessary in furtherance of the purposes of Section 17A(b)(3)(F) of the Act,[26] and Rules 17Ad–22(e)(17), (e)(21), (e)(22), and (e)(23).[27] The proposed changes to require Participants to upgrade their network technology, and communications technology or protocols, will (i) allow FICC to protect it and its Participants and would promote the prompt and accurate clearance and settlement of securities consistent with the requirements of Section 17A(b)(3)(F) of the Act,[28] (ii) identify potential operational risks from the use of obsolete and insecure network technology and communications technology or protocols consistent with Rule 17Ad 22(e)(17)(i),[29] (iii) through the requirement of the use of current network technology and communications technology or protocols, ensure that systems have a high degree of security, resiliency, operational reliability, and adequate, scalable capacity, consistent with Rule 17Ad 22(e)(17)(ii),[30] and (iv) through the use of requiring relevant internationally accepted communication procedures and standards, facilitate efficient payment, clearing, and settlement, consistent with Rules 17Ad–22(e)(22).[31]

FICC believes that the proposed change described herein is appropriate in furtherance of the Act because the NIST standards and frameworks provides a common language and systematic methodology for managing cybersecurity risk. The IETF, initially supported by the U.S. Government,[32] develops the internet and other technical standards used in communications between devices, and together, these are two of the leading providers of standards used by organizations to protect data and interoperability. FICC maintains policies to review current risks and standards, incorporating input from industry, vendors, and the U.S. Government to determine best practice guidelines and timelines for security reviews.

Therefore, FICC does not believe that the proposed change would impose any burden on competition that is not necessary or appropriate in furtherance of the Act.[33]

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

FICC has not received or solicited any written comments relating to this proposal. If any written comments are received, they will be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the SEC does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the SEC's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submit-comments.* General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the SEC's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

FICC reserves the right not to respond to any comments received.

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–FICC–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–FICC–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

[24] Id.

[25] 15 U.S.C. 78q–1(b)(3)(I).

[26] 15 U.S.C. 78q–1(b)(3)(F).

[27] 17 CFR 240.17Ad–22(e)(1), (e)(17), (e)(21), (e)(22) and (e)(23).

[28] *Id.*

[29] 17Ad 22(e)(17)(i).

[30] 17Ad 22(e)(17)(ii).

[31] *Id.*

[32] *https://www.internetsociety.org/internet/history-of-the-internet/ietf-internet-society/.*

[33] 15 U.S.C. 78q–1(b)(3)(I).

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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2022–003 and should be submitted on or before June 21, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–11533 Filed 5–27–22; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before August 1, 2022.

ADDRESSES: Send all comments to, Donald Smith, Deputy Assistant Administrator, Office of Women's Business Ownership, Small Business Administration.

FOR FURTHER INFORMATION CONTACT: Donald Smith, Deputy Assistant Administrator, *Donald.smith@sba.gov* 202–205–7279, or Curtis B. Rich, Agency Clearance Officer, 202–205–7030 *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The Women's Business Center Program is funded by the SBA to provide entrepreneurial development services and current business owners. There is no data collection currently in place to systematically track program outcomes such as client satisfaction, adoption of new business practices or change in business size or scope. This data collection fills the gap by administering a service outcome survey to a random sample of WBC clients.

OMB Control Number: 3245–0402.

Title: ''Women's Business Center Program''.

Description of Respondents: Entrepreneurial development services and current business owners.

Form Number: N/A.

Annual Responses: 2,087.

Annual Burden: 700.

Curtis Rich,

Agency Clearance Officer.

[FR Doc. 2022–11583 Filed 5–27–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2010–0034]

Port Authority Trans-Hudson's Request To Operate Its Positive Train Control System With Procedural Mitigations

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of availability.

SUMMARY: This document provides the public with notice that, on May 23, 2022, Port Authority Trans-Hudson (PATH) submitted a request to temporarily operate its conditionally FRA-certified Communications Based Train Control (CBTC) positive train control (PTC) system with a procedural mitigation to address a recently discovered software error. As this request involves the failure of a conditionally certified PTC system to perform its intended function, FRA is publishing this notice to advise the public that: PATH has determined the cause of the failure to be a software error; PATH is in the process of repairing the error without undue delay, as FRA's regulations require; and PATH has proposed a procedural mitigation in the interim to ensure that the software error will not cause a further failure of PATH's PTC system. Based on FRA's review of all pertinent information, FRA has approved PATH to temporarily operate its conditionally certified PTC system with a procedural mitigation.

DATES: FRA may consider comments to the extent practicable and without delaying implementation of valuable or necessary modifications to a PTC system.

ADDRESSES:

Comments: Comments may be submitted by going to *https://www.regulations.gov* and following the online instructions for submitting comments.

Instructions: All submissions must include the agency name and the applicable docket number. The relevant PTC docket number for this host railroad is Docket No. FRA–2010–0034. For convenience, all active PTC dockets are hyperlinked on FRA's website at *https://railroads.dot.gov/train-control/ptc/ptc-annual-and-quarterly-reports.* All comments received will be posted without change to *https://www.regulations.gov;* this includes any personal information.

FOR FURTHER INFORMATION CONTACT: Gabe Neal, Staff Director, Signal, Train Control, and Crossings Division, telephone: 816–516–7168, email: *Gabe.Neal@dot.gov.*

SUPPLEMENTARY INFORMATION: In general, Title 49 United States Code (U.S.C.) 20157(h) requires FRA to certify that a host railroad's PTC system complies with Title 49 Code of Federal Regulations (CFR) part 236, subpart I, before the technology may be operated in revenue service. Under 49 CFR 236.1023(j) and 236.1029(a), when any safety-critical PTC system, subsystem, or component fails to perform its intended function, the cause must be determined and the faulty product adjusted, repaired, or replaced without undue delay. Until corrective action is completed, a railroad shall take appropriate action as specified in its PTC Safety Plan (PTCSP).

FRA conditionally certified PATH's CBTC PTC system on November 27, 2018. Since that time, to FRA's knowledge, PATH's PTC system has operated reliably performing its intended functions, except in May 2022. Recently, PATH experienced two safety incidents on May 12 and May 17, 2022, with its PTC system. In response to

[34] 17 CFR 200.30–3(a)(12).

these safety incidents and until the cause of the incidents was determined, PATH operated its PTC system in manual mode. Through investigation, testing, and replication of the events that led to the safety incidents, PATH determined on May 23, 2022, the cause to be a software error. PATH subsequently developed a procedural mitigation to prevent the unique series of events that resulted in the safety incident. PATH is in parallel rectifying the software error.

PATH requested to operate its PTC system in manned automatic train control mode, with a procedural mitigation to prohibit the unique series of events that resulted in the safety incident, which FRA approved temporarily. As noted above, FRA's PTC regulations require PATH to repair the software error without undue delay. *See* 49 CFR 236.1023(j), 236.1029(a).

FRA will publish a further notice, including an opportunity for comment, when PATH submits a request for amendment (RFA) to its PTCSP that will include the update to PATH's PTC system rectifying the software error, in accordance with 49 CFR 236.1021. As background, before making certain changes to an FRA-certified PTC system or the associated FRA-approved PTCSP, a host railroad must submit, and obtain FRA's approval of, an RFA to its PTCSP. Under 49 CFR 236.1021(e), FRA's regulations provide that FRA will publish a notice in the **Federal Register** and invite public comment in accordance with 49 CFR part 211, if an RFA includes a request for approval of a material modification of a signal and train control system.

Privacy Act Notice

In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. DOT posts these comments, without edit, including any personal information the commenter provides, to *https://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See *https://www.regulations.gov/privacy-notice* for the privacy notice of *regulations.gov.* To facilitate comment tracking, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. If you wish to provide comments containing proprietary or confidential information, please contact FRA for alternate submission instructions.

Issued in Washington, DC.

Carolyn R. Hayward-Williams,

Director, Office of Railroad Systems and Technology.

[FR Doc. 2022–11633 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2019–0152]

Pipeline Safety: Request for Special Permit; Tennessee Gas Pipeline Company, LLC

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA); DOT.

ACTION: Notice.

SUMMARY: PHMSA is publishing this notice to solicit public comments on a request for special permit received from Tennessee Gas Pipeline Company, LLC (TGP). The special permit request is seeking relief from compliance with certain requirements in the federal pipeline safety regulations. At the conclusion of the 30-day comment period, PHMSA will review the comments received from this notice as part of its evaluation to grant or deny the special permit request.

DATES: Submit any comments regarding this special permit request by June 30, 2022.

ADDRESSES: Comments should reference the docket number for this special permit request and may be submitted in the following ways:

- *E-Gov website: http://www.Regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery: Docket Management System:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: You should identify the docket number for the special permit request you are commenting on at the beginning of your comments. If you submit your comments by mail, please submit two (2) copies. To receive confirmation that PHMSA has received your comments, please include a self-addressed stamped postcard. Internet users may submit comments at *http://www.Regulations.gov.*

Note: There is a privacy statement published on *http://www.Regulations.gov.* Comments, including any personal information provided, are posted without changes or edits to *http://www.Regulations.gov.*

Confidential Business Information: Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this notice contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this notice, it is important that you clearly designate the submitted comments as CBI. Pursuant to 49 Code of Federal Regulations (CFR) 190.343, you may ask PHMSA to give confidential treatment to information you give to the agency by taking the following steps: (1) Mark each page of the original document submission containing CBI as ''Confidential''; (2) send PHMSA, along with the original document, a second copy of the original document with the CBI deleted; and (3) explain why the information you are submitting is CBI. Unless you are notified otherwise, PHMSA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this notice. Submissions containing CBI should be sent to Kay McIver, DOT, PHMSA–PHP–80, 1200 New Jersey Avenue SE, Washington, DC 20590–0001. Any commentary PHMSA receives that is not specifically designated as CBI will be placed in the public docket for this matter.

FOR FURTHER INFORMATION CONTACT:

General: Ms. Kay McIver by telephone at 202–366–0113, or by email at *kay.mciver@dot.gov.*

Technical: Mr. Steve Nanney by telephone at 713–272–2855, or by email at *steve.nanney@dot.gov.*

SUPPLEMENTARY INFORMATION: PHMSA received a special permit request from TGP, a subsidiary of Kinder Morgan, Inc., seeking a waiver from the requirements of 49 CFR 192.611(a) and (d): Change in class location: Confirmation or revision of maximum allowable operating pressure, and 49 CFR 192.619(a): Maximum allowable

operating pressure: Steel or plastic pipelines.

This special permit is being requested in lieu of pipe replacement, pressure reduction, or new pressure tests for a Class 1 to 3 location change. The initial request involved multiple special permit segments located in the states of Kentucky, Louisiana, Ohio, and Tennessee. On February 3, 2022, TGP withdrew its special permit request pertaining to all but one (1) special permit segment totaling 2,829.60 feet (approximately 0.536 miles) of pipeline in Barrett County, Kentucky. This special permit segment is on TGP's 36-inch diameter Line 800–2 Pipeline, which operates at a maximum allowable operating pressure of 936 pounds per square inch gauge and was constructed in 1968. Additional information concerning this special permit segment is available in the docket.

The special permit request, proposed special permit with conditions, and draft environmental assessment (DEA) for the TGP 36-inch diameter Line 800–2 Pipeline are available for review and public comments in Docket No. PHMSA–2019–0152. PHMSA invites interested persons to review and submit comments on the special permit request and DEA in the docket. Please include any comments on potential safety and environmental impacts that may result if the special permit is granted. Comments may include relevant data.

Before issuing a decision on the special permit request, PHMSA will evaluate all comments received on or before the comments closing date. Comments received after the closing date will be evaluated, if it is possible to do so without incurring additional expense or delay. PHMSA will consider each relevant comment it receives in making its decision to grant or deny this special permit request.

Issued in Washington, DC, on May 16, 2022, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2022–11555 Filed 5–27–22; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Privacy of Consumer Financial Information

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and respondents are not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''Privacy of Consumer Financial Information.''

DATES: Comments must be received on or before August 1, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0216, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0216'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0216'' or ''Privacy of Consumer Financial Information.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include 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 title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the renewal of the collection of information set forth in this document.

Title: Privacy of Consumer Financial Information.

OMB Control No.: 1557–0216.

Description: The Gramm-Leach-Bliley Act (Act) (Pub. L. 106–102) requires this information collection. Regulation P (12 CFR part 1016), a regulation promulgated by the Consumer Financial Protection Board (CFPB), implements the Act's notice requirements and restrictions on a financial institution's ability to disclose nonpublic personal information about consumers to nonaffiliated third parties.

The information collection requirements in 12 CFR part 1016 are as follows:

§ 1016.4(a) Initial privacy notice to consumers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice to customers and consumers that accurately reflects its privacy policies and practices.

§ 1016.5(a)(1) Annual privacy notice to customers requirement—A national bank or Federal savings association must provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship.

§ 1016.8 Revised privacy notices—A national bank or Federal savings association must not disclose any nonpublic personal information to a nonaffiliated third party in a way that is inconsistent with the notices previously given to a consumer unless the institution has provided the consumer with a clear and conspicuous revised notice of the institution's policies and practices, the institution has provided the consumer with a new opt out notice, the institution has given the consumer a reasonable opportunity to opt out of the disclosure, and the consumer has not opted out.

§ 1016.7(a) Form of opt out notice to consumers; opt out methods—Form of opt out notice If a national bank or Federal savings association is required to provide an opt out notice under § 1016.10(a), it must provide to each of its consumers a clear and conspicuous notice that accurately explains the right to opt out under that section. The notice must state:

- That the national bank or Federal savings association discloses or reserves the right to disclose nonpublic personal information about its consumer to a nonaffiliated third party;
- That the consumer has the right to opt out of that disclosure; and
- A reasonable means by which the consumer may exercise the opt out right.

A national bank or Federal savings association provides a reasonable means to exercise an opt out right if it:

- Designates check-off boxes on the relevant forms with the opt out notice;
- Includes a reply form with the opt out notice;
- Provides an electronic means to opt out; or
- Provides a toll-free number that consumers may call to opt out.

§§ 1016.10(a)(1) and (2) and 1016.10(c)—Limits on disclosure of nonpublic personal information to nonaffiliated parties—A national bank or Federal savings association may not disclose any nonpublic personal information about a consumer to a nonaffiliated third party unless the institution has provided the consumer with an initial notice under § 1016.4, the institution has provided the consumer with a opt out notice, the institution has given the consumer a reasonable opportunity to opt out of the disclosure, and the consumer has not opted out. A customer may direct one of the following forms of opt out:

- Opt out—Consumers may direct that the national bank or Federal savings association not disclose nonpublic personal information about them to a nonaffiliated third party, other than permitted by §§ 1016.13–1016.15.
- Partial opt out—Consumers may exercise partial opt out rights by selecting certain nonpublic personal information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

§§ 1016.7(h) and 1016.7(i) Continuing right to opt out and Duration of right to opt out—A consumer may exercise the right to opt out at any time. A consumer's direction to opt out is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. When a customer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal information collected during or related to that relationship. If the consumer subsequently establishes a new customer relationship with the institution, the opt out direction that applied to the former relationship does not apply to the new relationship.

Type of Review: Regular.

Affected Public: Businesses or other for-profit; individuals.

Frequency of Response: On occasion.

Estimated Annual Number of Respondents: 2,451,659.

Estimated Total Annual Burden Hours: 626,011.25 hours.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC'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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–11566 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; FFIEC Cybersecurity Assessment Tool

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, on behalf of itself, the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (collectively, the Agencies), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment on behalf of the Agencies concerning renewal of the information collection titled, ''FFIEC Cybersecurity Assessment Tool'' (Assessment).

DATES: Comments must be submitted on or before August 1, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible. You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, Office of the Comptroller of the Currency, Attention: 1557–0328, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.

• *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0328'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Following the close of this notice's 60-day comment period, the OCC will publish a second notice with a 30-day comment period. You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the method set forth in the next bullet.

• *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' drop down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0328'' or ''FFIEC Cybersecurity Assessment Tool.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.

• For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The definition contained in 5 CFR 1320.3(c) also includes a voluntary collection. Section 3506(c)(2)(A) of title 44 requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing, on behalf of the Agencies, a notice of the proposed extension of the collection of information set forth in this document.

Title: FFIEC Cybersecurity Assessment Tool. *OMB Number:* 1557–0328.

Description: Cyber threats continue to evolve and increase in frequency and sophistication. Financial institutions [1] are exposed to cyber risks because they are dependent on information technology to deliver services to consumers and businesses every day. Cyber attacks on financial institutions may result in unauthorized access to, and the compromise of, confidential information, as well as the destruction of critical data and systems. Disruption, degradation, or unauthorized alteration of information and systems can affect a financial institution's operations and core processes and undermine confidence in the nation's financial services sector. Absent immediate attention to these rapidly increasing threats, financial institutions and the financial sector as a whole are at risk.

For this reason, the Agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), have worked diligently to assess and enhance the state of the financial industry's cyber preparedness and to improve the Agencies' examination procedures and training to strengthen the oversight of financial industry cybersecurity readiness. The Agencies also have focused on providing financial institutions with resources that can assist in protecting them and their customers from the growing risks posed by cyber attacks.

As part of these efforts, the Agencies, with the other FFIEC members, developed the Assessment to assist financial institutions of all sizes in assessing their inherent cyber risks and their risk management capabilities. The Assessment allows a financial institution to identify its inherent cyber risk profile based on technologies and connection types, delivery channels, online/mobile products and technology services, organizational characteristics, and cyber threats it is likely to face. Once a financial institution identifies its inherent cyber risk profile, it can use the Assessment's maturity matrix to evaluate its level of cybersecurity preparedness based on its cyber risk management and oversight, threat intelligence and collaboration, cybersecurity controls, external dependency management, and cyber incident management and resiliency planning. A financial institution may use the matrix's maturity levels to identify opportunities for improving its cyber risk management based on its inherent risk profile. The Assessment also enables a financial institution to rapidly identify areas that could improve the financial institution's cyber response programs, as appropriate. Use of the Assessment by financial institutions is voluntary.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Number of Respondents: 12,781.

Total Burden: 1,154,150 hours.

Comments submitted in response to this notice will be summarized and 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 Agencies, including whether the information has practical utility; (b) The accuracy of the Agencies' estimates 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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2022–11565 Filed 5–27–22; 8:45 am]

BILLING CODE P

[1] For purposes of this information collection, the term ''financial institution'' includes banks, savings associations, credit unions, and bank holding companies.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Submission for OMB Review; Market Risk

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, 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 a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA). In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning the renewal of its information collection titled, ''Market Risk.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: You should submit written comments by: June 30, 2022.

ADDRESSES: Commenters are encouraged to submit comments by email, if possible.

You may submit comments by any of the following methods:

- *Email: prainfo@occ.treas.gov.*
- *Mail:* Chief Counsel's Office, Attention: Comment Processing, 1557–0247, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW, Suite 3E–218, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''1557–0247'' in your comment. In general, the OCC will publish comments on *www.reginfo.gov* without change, including any business or personal information provided, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Written comments and recommendations for the proposed information collection should also 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.

On March 10, 2022, the OCC published a 60-day notice for this information collection, 87 FR 13790. You may review comments and other related materials that pertain to this information collection following the close of the 30-day comment period for this notice by the method set forth in the next bullet.

- *Viewing Comments Electronically:* Go to *www.reginfo.gov.* Hover over the ''Information Collection Review'' tab and click on ''Information Collection Review'' in the drop-down menu. From the ''Currently under Review'' drop-down menu, select ''Department of Treasury'' and then click ''submit.'' This information collection can be located by searching by OMB control number ''1557–0247'' or ''Market Risk.'' Upon finding the appropriate information collection, click on the related ''ICR Reference Number.'' On the next screen, select ''View Supporting Statement and Other Documents'' and then click on the link to any comment listed at the bottom of the screen.
- For assistance in navigating *www.reginfo.gov,* please contact the Regulatory Information Service Center at (202) 482–7340.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, Clearance Officer, (202) 649–5490, Chief Counsel's Office, Office of the Comptroller of the Currency, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC asks that OMB extend its approval of the information collection in this notice.

Title: Market Risk.

OMB Control No.: 1557–0247.

Abstract: The Office of the Comptroller of the Currency's (OCC) market risk capital rule (12 CFR part 3, subpart F) applies to national banks and Federal savings associations with significant exposure to market risk, which includes those national banks and Federal savings associations with aggregate trading assets and trading liabilities (as reported in the national bank's or Federal savings association's most recent Call Report) equal to 10 percent or more of quarter-end total assets or $1 billion or more. The rule captures positions for which the market risk capital rule is appropriate; reduces procyclicality in market risk capital requirements; enhances the risk sensitivity of the OCC's capital requirements by measuring risks that are not adequately captured under the requirements for credit risk; and increases transparency through enhanced disclosures.

The information collection requirements are located at 12 CFR 3.203 through 3.212. The rule enhances risk sensitivity and includes requirements for the public disclosure of certain qualitative and quantitative information about the market risk of national banks and Federal savings associations. The collection of information is necessary to ensure capital adequacy appropriate for the level of market risk.

Section 3.203 sets forth the requirements for applying the market risk framework. Section 3.203(a)(1) requires national banks and Federal savings associations to have clearly defined policies and procedures for determining which trading assets and trading liabilities are trading positions and specifies the factors a national bank or Federal savings association must take into account in drafting those policies and procedures. Section 3.203(a)(2) requires national banks and Federal savings associations to have clearly defined trading and hedging strategies for trading positions that are approved by senior management and specifies what those strategies must articulate. Section 3.203(b)(1) requires national banks and Federal savings associations to have clearly defined policies and procedures for actively managing all covered positions and specifies the minimum requirements for those policies and procedures. Section 3.203(c)(1) requires national banks and Federal savings associations to obtain prior written approval of the OCC before using any internal model to calculate their risk-based capital requirement under the market risk capital rule. Sections 3.203(c)(4) through 3.203(c)(10) require the review, at least annually, of internal models and specify certain requirements for those models. Section 3.203(d)(4) requires the internal audit group of a national bank or Federal savings association to report, at least

annually, to the board of directors on the effectiveness of controls supporting the market risk measurement systems.

Section 3.204(b) requires national banks and Federal savings associations to conduct quarterly backtesting. Section 3.205(a)(5) requires institutions to demonstrate to the OCC the appropriateness of any proxies used to capture risks within value-at-risk models. Section 3.205(c) requires institutions to develop, retain, and make available to the OCC value-at-risk and profit and loss information on sub-portfolios for two years. Section 3.206(b)(3) requires national banks and Federal savings associations to have policies and procedures that describe how they determine the period of significant financial stress used to calculate the institution's stressed value-at-risk models and to obtain prior OCC approval for any material changes to these policies and procedures.

Section 3.207(b)(1) details requirements applicable to a national bank or Federal savings association when the national bank or Federal savings association uses internal models to measure the specific risk of certain covered positions. Section 3.208 requires national banks and Federal savings associations to obtain prior OCC approval for incremental risk modeling of portfolios of equity positions and describes the requirements for incremental risk modeling. Section 3.209 requires prior OCC approval for the use of a comprehensive risk measure and describes applicable requirements. Section 3.209(c)(2) requires national banks and Federal savings associations to retain and make available to the OCC the results of supervisory stress testing. Section 3.210(f) requires national banks and Federal savings associations to document an internal analysis of the risk characteristics of each securitization position in order to demonstrate to the satisfaction of the OCC an understanding of the position. Section 3.212 requires quarterly quantitative disclosures, annual qualitative disclosures, and a formal disclosure policy approved by the board of directors that addresses the approach for determining the market risk disclosures it makes.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals; Businesses or other for-profit.

Number of Respondents: 19.

Estimated Burden per Respondent: 1,964 hours.

Total Estimated Annual Burden: 37,316 hours.

On March 10, 2022, the OCC published a 60-day notice for this information collection, 87 FR 13790. No comments were received. Comments continue to be solicited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility; (b) The accuracy of the OCC'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 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.

Theodore J. Dowd,

Deputy Chief Counsel, Comptroller of the Currency.

[FR Doc. 2022–11596 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Update to the List of Medical Supplies for Ukraine-/Russia-Related Sanctions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Publication of updated list of items defined as medical supplies in the Ukraine-/Russia-Related Sanctions Regulations.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the list of items defined as medical supplies and generally licensed for exportation or reexportation to the Crimea region of Ukraine. The List of Medical Supplies (the ''List'') has previously existed as a companion document to Ukraine-/Russia-related General License 4, which OFAC has incorporated into its Ukraine-/Russia-Related Sanctions Regulations. Accordingly, OFAC is amending the List to replace the reference to General License 4 with a reference to the location of the general license in the Ukraine-/Russia-Related Sanctions Regulations. OFAC is making several technical corrections to items on the List, but is not making any substantive changes to the List, which was last updated on August 12, 2016.

DATES: This list is effective May 31, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202–622–2480; Assistant Director for Regulatory Affairs, 202–622–4855; or Assistant Director for Sanctions Compliance & Evaluation, 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The text of the List is available on the Ukraine-/Russia-Related Sanctions page on OFAC's website, and additional information concerning OFAC is available on OFAC's website (*www.treasury.gov/ofac*).

Background

On December 19, 2014, OFAC issued and posted on its website General License 4 under the Ukraine Related Sanctions program to authorize the exportation or reexportation from the United States or by a U.S. person of agricultural commodities, medicine, medical supplies, and replacement parts to the Crimea region of Ukraine. General License 4 defined the term ''medical supplies'' to mean those medical devices, as defined in paragraph (d)(3) of General License 4, that are included on the List on OFAC's website (*www.treasury.gov/ofac*) on the Ukraine-/Russia-Related Sanctions page. On the same day, OFAC also posted the List on its website. Most recently, on August 12, 2016, OFAC updated the List to include additional items, and published the List in the **Federal Register** (82 FR 23716, May 23, 2017).

OFAC incorporated General License 4 into § 589.513 of the Ukraine-/Russia-Related Sanctions Regulations, 31 CFR part 589 (the ''Regulations''), on May 2, 2022 (87 FR 26094, May 2, 2022). Accordingly, OFAC is amending the List to replace the reference to General License 4 with a reference to § 589.513 of the Regulations. OFAC is not making substantive changes to any items on the List but is making technical changes to spelling, capitalization, and punctuation, including: Replacing the ''%'' symbol with the word ''percent''; replacing ''cu. ft.'' with ''cubic feet''; replacing ''surgical instruments—all types and sizes'' with ''surgical instruments''; replacing ''or'' with ''and''; replacing ''anaesthesia'' and terms with this root word such as ''anaesthesiology'' and ''anaethesiometers'' with the preferred North American spelling of ''anesthesia,'' ''anesthesiology,'' and ''anethesiometers''; replacing ''haemoglobin'' with the preferred North American spelling ''hemoglobin''; replacing some semi-colons with commas; and changing several terms from capital letters to lowercase, for example editing ''Contact Lens cleaning

solutions'' to ''Contact lens cleaning solutions.'' As indicated in Note 1 to § 589.513(j)(4) of the Regulations, the List is maintained on OFAC's website and will be published in the **Federal Register**, as will any changes to the List.

List of Medical Supplies (Updated May 31, 2022)

The list below comprises the medical supplies defined in § 589.513(j)(4) of the Ukraine-/Russia-Related Sanctions Regulations, 31 CFR part 589.

General Medical Equipment and Supplies

- Adhesive designed for human use
- Adhesive remover designed for human use
- Antiseptic wipes for human use (including alcohol, antimicrobial, benzalkonium, betadine, iodine, and witch hazel)
- Beds: Hospital beds, cribs, and bassinets, including mattresses, overlays, pillows, and bumpers
- Blood lancets
- Blood pressure monitors, gauges, cuffs, aneroids, and infusors
- Bottles (prescription)
- Cabinets: Medical supply or pharmaceutical
- Canes, crutches, walkers, and rollators
- Capnographs
- Carts: Medical, medical utility, medical supply, food service, and hospital laundry carts
- Catheters, including kits
- Chairs: Exam, treatment, surgical, dental, and phlebotomy
- Clinical basins, bowls, baths, pans, urinals, bags, and buckets, and holding devices for such items
- Clinical swabs, applicators, specimen collectors, sponges, pads, tongue depressors, wooden spoons, cotton balls, and cotton rolls
- Coils, guidewire
- Contraceptives (inter-uterine devices (IUDs), hormonal therapy methods, barrier methods) and condoms
- Continuous positive airway pressure (CPAP) systems and all components
- Ear plugs and muffs
- Ear syringes
- Ear wax removers
- Endoscopic devices including laryngoscopes, laparoscopes, anascopes, proctoscopes, arthroscopes, sinuscopes, dematoscopes, ophthalmoscopes, sigmoidscopes, otoscopes, retinoscopes, and colposcopes
- Floor mats: Safety, anti-fatigue, and special-purpose medical floor mats
- Forceps
- Guidewires
- Human body and cadaver bags and shrouds
- Human body positioners, including pads, wedges, cradles, pillows, rests, straps, supports, and holders
- Human specimen collectors and containers (*e.g.,* urine, blood, tissue)
- Humidifiers
- Hydrocollator heating units
- IV sets, bags, and armboards
- Jars and containers designed for medical supplies and instruments less than 5 liter internal volume
- Lights and lamps: Surgical, medical exam, and magnifying
- Limb prosthesis devices
- Manikins: Medical training and CPR
- Medical bags for medical supplies and equipment, including pre-packed bags
- Medical bandages, gauze, dressings, tape, swabs, sponges, and burn dressings
- Medical carafes, cups, containers, and tumblers
- Medical casts, padding, and casting and removal equipment
- Medical defibrillators
- Medical diagnostic kits, point-of-care, including EAR99 reagents
- Medical flowmeters: Oxygen and air
- Medical labels, labellers, stickers, forms, charts, signage, tags, cards, tape, wrist bands, documents, brochures, and graphics
- Medical lavage systems
- Medical linens (*e.g.,* blankets, sheets, pillow cases, towels, washcloths, drapes, and covers)
- Medical penlights
- Medical pumps
- Medical scissors
- Medical tubing or hoses less than 2 inch diameter, including associated adaptors, connectors, caps, clamps, retainers, brackets, valves, washers, vents, stopcocks, and flow sensors; and peristaltic pumps with flowrates of less than 600 liters/hour for such tubing (*note:* Does not include tubing made of butyl rubber or greater than 35 percent fluoropolymers)
- Medicine cups
- Monitor for glucose management
- Non-electronic patient medical record file systems and organizers
- Orthopedic supports, braces, wraps, shoes, boots, and pads
- Orthopedic traction devices and tables
- Otology sponges
- Oxygen apparatus
- Paraffin baths
- Patient heating and cooling devices: Pads, packs, bottles, bags, warmers, blankets, patches, lamps, and bags
- Patient safety devices, including vests, aprons, finger mitts, limb or body holders, jackets, belts, restraints, cuffs, straps, and protectors
- Patient transfer chairs, lifts, benches, boards, slides, discs, slings, and sheets
- Patient vital-sign monitoring devices
- Patient wheelchairs, chairs, gurneys, stretchers, mats, and cots
- Privacy screens and curtains
- Pulse oximeters
- Reflex hammers
- Refrigerator: Compartmental for morgues
- Safety poles, rails, handles, benches, grab bars, commode aids, and shower aids
- Scales, stadiometers, rulers, sticks, tapes, protractors, volumeters, gauges, and calipers designed for human measurement
- Single-use medical procedure trays and kits
- Speculums
- Spirometers
- Splints
- Stands: IV, instrument, solution, and hamper
- Stethoscopes
- Stools designed for clinical use
- Surgical sutures, staples, and removal kits
- Syringes, aspirators, cannulas, and needles, including kits
- Tables: Operating, exam, therapy, overbed, treatment, medical utility, and medical instrument
- Telemetry pouches designed for human use
- Tents: Pediatric, aerosol, and mist
- Thermometers for measuring human body temperature
- Tourniquets
- Ventilator: Adult, tubing, and accessories
- Warmers: Bottle, gel, lotion, and blanket

Anesthesiology

- Air bags and tidal volume bags
- Air bellows
- Anesthesia circuits
- Anesthesia machines, vaporizers, nebulizers, and inhalers designed for individual human use
- Anesthesia masks, including laryngeal
- Anti-siphon equipment
- Block and epidural trays packaged for individual use
- Endotrach tubes
- Head straps and harnesses
- Hyperinflation systems
- In-line filters and cartridges, thermometers, CO_2 detectors, sodalime canisters, and temperature and moisture exchangers *(note:* Gas mask canisters, other than sodalime canisters designed for anesthesia systems, require a specific license)
- Intubation sets, probes, and related equipment
- Anesthesiometers
- Oral airways
- Peripheral nerve stimulators
- Anesthesia pressure tubes and controllers

- Cardiopulmonary resuscitation (CPR) training manikins and lung bags
- Vibration dampening mounts

Apparel

- Medical gowns, scrubs, aprons, uniforms, lab coats, and coveralls (only those without integrated hoods)
- Patient clothing including gowns, slippers, underpads, and undergarments
- Head or beard covers and nets
- Medical shoe and boot covers
- Surgical sleeve protectors
- Ventilated safety eyeshields and goggles (does not include full face shield or indirectly vented goggles)
- Disposable latex, nitrile, polyethylene, vinyl gloves/finger cots, and other medical gloves
- Surgical face or dust masks (does not include masks with respirators)

Cardiology

- Ablation devices
- Balloons extractor, retrieval
- Cardiac monitors: Implantable and external
- Cardiac pacemakers
- Cardiac programmers
- Cardiopulmonary oxygenation systems, devices, and monitors
- Coagulation machines
- Electrocardiography machines
- Filters: Arterial
- Grafts: Peripheral bypass
- Heart positioners: Surgical revascularization
- Heart valves: Surgical, transcatheter (non-surgical)
- Inflation devices: Interventional

Dental Equipment and Supplies

- Bone graft matrices
- Dental and oral implants and devices
- Dental instrument cases, trays, mats and tray liners, racks, covers, wraps, stands, holders, stringers, and protectors
- Dental instruments
- Denture and temporary oral device containers
- Dentures, crowns, molds, orthodontics
- Tooth and denture brushes
- Yankauers

Gynecology & Urology

- Bladder control pads, briefs, liners, underwear, pants, and diapers
- Bladder scanners
- Enema sets
- Extracorporeal lithotripters
- Fecal/stool management devices, kits, and catheters
- Feminine hygiene products
- Pouches, urostomy

Inherited Preventative Care

- Genetic testing products

Laboratory

- Autoclaves (20 liter or smaller only) for medical instrument sterilization and accessories
- Automated blood culture systems
- Automated clinical chemistry analyzers for patient care
- Bench-top dry bath incubators
- Clinical immunoassay analyzers
- Clinical laboratory water baths less than 10 liter
- Coagulation analyzers
- Co-oximeters for hemoglobin analysis
- Electrolyte analyzers
- Flow cytometry accessories, reagents, and components
- Hematology analyzers
- Histology and cytology strainers and tissue baths
- Laboratory balances and scales not to exceed 10 kilograms
- Laboratory hot plates with less than 1.0 square feet heating surface
- Laboratory pH meter (with or without temperature probe)
- Light microscopes
- Luminometers
- Medical bone densitometers
- Medical differential counters
- Medical refrigerators and freezers with less than 5.0 cubic feet internal volume
- Medical specimen centrifuges
- Microplate readers/washers
- Osmometers
- Patient blood gas analyzers
- Pipettes
- Spectrophotometers, photometers, and colorimeters designed for clinical use
- Urinalysis analyzers

Nephrology

- Hemodialysis machines and dialysis filters designed for such machines (note: other dialysis equipment, filters, and parts not used for hemodialysis require a specific license and may be controlled under 15 CFR part. 774, supp. No. 1, Export Control Classification Number (ECCN) 2B352.d)
- Hemodialysis connection and tubing kits

Neurology

- Electroencephalography machines
- Neurostimulators, implantable

Obstetrics and Maternity Care

- Assisted reproductive technology and related equipment
- Incubators/Isolettes
- Infant radiant warmer and parts and accessories
- Neonatal equipment (phototherapy, nasal CPAP, and all components)
- Umbilical cord clamps
- Ventilator: infant/pediatric and tubing and accessories

Ophthalmology and Optometry

- Contact lens cleaning solutions
- Contact lenses, corrective
- Eyecharts
- Glasses, corrective
- Phoropters
- Tonomets
- Vision/Optometry related machines and supplies

Otology and Neurotology

- Hearing aids, accessories, and components

Physical and Occupational Therapy

- Aquatic floats and training devices
- Balance pads, platforms, and beams
- Bath cubes, therapy
- Boots, mitts, and liners for therapeutic pain relief
- Cognitive measuring devices and equipment
- Dining aids
- Electrotherapy, muscle stimulators, and tens units
- Ergometers
- Exercise bars
- Exercise table
- Fine motor assessment equipment designed for human use
- Goniometers
- Hand bars
- Hydraulic dynamometer
- Manipulation boards
- Massaging equipment
- Mat platforms
- Medical whirlpools
- Mobility platforms, parallel bars, ladders, and stairs
- Orthopedic shoes and boots
- Parallel bars
- Pedometers
- Protective headgear
- Rehabilitation exercise, weights, band, balls, boards, and mobility equipment
- Rulonmeters
- Scoliometer
- Tactile sensation, sensitization, and desensitization equipment
- Therapeutic putty
- Ultrasound stimulators

Radiology

- Computer tomography scanners (CT, MDCT)
- Contrasting agents, both injectable and non-injectable
- Magnetic resonance imaging (MRI) machines
- Medical ultrasound machines
- Medical/Dental film
- Nuclear medicine imaging machines
- Positron Emission Tomography (PET)
- PET cyclotron machines
- PET radiopharmaceutical tracer machines, including cassettes
- Scintillation camera/Anger cameras for medical imaging

- Single Photon Emission Computed Tomography (SPECT) machines
- X-ray machines, including mammography machines
- Parts and accessories for medical imaging devices above that do not contain nuclear or chemical components

Sterilization

- Aseptic, germicidal, and disinfectant wipes or clothes for medical equipment, devices and furniture
- Ready-to-use disinfectant in 32 ounce containers or less
- Aseptic, germicidal, and medical-grade soap, detergent, pre-soak, and rinse in one gallon containers or less
- Hand sanitizer, lotion, soap, scrub, wash, gel, and foam, including dispensing devices
- Medical cleaning brushes for equipment, patients, and furniture
- Sterilization or disinfection indicator strips, tape, and test packs
- Medical instrument sterilization pouches, mats, protector guards, and tubing
- Sterilization containers and cases less than 0.3 cubic feet
- Autoclaves with chamber size less than 0.3 cubic feet, including trays, containers, cassettes, cases, and filters for such systems

Surgery

- Blood transfusion equipment
- Cervical fusion kits
- Chest drains
- Cosmetic or reconstructive implants (jaw implants, breast implants, skin grafts)
- Electrosurgery devices and supporting equipment
- Lubricant specially formulated for surgical equipment in one gallon containers or less
- Orthopedic plates/screws, fixators, implants, and cement
- Stents
- Stockinettes
- Surgical case carts
- Surgical clean-up kits
- Surgical clips
- Surgical imaging machines, including image-guiding surgery products, ear, nose and throat
- Surgical instrument cases, trays, mats or tray liners, racks, covers, wraps, stands, holders, stringers, and protectors
- Surgical instruments
- Surgical linens, drapes, and covers
- Surgical mesh
- Surgical shunts
- Surgical smoke evacuators and specialized supporting equipment
- Tissue stabilizers and surgical revascularizations
- Wound drainage equipment

EAR99-classified components, accessories, and optional equipment that are designed for and are for use with an EAR99-classified medical device included elsewhere on the list.

Andrea M. Gacki,

Director, Office of Foreign Assets Control.

[FR Doc. 2022–11612 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits

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 the annual registration statement identifying separated participants with deferred vested benefits.

DATES: Written comments should be received on or before August 1, 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 1545–2187 or Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits, 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: Request for Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits.

OMB Number: 1545–2187.

Form Number: 8955–SSA.

Abstract: Form 8955–SSA, the designated successor to Schedule SSA (Form 5500), is used to satisfy the reporting requirements of Internal Revenue Code section 6057(a). Plan administrators of employee benefit plans subject to the vesting standards of ERISA section 203 use the form to report information about separated participants with deferred vested benefits under the plan. The information is generally given to the Social Security Administration (SSA), which provides the reported information to separated participants when they file for social security benefits.

Current Actions: There is no change to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 200,000.

Estimated Time per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 166,000 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: May 25, 2022.

Kerry L. Dennis,

Tax Analyst.

[FR Doc. 2022–11619 Filed 5–27–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report of Transportation of Currency or Monetary Instruments

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before June 30, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Financial Crimes Enforcement Network (FinCEN)

Title: Report of Transportation of Currency or Monetary Instruments.

OMB Control Number: 1506–0014.

Type of Review: Extension without change of a currently approved collection.

Description: 31 U.S.C. 5316 requires, with limited exceptions, that a person, or an agent or bailee of the person, file a report when the person, agent, or bailee knowingly: (i) Transports, is about to transport, or has transported monetary instruments of more than $10,000 at one time from a place in the United States to or through a place outside the United States, or to a place in the United States from or through a place outside the United States; or (ii) receives monetary instruments of more than $10,000 at one time transported into the United States from or through a place outside the United States. The regulations implementing this statutory requirement are found at 31 CFR 1010.340.

Form: FinCEN 105.

Affected Public: Individuals and households, Businesses or other for-profits.

Estimated Number of Respondents: 184,709.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 184,709.

Estimated Time per Response: 16 minutes.

Estimated Total Annual Burden Hours: 49,751.

Authority: 44 U.S.C. 3501 et seq.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11637 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Internal Revenue Service Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before June 30, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain*. Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Internal Revenue Service (IRS)

1. *Title:* U.S. Income Tax Return for Estates and Trusts.

OMB Control Number: 1545–0092.

Type of Review: Revision of a currently approved collection.

Description: IRC section 6012 requires that an annual income tax return be filed for estates and trusts. The data is used by the IRS to determine that the estates, trusts, and beneficiaries filed the proper returns and paid the correct tax. Public Law 115–97, section 14103 has a retroactive effective date of 2017. In order for taxpayers to fulfill their filing obligations and report the correct amount of tax under Section 14103, the IRS developed FAQs to alert taxpayers how and where to report this income on their tax return. A critical part of this effort includes alerting taxpayers of their filing obligations and educating them on how and where this would be reported. The data will be utilized by the IRS to ensure that the correct amount of tax is paid.

Form: IRS Form 1041 and associated schedules.

Affected Public: Businesses or other for-profits; and Individuals and households.

Estimated Number of Respondents: 10,492,023.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 10,492,023.

Estimated Time per Response: 1 hour to 75 hours.

Estimated Total Annual Burden Hours: 333,541,340.

2. *Title:* Passive Activity Credit Limitations.

OMB Control Number: 1545–1034.

Type of Review: Extension without change of a currently approved collection.

Description: Under Internal Revenue Code section 469, credits from passive activities, to the extent they do not exceed the tax attributable to net passive income, are not allowed, Form 8582–CR is used to figure the passive activity credit allowed and the amount of credit to be reported on the tax return.

Form: IRS Form 8582–CR.

Affected Public: Businesses or other for-profits; and Individuals and households.

Estimated Number of Respondents: 300,000.

Frequency of Response: Annually.

Estimated Total Number of Annual Responses: 300,000.

Estimated Time per Response: 7 hours 53 minutes.

Estimated Total Annual Burden Hours: 2,370,600 hours.

3. *Title:* Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities, Notice of Qualified Separate Lines of Business.

OMB Control Number: 1545–1225.

Type of Review: Extension without change of a currently approved collection.

Description: Internal Revenue Code section 6058(b) requires plan administrators to notify IRS of any plan mergers, consolidations, spinoffs, or transfers of plan assets or liabilities to another plan. Code section 414(r) requires employers to notify IRS of separate lines of business for their deferred compensation plans. Form 5310–A is used to make these notifications.

Form: IRS Form 5310–A.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 694.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 694.

Estimated Time per Response: 10 hours 35 minutes.

Estimated Total Annual Burden Hours: 7,347.

4. *Title:* Qualifying Advanced Coal Project Program.

OMB Control Number: 1545–2003.

Type of Review: Extension without change of a currently approved collection.

Description: This notice establishes the qualifying advanced coal project program under § 48A of the Internal Revenue Code. The notice provides the time and manner for a taxpayer to apply for an allocation of qualifying advanced coal project credits and, once the taxpayer has received this allocation, the time and manner for the taxpayer to file for a certification of its qualifying advanced coal project.

Affected Public: Businesses and other for-profit organizations.

Regulation Project Number: Notice 2007–52.

Estimated Number of Respondents: 45.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 45.

Estimated Time per Response: 110 hours.

Estimated Total Annual Burden Hours: 4,950.

5. *Title:* Qualified Plug-in Electric Drive Motor Vehicle Credit.

OMB Control Number: 1545–2137.

Type of Review: Extension without change of a currently approved collection.

Description: Notice 2009–54 sets forth interim guidance, pending the issuance of regulations, relating to the qualified plug-in electric drive motor vehicle credit under section 30D of the Internal Revenue Code, as in effect for vehicles acquired after December 31, 2009. Notice 2012–54 modifies Notice 2009–89, by providing a new address to which a vehicle manufacturer (or, in the case of a foreign vehicle manufacturer, its domestic distributor) must send vehicle certifications and quarterly reports under Notice 2009–89.

Form 8936 is used for tax years beginning after 2008, to figure the credit for qualified plug-in electric drive motor vehicles placed in service during your tax year. The credit attributable to depreciable property (vehicle used for business or investment purposes) is treated as a general business credit. Any credit not attributable to depreciable property is treated as a personal credit.

Affected Public: Businesses or other for-profits; Not-for-profit Institutions; and Individuals and households.

Estimated Number of Respondents: 512.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 512.

Estimated Time per Response: 5.35, 23.33 hours.

Estimated Total Annual Burden Hours: 2,955.

6. *Title:* Validating Your TIN and Reasonable Cause.

OMB Control Number: 1545–2144.

Type of Review: Extension without change of a currently approved collection.

Description: Internal Revenue Code (IRC) section 6039E requires individuals to provide certain information with their application for a U.S. passport or with their application for permanent U.S. residence. Letter 4318 is sent to the individual when the taxpayer identification number (TIN) on the application is missing or invalid, informing the individual about the IRC provisions, proposed penalty, and instructions to correct the information on the application. Form 13997 is an attachment to the letter and is used to provide the IRS with a valid TIN, a written statement of reasonable cause, or an explanation from the individual as to why they don't have a TIN.

Form: IRS Form 13997.

Affected Public: Individuals and households.

Estimated Number of Respondents: 2,000.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 2,000.

Estimated Time per Response: 1 hour 5 minutes.

Estimated Total Annual Burden Hours: 2,160.

7. *Title:* Electronic Tax Administration Advisory Committee Membership.

OMB Control Number: 1545–2231.

Type of Review: Extension without change of a currently approved collection.

Description: The Internal Revenue Service Restructuring and Reform Act of 1998 (RRA 98) authorized the creation of the Electronic Tax Administration Advisory Committee (ETAAC). ETAAC has a primary duty of providing input to the Internal Revenue Service (IRS) on its strategic plan for electronic tax administration. Accordingly, ETAAC's responsibilities involve researching, analyzing and making recommendations on a wide range of electronic tax administration issues.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 31.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 31.

Estimated Time per Response: 1 hour 30 minutes.

Estimated Total Annual Burden Hours: 47.

8. *Title:* Notice Regarding Certain Church Plan Clarifications under Section 336 of the PATH Act.

OMB Control Number: 1545–2279.

Type of Review: Extension without change of a currently approved collection.

Description: Notice 2018–81 describes the manner in which taxpayers notify the Internal Revenue Service (IRS) of revocation of an election to aggregate or disaggregate certain church-related organizations from treatment as a single employer under section 414(c)(2)(C)and(D). Churches and church-related organizations are allowed to make elections to aggregate or disaggregate for this purpose under section 414(c)(2)(C) and (D), which were added to the Code by section 336(a) of the Protecting Americans from Tax Hikes Act of 2015 (Pub. L. 114–113 (129 Stat. 2242 (2015)) (PATH Act).

Affected Public: Not-for-profit Institutions.

Estimated Number of Respondents: 3

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 3

Estimated Time per Response: 2 hours.

Estimated Total Annual Burden Hours: 6 hours.

Authority: 44 U.S.C. 3501 et seq.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11609 Filed 5–27–22; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; RESTORE Act Grants

AGENCY: Departmental Offices, Department of the Treasury.

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 comment on revisions to an existing information collection, as required by the Paperwork Reduction Act of 1995. The Office of the Fiscal Assistant Secretary, within the Department of the Treasury, is soliciting comments concerning the application, reports, and recordkeeping for the Direct Component and the Centers of Excellence Research Grants Programs under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act). The information collections contained in this final rule are being added to the information collection for RESTORE Act grants, including Treasury's final rule titled Regulation Regarding Nondiscrimination on the Basis of Race, Color, or National Origin in Programs or Activities Receiving Federal Financial Assistance from the Department of the Treasury, which implements Title VI of the Civil Rights Act of 1964.

DATES: Written comments must be received on or before August 1, 2022 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, by electronic mail to *restoreact@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bridget Cotti-Rausch at 202–923–0467 in the Office of Gulf Coast Restoration, by electronic mail to *restoreact@treasury.gov,* or viewing the entire information collection request at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/restore-act.*

SUPPLEMENTARY INFORMATION:

Title: Application, Reports, and Recordkeeping for the Direct Component and the Centers of Excellence Research Grants Program under the RESTORE Act.

OMB Control Number: 1505–0250.

Type of Review: Revision of a currently approved collection.

Description: The Department of the Treasury administers the Direct Component and the Centers of Excellence Research Grants Program authorized under the RESTORE Act. Treasury awards grants for these two programs from proceeds in connection with administrative and civil penalties paid after July 6, 2012, under the Federal Water Pollution Control Act relating to the Deepwater Horizon Oil Spill, and deposited into the Gulf Coast Restoration Trust Fund. Direct Component grants are awarded to the States of Alabama, Louisiana, Mississippi, and Texas, and 23 Florida counties and 20 Louisiana parishes. Centers of Excellence grants are awarded to the States of Alabama, Florida, Louisiana, Mississippi, and Texas. The information collection for both programs identifies the eligible recipients; describes proposed activities; determines an appropriate amount of funding; ensures compliance with the RESTORE Act, Treasury's regulations, and Federal laws and policies on grants; tracks grantee progress; and reports on the effectiveness of the programs.

Treasury's transition of both RESTORE Act programs to a new online grants management system will provide the benefit of conversion to more interactive forms, like web-based forms or editable PDFs. The collection has been updated to provide for this transition. Non-substantive changes for conversion to digital materials include the addition of fields for uploading optional or required supporting documentation and some general reformatting to improve the applicant's experience. Treasury has also made several substantive changes to the content of the collection, including: (1) A consolidation of application questions across forms to reduce requests for duplicative information; (2) updates to the RESTORE Act Environmental Compliance Form to provide applicants with the option to provide additional details regarding their determination of the applicability of federal, state, tribal, and local environmental laws to reduce the overall Treasury application review and processing time; and 3) the inclusion of the optional RESTORE Act Permission to Commence with Construction Checklist to aid the applicant in preparing a complete and compliant request for permission to commence with construction.

The revised application, reporting forms, and supplemental information may be obtained on Treasury's RESTORE Act website at *https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/restore-act.*

Form: None.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 52.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 550.

Estimated Time per Response: 10.9 hours.

Estimated Total Annual Burden Hours: 5,979.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget 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 technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11611 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Departmental Offices Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following

information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before June 30, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Departmental Offices (DO)

1. Title: Assessment of Fees on Large Bank Holding Companies and Nonbank Financial Companies.

OMB Control Number: 1505–0245.

Type of Review: Extension without change of a currently approved collection.

Description: The Financial Research Fund (FRF) Preauthorized Payment Agreement form will collect information with respect to the final rule (31 CFR part 150) on the assessment of fees on large bank holding companies and nonbank financial companies supervised by the Federal Reserve Board to cover the expenses of the FRF.

Form: TDF 105.1.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 39.

Frequency of Response: Annually, On occasion.

Estimated Total Number of Annual Responses: 39.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 10.

2. Title: Homeowner Assistance Fund.

OMB Control Number: 1505–0269.

Type of Review: Revision of a currently approved collection.

Description: On March 11, 2021, the President signed the American Rescue Plan Act of 2021 (the ''Act''), Public Law 117–2. Title III, Subtitle B, Section 3206 of the Act established the Homeowner Assistance Fund and provides $9.961 billion for the U.S. Department of the Treasury (Treasury) to make payments to States (defined to include the District of Columbia, Puerto Rico, U.S. Virgin Islands, Guam, Northern Mariana Islands, and American Samoa), Indian tribes or tribally designated housing entities, as applicable, and the Department of Hawaiian Home Lands (collectively the ''eligible entities'') to mitigate financial hardships associated with the coronavirus pandemic, including for the purposes of preventing homeowner mortgage delinquencies, defaults, foreclosures, loss of utilities or home energy services, and displacements of homeowners experiencing financial hardship after January 21, 2020, through qualified expenses related to mortgages and housing.

Form: None.

Affected Public: State, Local and Tribal Governments.

Estimated Number of Respondents: 651.

Frequency of Response: Once, On occasion, Quarterly, Annually.

Estimated Total Number of Annual Responses: 5,465.

Estimated Time per Response: 1 hour, 22 minutes.

Estimated Total Annual Burden Hours: 7,478.

(Authority: *44 U.S.C. 3501 et seq.*)

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11636 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–AK–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Fiscal Service Information Collection Requests

AGENCY: Departmental Offices, Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before June 30, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

Bureau of the Fiscal Service (BFS)

1. Title: Claims Against the U.S. for Amounts Due in Case of a Deceased Creditor.

OMB Control Number: 1530–0004.

Type of Review: Extension without change of a currently approved collection.

Description: This form is required to determine who is entitled to funds of a deceased Postal Savings depositor or deceased award holder. The form properly completed with supporting documents enables this office to decide who is legally entitled to payment.

Form: SF 1055.

Affected Public: Individuals and households.

Estimated Number of Respondents: 400.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 400.

Estimated Time per Response: 27 minutes.

Estimated Total Annual Burden Hours: 180.

2. Title: Voucher for Payment of Awards.

OMB Control Number: 1530–0012.

Type of Review: Extension without change of a currently approved collection.

Description: Awards certified to Treasury are paid annually as funds are received from foreign governments. Vouchers are mailed to awardholders showing payments due. Awardholders sign vouchers certifying that he/she is entitled to payment.

Form: FS Form 5135.

Affected Public: Individuals and households.

Estimated Number of Respondents: 1,400.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 1,400.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 700.

3. Title: Application by Voluntary Guardian of Incapacitated Owner of United States Savings Bonds/Notes.

OMB Control Number: 1530–0031.

Type of Review: Extension without change of a currently approved collection.

Description: This form is used by the voluntary guardian of incapacitated bond owner(s) to establish the right to act on behalf of the owner.

Form: PD F 2513.

Affected Public: Individuals and households.

Estimated Number of Respondents: 1,000.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 1,000.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 333.

4. Title: Application for Issue of United States Mortgage Guaranty Insurance Company Tax and Loss Bonds.

OMB Control Number: 1530–0052.

Type of Review: Extension without change of a currently approved collection.

Description: This form is submitted by companies engaged in the business of writing mortgage guaranty insurance for the purpose of purchasing ''Tax and Loss'' bonds.

Form: FS Form 3871.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 33.

Frequency of Response: On occasion.

Estimated Total Number of Annual Responses: 33.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 8.

5. Title: Disposition of Securities Belonging to a Decedent's Estate Being Settled Without Administration.

OMB Control Number: 1530–0055.

Type of Review: Extension without change of a currently approved collection.

Description: The information is collected from a voluntary representative of a decedent's estate to support a request for disposition of United States Treasury Securities and/or related payments in the event that the estate is not being administered.

Form: FS Form 5336.

Affected Public: Individuals and households.

Estimated Number of Respondents: 25,350.

Frequency of Response: Once.

Estimated Total Number of Annual Responses: 25,350.

Estimated Time per Response: 30 minutes.

Estimated Total Annual Burden Hours: 12,675.

Authority: 44 U.S.C. 3501 et seq.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11640 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Tax & Trade Bureau Information Collection Requests

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. The public is invited to submit comments on these requests.

DATES: Comments should be received on or before June 30, 2022 to be assured of consideration.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: Copies of the submissions may be obtained from Spencer W. Clark by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

Alcohol and Tobacco Tax and Trade Bureau (TTB)

1. Title: Authorization to Furnish Financial Information and Certificate of Compliance.

OMB Control Number: 1513–0004.

Type of Review: Extension without change of a currently approved collection.

Description: Under its statutory and regulatory authorities, during an alcohol or tobacco permit investigation, the Alcohol and Tobacco Tax and Trade Bureau (TTB) may require such applicants to show that they have the financial standing necessary to conduct their operations in compliance with Federal law. However, the Right to Financial Privacy Act of 1978 (the Act; 12 U.S.C. 3401 *et seq.*) limits the Federal Government's access to the records of individuals held by financial institutions. The Act provides that a person may authorize a financial institution to disclose their individual records to a Federal agency, but it also requires the agency to certify to the institution that the agency has complied with the Act. To meet the Act's requirements, a permit applicant uses TTB F 5030.6, Authorization to Furnish Financial Information and Certificate of Compliance, to authorize a financial institution to disclose their individual records to TTB, and TTB uses the form to certify to the institution that the agency has complied with the Act.

Form: TTB F 5030.6.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 10.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 10.

Estimated Time per Response: 20 minutes.

Estimated Total Annual Burden Hours: 3.

2. Title: Records Supporting Drawback Claims on Eligible Articles Brought into the United States from Puerto Rico or the Virgin Islands (TTB REC 5530/3).

OMB Control Number: 1513–0089.

Type of Review: Extension without change of a currently approved collection.

Description: Under the Internal Revenue Code (IRC) at 26 U.S.C. 7652(g), the provisions of 26 U.S.C. 5111–5114 providing for drawback (refund) of Federal excise taxes paid on distilled spirits used in certain nonbeverage products—medicines, medicinal preparations, food products, flavors, flavoring extracts, and perfumes—also apply to such articles brought into the United States from Puerto Rico or the U.S. Virgin Islands. In particular, 26 U.S.C. 5112 requires nonbeverage product drawback claimants to keep the records necessary to document the information provided in such claims, subject to regulations prescribed by the Secretary of the Treasury. Based on those IRC authorities, the TTB regulations at 27 CFR 26.174 and 26.310 require persons making nonbeverage product drawback

claims on eligible articles brought into the United States from Puerto Rico or the U.S. Virgin Islands to keep certain business, formula, and taxpayment records documenting the data regarding the distilled spirits and articles in question provided in such claims. Those persons must maintain the required records at their business premises for at least 3 years, during which time TTB may inspect the records to verify the data provided in their claims. TTB's verification of such nonbeverage product drawback claims is necessary to protect the revenue and ensure compliance with relevant statutory and regulatory requirements.

Form: None.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 10.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 10.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 10.

3. Title: Beer for Exportation.

OMB Control Number: 1513–0114.

Type of Review: Extension without change of a currently approved collection.

Description: Under the Internal Revenue Code (IRC) at 26 U.S.C. 5051, Federal excise tax is imposed on beer removed from domestic breweries for consumption or sale. However, under the IRC at 26 U.S.C. 5053, brewers may remove beer without payment of tax for export purposes, subject to regulations prescribed by the Secretary of the Treasury. As such, the TTB regulations in 27 CFR part 28 allow brewers to remove beer without payment of tax for export to a foreign county, use as supplies on certain vessels or aircraft, transfer to a foreign trade zone for export, or shipment to U.S. armed forces stationed overseas. Those regulations also require brewers to give notice of each such removal on form TTB F 5130.12. Or, brewers may apply to TTB to use an alternative procedure to report beer removed for export purposes via a monthly summary report, provided that the brewer completes the notification section of TTB F 5130.12 for each removal and maintains the form and the related supporting export verification records at their premises. This collection request is necessary to protect the revenue as TTB uses the required information to account for beer removed without payment of tax for export purposes and ensure that such beer is not diverted into the taxable domestic market.

Form: TTB F 5130.12.

Affected Public: Businesses or other for-profits.

Estimated Number of Respondents: 4,400.

Frequency of Response: On Occasion.

Estimated Total Number of Annual Responses: 4,400.

Estimated Time per Response: 2 hours, 23 minutes.

Estimated Total Annual Burden Hours: 10,500.

(Authority: 44 U.S.C. 3501 *et seq.*)

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2022–11639 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

Solicitation of Nominations for Appointment to the Veterans Rural Health Advisory Committee

AGENCY: Department of Veterans Affairs.

ACTION: Notice of solicitation for nominations.

SUMMARY: The Department of Veterans Affairs (VA), Veterans Health Administration (VHA), is seeking nominations of qualified candidates to be considered for appointment as members of the Veterans Rural Health Advisory Committee (hereinafter referred to as ''the VRHAC'').

DATES: Nominations for membership on the Committee must be received by July 1, 2022, no later than 4:00 p.m. EST. Packages received after this time will not be considered for the current membership cycle.

ADDRESSES: All nomination packages should be emailed to Ms. Judy Bowie, Committee Manager at *Judy.Bowie@va.gov* and cc: Dr. Sheila Robinson, Designated Federal Officer at *Sheila.Robinson1@va.gov.*

SUPPLEMENTARY INFORMATION: In carrying out the duties set forth, the Committee responsibilities include, but are not limited to,

(1) Providing letters to the Secretary and Congress outlining recommendations to improve and enhance VA's delivery of services to rural Veterans.

(2) Meeting with VA officials, Veterans Service Organizations, and other stakeholders to assess the Department's efforts in providing access to health care, outreach and education services offered to rural Veterans.

(3) Making annual site visits and holding town hall meetings with Veterans to address their concerns.

(4) Providing management and support services for the Committee are provided by the Office of Rural Health.

Authority: The Committee was established pursuant to 38 U.S.C. 3121 and operates under the provisions of the Federal Advisory Committee Act (FACA) to advise the Secretary through the Under Secretary for Health on ways to improve and enhance access to VA health care services for Veterans residing in rural areas by reviewing current program activities and identifying barriers to accessing care and services.

Membership Criteria and Qualifications: The VRHAC is requesting nominations for upcoming vacancies on the Committee. The committee is composed of 12 members, in addition to ex-officio members. As required by statute, the members of the Committee are appointed by the Secretary from the general public, including, but not limited to:

(1) Representatives of Veterans Service Organizations; and

(2) Persons who have distinguished themselves in the public, academic affiliation, community health care organizations and private sector.

To the extent possible, the Secretary seeks members who have diverse professional and personal qualifications. We ask that nominations include information of this type so that VA can ensure a balanced Committee membership. Individuals appointed to the Committee by the Secretary shall be invited to serve a 3-year term. The Secretary may reappoint a member for an additional term of service. In accordance with Federal Travel Regulation, Committee members will receive travel expenses and a per diem allowance for any travel made in association with duties as members of the Committee and within Federal travel guidelines. Self- nominations are acceptable. Any letters of nomination from organizations or other individuals should accompany the package when it is submitted. Non-Veterans are also eligible for nomination.

Requirements for Nomination Submission: Nominations should be typed (one nomination per nominator). Nomination package must include: *https://www.ruralhealth.va.gov/docs/VRHAC-Application-Form_7-31-18.pdf.*

(1) A letter of nomination that clearly states the name and affiliation of the nominee, the basis for the nomination (*i.e.,* specific attributes which qualify the nominee for service in this capacity) and a statement from the nominee indicating that he/she is a U.S. citizen and is willingness to serve as a member of the Committee.

(2) The nominee's contact information, including name, mailing address, telephone numbers, and email address.

(3) The nominee's resume or curriculum vitae.

(4) Letters of recommendation are accepted.

(5) A statement confirming that he/she is not a federally—registered lobbyist.

The Department makes every effort to ensure that the membership of VA Federal advisory committees is balanced in terms of points of view represented and the committee's function. Appointments to this Committee shall be made without discrimination based on a person's race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, or genetic information. Nominations must state that the nominee appears to have no conflict of interest that would preclude membership. An ethics review is conducted for each selected nominee.

Dated: May 24, 2022.

LaTonya L. Small,

Federal Advisory Committee Management Office.

[FR Doc. 2022–11549 Filed 5–27–22; 8:45 am]

BILLING CODE P

FEDERAL REGISTER

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Part II

Department of Homeland Security

U.S. Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers; Notice

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of intent to distribute offset for Fiscal Year 2022.

SUMMARY: Pursuant to the *Continued Dumping and Subsidy Offset Act of 2000,* this document is U.S. Customs and Border Protection's (CBP) notice of intent to distribute assessed antidumping or countervailing duties (known as the continued dumping and subsidy offset) for Fiscal Year 2022 in connection with countervailing duty orders, antidumping duty orders, or findings under the *Antidumping Act of 1921.* This document provides the instructions for affected domestic producers, or anyone alleging eligibility to receive a distribution, to file certifications to claim a distribution in relation to the listed orders or findings.

DATES: Certifications to obtain a continued dumping and subsidy offset under a particular order or finding must be received by August 1, 2022. Any certification received after August 1, 2022 will be summarily denied, making claimants ineligible for the distribution.

ADDRESSES: Certifications and any other correspondence (whether by mail, or an express or courier service) must be addressed to U.S. Customs and Border Protection, Revenue Division, Attention: CDSOA Team, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278.

FOR FURTHER INFORMATION CONTACT: Robin Batt, CDSOA Team, Revenue Division, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278; telephone (317) 614–4462.

SUPPLEMENTARY INFORMATION:

Background

The *Continued Dumping and Subsidy Offset Act of 2000* (CDSOA) was enacted on October 28, 2000, as part of the *Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act,* 2001 (the ''Act''). The provisions of the CDSOA are contained in title X (sections 1001–1003) of the Appendix of the Act (H.R. 5426).

The CDSOA amended title VII of the *Tariff Act of 1930* by adding a new section 754 (codified at 19 U.S.C. 1675c) in order to provide that assessed duties received pursuant to a countervailing duty order, an antidumping duty order, or a finding under the *Antidumping Act of 1921* will be distributed to affected domestic producers for certain qualifying expenditures that these producers incur after the issuance of such an order or finding. The term ''affected domestic producer'' means any manufacturer, producer, farmer, rancher or worker representative (including associations of such persons) who:

(A) Was a petitioner or interested party in support of a petition with respect to which an antidumping duty order, a finding under the *Antidumping Act of 1921,* or a countervailing duty order has been entered;

(B) Remains in operation continuing to produce the product covered by the countervailing duty order, the antidumping duty order, or the finding under the *Antidumping Act of 1921;* and

(C) Has not been acquired by another company or business that is related to a company that opposed the antidumping or countervailing duty investigation that led to the order or finding (*e.g.,* opposed the petition or otherwise presented evidence in opposition to the petition).

The distribution that these parties may receive is known as the continued dumping and subsidy offset.

Section 7601(a) of the *Deficit Reduction Act of 2005* repealed 19 U.S.C. 1675c. According to section 7701 of the *Deficit Reduction Act,* the repeal takes effect as if enacted on October 1, 2005. However, section 7601(b) provides that all duties collected on an entry filed before October 1, 2007, must be distributed as if 19 U.S.C. 1675c had not been repealed by section 7601(a). The funds available for distribution were also affected by section 822 of the *Claims Resolution Act of 2010* and section 504 of the *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.*

Historically, the antidumping and countervailing duties assessed and received by U.S. Customs and Border Protection (CBP) on CDSOA-subject entries, along with the interest assessed and received on those duties pursuant to 19 U.S.C. 1677g, were transferred to the CDSOA Special Account for distribution. 66 FR 48546, Sept. 21, 2001; *see also* 19 CFR 159.64(e). Other types of interest, including delinquency interest that accrued pursuant to 19 U.S.C. 1505(d), equitable interest under common law, and interest under 19 U.S.C. 580, were not subject to distribution. *Id.*

Section 605 of the *Trade Facilitation and Trade Enforcement Act of 2015* (TFTEA) (Pub. L. 114–125, February 24, 2016; codified as 19 U.S.C. 4401), provided new authority for CBP to deposit into the CDSOA Special Account for distribution delinquency interest that accrued pursuant to 19 U.S.C. 1505(d), equitable interest under common law, and interest under 19 U.S.C. 580 for all surety payments received by CBP on or after October 1, 2014, on CDSOA subject entries, as well as post-judgment interest received by CBP on those surety payments. *See* 28 U.S.C. 1961.

On May 28, 2021, President Biden ordered the sequester of non-exempt budgetary resources for Fiscal Year 2022 pursuant to section 251A of the *Balanced Budget and Emergency Deficit Control Act of 1985,* as amended (86 FR 29927, June 3, 2021). To implement this sequester during Fiscal Year 2022, the calculation of the Office of Management and Budget (OMB) requires a reduction of 5.7 percent of the assessed duties and interest received in the CDSOA Special Account (account number 015–12–5688). OMB has concluded that any amounts sequestered in the CDSOA Special Account during Fiscal Year 2022 will become available in the subsequent fiscal year. *See* 2 U.S.C. 906(k)(6). As a result, CBP intends to include the funds that are temporarily reduced via sequester during Fiscal Year 2022 in the continued dumping and subsidy offset for Fiscal Year 2022, which will be distributed not later than 60 days after the first day of Fiscal Year 2023 in accordance with 19 U.S.C. 1675c(c). In other words, the continued dumping and subsidy offset that affected domestic producers receive for Fiscal Year 2022 will include the funds that were temporarily sequestered during Fiscal Year 2022.

Because of the statutory constraints in the assessments of antidumping and countervailing duties, as well as the additional time involved when the Government must initiate litigation to collect delinquent antidumping and countervailing duties, the CDSOA distribution process will be continued for an undetermined period. Consequently, the full impact of the CDSOA repeal on amounts available for distribution has been delayed for several years. It should also be noted that amounts distributed may be subject to recovery as a result of reliquidations, court actions, administrative errors, and other reasons.

List of Orders or Findings and Affected Domestic Producers

It is the responsibility of the U.S. International Trade Commission (USITC) to ascertain and timely forward

to CBP a list of the affected domestic producers that are potentially eligible to receive an offset in connection with an order or finding. In this regard, it is noted that the USITC has supplied CBP with the list of individual antidumping and countervailing duty cases, and the affected domestic producers associated with each case who are potentially eligible to receive an offset. This list appears at the end of this document.

A significant amount of litigation has challenged various provisions of the CDSOA, including the definition of the term ''affected domestic producer.'' In two decisions, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) upheld the constitutionality of the support requirement contained in the CDSOA. Specifically, in *SKF USA Inc.* v. *United States Customs & Border Prot.,* 556 F.3d 1337 (Fed. Cir. 2009), the Federal Circuit held that the CDSOA's support requirement did not violate either the First or Fifth Amendment. The Supreme Court of the United States denied plaintiff's petition for certiorari, *SKF USA, Inc.* v. *United States Customs & Border Prot.,* 560 U.S. 903 (2010). Similarly, in *PS Chez Sidney, L.L.C.* v. *United States,* 409 Fed. Appx. 327 (Fed. Cir. 2010), the Federal Circuit summarily reversed the U.S. Court of International Trade's judgment that the support requirement was unconstitutional, allowing only plaintiff's non-constitutional claims to go forward. *See PS Chez Sidney, L.L.C.* v. *United States,* 684 F.3d 1374 (Fed. Cir. 2012). Furthermore, in two cases interpreting the CDSOA's language, the Federal Circuit concluded that a producer who never indicates support for a dumping petition by letter or through questionnaire response, despite the act of otherwise filling out a questionnaire, cannot be an affected domestic producer. *Ashley Furniture Indus., Inc. et al.* v. *United States,* 734 F.3d 1306 (Fed. Cir. 2013), *cert. denied,* 135 S. Ct. 72 (2014); *Giorgio Foods, Inc.* v. *United States et al.,* 785 F.3d 595 (Fed. Cir. 2015).

Domestic producers who are not on the USITC list but believe they nonetheless are eligible for a CDSOA distribution under one or more antidumping and/or countervailing duty cases are required, as are all potential claimants that expressly appear on the list, to properly file their certification(s) within 60 days after this notice is published. Such domestic producers must allege all other bases for eligibility in their certification(s). CBP will evaluate the merits of such claims in accordance with the relevant statutes, regulations, and decisions. Certifications that are not timely filed within the requisite 60 days and/or that fail to sufficiently establish a basis for eligibility will be summarily denied. Additionally, CBP may not make a final decision regarding a claimant's eligibility to receive funds until certain legal issues which may affect that claimant's eligibility are resolved. In these instances, CBP may withhold an amount of funds corresponding to the claimant's alleged *pro rata* share of funds from distribution pending the resolution of those legal issues.

It should also be noted that the Federal Circuit ruled in *Canadian Lumber Trade Alliance* v. *United States,* 517 F.3d 1319 (Fed. Cir. 2008), *cert. denied sub nom. United States Steel* v. *Canadian Lumber Trade Alliance,* 129 S. Ct. 344 (2008), that CBP was not authorized to distribute such antidumping and countervailing duties to the extent they were derived from goods from countries that are parties to the North American Free Trade Agreement (NAFTA). Due to this decision, CBP does not list cases related to NAFTA on the Preliminary Amounts Available report, and no distributions will be issued on these cases.

Regulations Implementing the CDSOA

It is noted that CBP published Treasury Decision (T.D.) 01–68 (Distribution of Continued Dumping and Subsidy Offset to Affected Domestic Producers) in the **Federal Register** (66 FR 48546) on September 21, 2001, which was effective as of that date, in order to implement the CDSOA. The final rule added a new subpart F to part 159 of title 19, Code of Federal Regulations (19 CFR part 159, subpart F (sections 159.61–159.64)). More specific guidance regarding the filing of certifications is provided in this notice in order to aid affected domestic producers and other domestic producers alleging eligibility (''claimants'' or ''domestic producers'').

Notice of Intent To Distribute Offset

This document announces that CBP intends to distribute to affected domestic producers the assessed antidumping or countervailing duties, section 1677g interest, and interest provided for in 19 U.S.C. 4401 that are available for distribution in Fiscal Year 2022 in connection with those antidumping duty orders or findings or countervailing duty orders that are listed in this document. All distributions will be issued by paper check to the address provided by the claimants. Section 159.62(a) of title 19, Code of Federal Regulations (19 CFR 159.62(a)), provides that CBP will publish such a notice of intention to distribute at least 90 calendar days before the end of a fiscal year. Failure to publish the notice at least 90 calendar days before the end of the fiscal year will not affect an affected domestic producer's obligation to file a timely certification within 60 days after the notice is published. *See Dixon Ticonderoga* v. *United States,* 468 F.3d 1353, 1354 (Fed. Cir. 2006).

Certifications; Submission and Content

To obtain a distribution of the offset under a given order or finding (including any distribution under 19 U.S.C. 4401), an affected domestic producer (and anyone alleging eligibility to receive a distribution) must submit a certification for each order or finding under which a distribution is sought, to CBP, indicating its desire to receive a distribution. To be eligible to obtain a distribution, certifications must be received by CBP no later than 60 calendar days after the date of publication of this notice of intent to distribute in the **Federal Register**. Claimants are encouraged to submit certifications electronically at *https://www.pay.gov* under the Public Form Name, ''Continued Dumping and Subsidy Offset Act of 2000 Certification'' (CBP Form Number 7401) to ensure CBP's timely receipt and to avoid any potential delivery delays associated with mail or courier service. All certifications not received by the 60th day will not be eligible to receive a distribution.

As required by 19 CFR 159.62(b), this notice provides the case name and number of the order or finding concerned, as well as the specific instructions for filing a certification under section 159.63 to claim a distribution. Section 159.62(b) also provides that the dollar amounts subject to distribution that are contained in the Special Account for each listed order or finding are to appear in this notice. However, these dollar amounts were not available in time for inclusion in this publication. The preliminary amounts will be posted on the CBP website (*https://www.cbp.gov*). However, the final amounts available for disbursement may be higher or lower than the preliminary amounts.

CBP will provide general information to claimants regarding the preparation of certification(s). However, it remains the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and accurate so as to demonstrate the eligibility of the domestic producer for the distribution requested. Failure to ensure that the certification is correct, complete, and accurate as provided in this notice will

result in the domestic producer not receiving a distribution and/or a demand for the return of funds.

Specifically, to obtain a distribution of the offset under a given order or finding (including any distribution under 19 U.S.C. 4401), each potential claimant must timely submit a certification containing the required information detailed below as to the eligibility of the domestic producer (or anyone alleging eligibility) to receive the requested distribution and the total amount of the distribution that the domestic producer is claiming. Certifications should be submitted electronically at *https://www.pay.gov* utilizing Public Form Name, ''Continued Dumping and Subsidy Offset Act of 2000 Certification'' (CBP Form Number 7401) or by mail to U.S. Customs and Border Protection, Revenue Division, Attention: CDSOA Team, 6650 Telecom Drive, Suite 100, Indianapolis, IN 46278. The certification must enumerate the qualifying expenditures incurred by the domestic producer since the issuance of an order or finding and it must demonstrate that the domestic producer is eligible to receive a distribution as an affected domestic producer or allege another basis for eligibility. Any false statements made in connection with certifications submitted to CBP may give rise to liability under the *False Claims Act* (*see* 31 U.S.C. 3729–3733) and/or to criminal prosecution.

A successor to a company that was an affected domestic producer at the time of acquisition should consult 19 CFR 159.61(b)(1)(i). Any company that files a certification claiming to be the successor company to an affected domestic producer will be deemed to have consented to joint and several liability for the return of any overpayments arising under 19 CFR 159.64(b)(3) that were previously paid to the predecessor. CBP may require the successor company to provide documents to support its eligibility to receive a distribution as set out in 19 CFR 159.63(d). Additionally, any individual or company who purchases any portion of the operating assets of an affected domestic producer, a successor to an affected domestic producer, or an entity that otherwise previously received distributions may be jointly and severally liable for the return of any overpayments arising under 19 CFR 159.64(b)(3) that were previously paid to the entity from which the operating assets were purchased or its predecessor, regardless of whether the purchasing individual or company is deemed a successor company for purposes of receiving distributions.

A member company (or its successor) of an association that appears on the list of affected domestic producers in this notice, where the member company itself does not appear on this list, should consult 19 CFR 159.61(b)(1)(ii). Specifically, for a certification under 19 CFR 159.61(b)(1)(ii), the claimant must name the association of which it is a member, specifically establish that it was a member of the association at the time the association filed the petition with the USITC, and establish that the claimant is a current member of the association.

In order to promote accurate filings and more efficiently process the distributions, we offer the following guidance:

- If claimants are members of an association but the association does not file on their behalf, the association will need to provide its members with a statement that contains notarized company-specific information including dates of membership and an original signature from an authorized representative of the association.
- An association filing a certification on behalf of a member must also provide a power of attorney or other evidence of legal authorization from each of the domestic producers it is representing.
- Any association filing a certification on behalf of a member is responsible for verifying the legal sufficiency and accuracy of the member's financial records, which support the claim, and is responsible for that certification. As such, an association filing a certification on behalf of a member is jointly and severally liable with the member for repayment of any claim found to have been paid or overpaid in error.

The association may file a certification in its own right to claim an offset for that order or finding, but its qualifying expenditures would be limited to those expenditures that the association itself has incurred after the date of the order or finding in connection with the particular case.

As provided in 19 CFR 159.63(a), certifications to obtain a distribution of an offset (including any distribution under 19 U.S.C. 4401) must be received by CBP no later than 60 calendar days after the date of publication of the notice of intent in the **Federal Register**. All certifications received after the 60-day deadline will be summarily denied, making claimants ineligible for the distribution regardless of whether or not they appeared on the USITC list.

A list of all certifications received will be published on the CBP website (*https://www.cbp.gov*) shortly after the receipt deadline. This publication will not confirm acceptance or validity of the certification, but merely receipt of the certification. Due to the high volume of certifications, CBP is unable to respond to individual telephone or written inquiries regarding the status of a certification appearing on the list.

While there is no required format for a certification, CBP has developed a standard certification form to aid claimants in filing certifications. The certification form is available at *https://www.pay.gov* under the Public Form Name ''Continued Dumping and Subsidy Offset Act of 2000 Certification'' (CBP Form Number 7401) or by directing a web browser to *https://www.pay.gov/public/form/start/8776895/*. The certification form can be submitted electronically through *https://www.pay.gov* or by mail. All certifications not submitted electronically must include original signatures.

Regardless of the format for a certification, per 19 CFR 159.63(b), the certification must contain the following information:

(1) The date of this **Federal Register** notice;

(2) The Department of Commerce antidumping or countervailing duty case number (for example, A–331–802);

(3) The case name (product/country);

(4) The name of the domestic producer and any name qualifier, if applicable (for example, any other name under which the domestic producer does business or is also known);

(5) The mailing address of the domestic producer (if a post office box, the physical street address must also appear) including, if applicable, a specific room number or department;

(6) The Internal Revenue Service (IRS) number (with suffix) of the domestic producer, employer identification number, or social security number, as applicable;

(7) The specific business organization of the domestic producer (corporation, partnership, sole proprietorship);

(8) The name(s) of any individual(s) designated by the domestic producer as the contact person(s) concerning the certification, together with the phone number(s), mailing address, and, if available, facsimile transmission number(s) and electronic mail (email) address(es) for the person(s). Correspondence from CBP may be directed to the designated contact(s) by either mail or phone or both;

(9) The total dollar amount claimed;

(10) The dollar amount claimed by category, as described in the section below entitled ''Amount Claimed for Distribution'';

(11) A statement of eligibility, as described in the section below entitled ''Eligibility to Receive Distribution''; and

(12) For certifications not submitted electronically through *https://www.pay.gov,* an original signature by an individual legally authorized to bind the producer.

Qualifying Expenditures That May Be Claimed for Distribution

Qualifying expenditures that may be offset under the CDSOA encompass those expenditures incurred by the domestic producer after issuance of an antidumping duty order or finding or a countervailing duty order (including expenditures incurred on the date of the order's issuance), and prior to its termination, provided that such expenditures fall within certain categories. *See* 19 CFR 159.61(c). The CDSOA repeal language parallels the termination of an order or finding. Therefore, for duty orders or findings that have not been previously revoked, expenses must be incurred before October 1, 2007, to be eligible for offset. For duty orders or findings that have been revoked, expenses must be incurred before the effective date of the revocation to be eligible for offset. For example, assume for case A–331–802 Certain Frozen Warm-Water Shrimp and Prawns from Ecuador, that the order date is February 1, 2005, and that the revocation effective date is August 15, 2007. In this case, eligible expenditures would have to be incurred on or after February 1, 2005, up to and including August 14, 2007; expenditures incurred on or after August 15, 2007 cannot be included as eligible qualifying expenditures for A–331–802.

For the convenience and ease of the domestic producers, CBP is providing guidance on what the agency takes into consideration when making a calculation for each of the following categories:

(1) Manufacturing facilities (Any facility used for the transformation of raw material into a finished product that is the subject of the related order or finding);

(2) Equipment (Goods that are used in a business environment to aid in the manufacturing of a product that is the subject of the related order or finding);

(3) Research and development (Seeking knowledge and determining the best techniques for production of the product that is the subject of the related order or finding);

(4) Personnel training (Teaching of specific useful skills to personnel, that will improve performance in the production process of the product that is the subject of the related order or finding);

(5) Acquisition of technology (Acquisition of applied scientific knowledge and materials to achieve an objective in the production process of the product that is the subject of the related order or finding);

(6) Health care benefits for employees paid for by the employer (Health care benefits paid to employees who are producing the specific product that is the subject of the related order or finding);

(7) Pension benefits for employees paid for by the employer (Pension benefits paid to employees who are producing the specific product that is the subject of the related order or finding);

(8) Environmental equipment, training, or technology (Equipment, training, or technology used in the production of the product that is the subject of the related order or finding, that will assist in preventing potentially harmful factors from affecting the environment);

(9) Acquisition of raw materials and other inputs (Purchase of unprocessed materials or other inputs needed for the production of the product that is the subject of the related order or finding); and

(10) Working capital or other funds needed to maintain production (Assets of a business that can be applied to its production of the product that is the subject of the related order or finding).

Amount Claimed for Distribution

In calculating the amount of the distribution being claimed as an offset, the certification must indicate:

(1) The total amount of any qualifying expenditures previously certified by the domestic producer, and the amount certified by category;

(2) The total amount of those expenditures which have been the subject of any prior distribution for the order or finding being certified under 19 U.S.C. 1675c; and

(3) The net amount for new and remaining qualifying expenditures being claimed in the current certification (the total amount previously certified as noted in item ''(1)'' above minus the total amount that was the subject of any prior distribution as noted in item ''(2)'' above). In accordance with 19 CFR 159.63(b)(2)(i)–(iii), CBP will deduct the amount of any prior distribution from the producer's claimed amount for that case. Total amounts disbursed by CBP under the CDSOA for some prior Fiscal Years are available on the CBP website.

Additionally, under 19 CFR 159.61(c), these qualifying expenditures must be related to the production of the same product that is the subject of the order or finding, with the exception of expenses incurred by associations which must be related to a specific case. Any false statements made to CBP concerning the amount of distribution being claimed as an offset may give rise to liability under the *False Claims Act* (*see* 31 U.S.C. 3729–3733) and/or to criminal prosecution.

Eligibility To Receive Distribution

As noted, the certification must contain a statement that the domestic producer desires to receive a distribution and is eligible to receive the distribution as an affected domestic producer or on another legal basis. Also, the domestic producer must affirm that the net amount certified for distribution does not encompass any qualifying expenditures for which distribution has previously been made (19 CFR 159.63(b)(3)(i)). Any false statements made in connection with certifications submitted to CBP may give rise to liability under the *False Claims Act* (*see* 31 U.S.C. 3729–3733) and/or to criminal prosecution.

Furthermore, under 19 CFR 159.63(b)(3)(ii), where a domestic producer files a separate certification for more than one order or finding using the same qualifying expenditures as the basis for distribution in each case, each certification must list all the other orders or findings where the producer is claiming the same qualifying expenditures.

Moreover, as required by 19 U.S.C. 1675c(b)(1) and 19 CFR 159.63(b)(3)(iii), the certification must include information as to whether the domestic producer remains in operation at the time the certifications are filed and continues to produce the product covered by the particular order or finding under which the distribution is sought. If a domestic producer is no longer in operation, or no longer produces the product covered by the order or finding, the producer will not be considered an affected domestic producer entitled to receive a distribution.

In addition, as required by 19 U.S.C. 1675c(b)(5) and 19 CFR 159.63(b)(3)(iii), the domestic producer must state whether it has been acquired by a company that opposed the investigation or was acquired by a business related to a company that opposed the investigation. If a domestic producer has been so acquired, the producer will not be considered an affected domestic producer entitled to receive a distribution. However, CBP may not make a final decision regarding a

claimant's eligibility to receive funds until certain legal issues which may affect that claimant's eligibility are resolved. In these instances, CBP may withhold an amount of funds corresponding to the claimant's alleged *pro rata* share of funds from distribution pending the resolution of those legal issues.

The certification must be executed and dated by a party legally authorized to bind the domestic producer and it must state that the information contained in the certification is true and accurate to the best of the certifier's knowledge and belief under penalty of law, and that the domestic producer has records to support the qualifying expenditures being claimed (see section below entitled ''Verification of Certification''). Moreover, as provided in 19 CFR 159.64(b)(3), all overpayments to affected domestic producers are recoverable by CBP, and CBP reserves the right to use all available collection tools to recover overpayments, including but not limited to garnishments, court orders, administrative offset, enrollment in the Treasury Offset Program, and/or offset of tax refund payments. Overpayments may occur for a variety of reasons, including but not limited to: Reliquidations, court actions, settlements, insufficient verification of a certification in response to an inquiry from CBP, and administrative errors. With diminished amounts available over time, the likelihood that these events will require the recovery of funds previously distributed will increase. As a result, domestic producers who receive distributions under the CDSOA may wish to set aside any funds received in case it is subsequently determined that an overpayment has occurred. CBP considers the submission of a certification and the negotiation of any distribution checks received as acknowledgements and acceptance of the claimant's obligation to return those funds upon demand.

Review and Correction of Certification

A certification that is submitted in response to this notice of intent to distribute and received within 60 calendar days after the date of publication of the notice in the **Federal Register** may, at CBP's sole discretion, be subject to review before acceptance to ensure that all informational requirements are complied with and that any amounts set forth in the certification for qualifying expenditures, including the amount claimed for distribution, appear to be correct. A certification that is found to be materially incorrect or incomplete will be returned to the domestic producer within 15 business days after the close of the 60 calendar-day filing period, as provided in 19 CFR 159.63(c). In making this determination, CBP will not speculate as to the reason for the error (*e.g.,* intentional, typographical, *etc.*). CBP must receive a corrected certification from the domestic producer and/or an association filing on behalf of an association member within 10 business days from the date of the original denial letter. Failure to receive a corrected certification within 10 business days will result in denial of the certification at issue. It is the sole responsibility of the domestic producer to ensure that the certification is correct, complete, and accurate so as to demonstrate the eligibility of the domestic producer to the distribution requested. Failure to ensure that the certification is correct, complete, and accurate will result in the domestic producer not receiving a distribution and/or a demand for the return of funds.

Verification of Certification

Certifications are subject to CBP's verification. The burden remains on each claimant to fully substantiate all elements of its certification. As such, claimants may be required to provide copies of additional records for further review by CBP. Therefore, parties are required to maintain, and be prepared to produce, records adequately supporting their claims for a period of five years after the filing of the certification (19 CFR 159.63(d)). The records must demonstrate that each qualifying expenditure enumerated in the certification was actually incurred, and they must support how the qualifying expenditures are determined to be related to the production of the product covered by the order or finding. Although CBP will accept comments and information from the public and other domestic producers, CBP retains complete discretion regarding the initiation and conduct of investigations stemming from such information. In the event that a distribution is made to a domestic producer from whom CBP later seeks verification of the certification and sufficient supporting documentation is not provided as determined by CBP, then the amounts paid to the affected domestic producer are recoverable by CBP as an overpayment. CBP reserves the right to use all available collection tools to recover overpayments, including but not limited to garnishments, court orders, administrative offset, enrollment in the Treasury Offset Program, and/or offset of tax refund payments. CBP considers the submission of a certification and the negotiation of any distribution checks received as acknowledgements and acceptance of the claimant's obligation to return those funds upon demand. Additionally, the submission of false statements, documents, or records in connection with a certification or verification of a certification may give rise to liability under the *False Claims Act* (*see* 31 U.S.C. 3729–3733) and/or to criminal prosecution.

Disclosure of Information in Certifications; Acceptance by Producer

The name of the claimant, the total dollar amount claimed by the party on the certification, as well as the total dollar amount that CBP actually disburses to that affected domestic producer as an offset, will be available for disclosure to the public, as specified in 19 CFR 159.63(e). To this extent, the submission of the certification is construed as an understanding and acceptance on the part of the domestic producer that this information will be disclosed to the public and a waiver of any right to privacy or non-disclosure. Additionally, a statement in a certification that this information is proprietary and exempt from disclosure may result in CBP's rejection of the certification.

List of Orders or Findings and Related Domestic Producers

The list of individual antidumping duty orders or findings and countervailing duty orders is set forth below together with the affected domestic producers associated with each order or finding who are potentially eligible to receive an offset. Those domestic producers not on the list must allege another basis for eligibility in their certification. Appearance of a domestic producer on the list is not a guarantee of distribution.

Dated: May 11, 2022.

Jeffrey Caine,

Chief Financial Officer, U.S. Customs and Border Protection.

BILLING CODE 9111–14–P

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-122-006	AA1921-49	Steel Jacks/Canada	Bloomfield Manufacturing (formerly Harrah Manufacturing) Seaburn Metal Products
A-122-047	AA1921-127	Elemental Sulphur/Canada	Duval
A-122-085	731-TA-3	Sugar and Syrups/Canada	Amstar Sugar
A-122-401	731-TA-196	Red Raspberries/Canada	Northwest Food Producers' Association Oregon Caneberry Commission Rader Farms Ron Roberts Shuksan Frozen Food Washington Red Raspberry Commission
A-122-503	731-TA-263	Iron Construction Castings/Canada	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry Charlotte Pipe & Foundry Deeter Foundry East Jordan Foundry Le Baron Foundry Municipal Castings Neenah Foundry Opelika Foundry Pinkerton Foundry Tyler Pipe US Foundry & Manufacturing Vulcan Foundry
A-122-506	731-TA-276	Oil Country Tubular Goods/Canada	CF&I Steel Copperweld Tubing Cyclops KPC Lone Star Steel LTV Steel Maverick Tube Quanex US Steel
A-122-601	731-TA-312	Brass Sheet and Strip/Canada	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A-122-605	731-TA-367	Color Picture Tubes/Canada	Industrial Union Department, AFL-CIO International Association of Machinists & Aerospace Workers

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A-122-804	731-TA-422	Steel Rails/Canada	Bethlehem Steel CF&I Steel
A-122-814	731-TA-528	Pure Magnesium/Canada	Magnesium Corporation of America
A-122-822	731-TA-614	Corrosion-Resistant Carbon Steel Flat Products/ Canada	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-122-823	731-TA-575	Cut-to-Length Carbon Steel Plate/Canada	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-122-830	731-TA-789	Stainless Steel Plate in Coils/Canada	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless
A-122-838	731-TA-928	Softwood Lumber/Canada	71 Lumber Co Almond Bros Lbr Co Anthony Timberlands Balfour Lbr Co Ball Lumber Banks Lumber Company

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Barge Forest Products Co
			Beadles Lumber Co
			Bearden Lumber
			Bennett Lumber
			Big Valley Band Mill
			Bighorn Lumber Co Inc
			Blue Mountain Lumber
			Buddy Bean Lumber
			Burgin Lumber Co Ltd
			Burt Lumber Company
			C&D Lumber Co
			Ceda-Pine Veneer
			Cersosimo Lumber Co Inc
			Charles Ingram Lumber Co Inc
			Charleston Heart Pine
			Chesterfield Lumber
			Chips
			Chocorua Valley Lumber Co
			Claude Howard Lumber
			Clearwater Forest Industries
			CLW Inc
			CM Tucker Lumber Corp
			Coalition for Fair Lumber Imports Executive Committee
			Cody Lumber Co
			Collins Pine Co
			Collums Lumber
			Columbus Lumber Co
			Contoocook River Lumber
			Conway Guiteau Lumber
			Cornwright Lumber Co
			Crown Pacific
			Daniels Lumber Inc
			Dean Lumber Co Inc
			Deltic Timber Corporation
			Devils Tower Forest Products
			DiPrizio Pine Sales
			Dorchester Lumber Co
			DR Johnson Lumber
			East Brainerd Lumber Co
			East Coast Lumber Company
			Eas-Tex Lumber
			ECK Wood Products
			Ellingson Lumber Co
			Elliott Sawmilling
			Empire Lumber Co
			Evergreen Forest Products
			Excalibur Shelving Systems Inc
			Exley Lumber Co
			FH Stoltze Land & Lumber Co
			FL Turlington Lbr Co Inc
			Fleming Lumber

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Flippo Lumber
			Floragen Forest Products
			Frank Lumber Co
			Franklin Timber Co
			Fred Tebb & Sons
			Fremont Sawmill
			Frontier Resources
			Garrison Brothers Lumber Co and Subsidiaries
			Georgia Lumber
			Gilman Building Products
			Godfrey Lumber
			Granite State Forest Prod Inc
			Great Western Lumber Co
			Greenville Molding Inc
			Griffin Lumber Company
			Guess Brothers Lumber
			Gulf Lumber
			Gulf States Paper
			Guy Bennett Lumber
			Hampton Resources
			Hancock Lumber
			Hankins Inc
			Hankins Lumber Co
			Harrigan Lumber
			Harwood Products
			Haskell Lumber Inc
			Hatfield Lumber
			Hedstrom Lumber
			Herrick Millwork Inc
			HG Toler & Son Lumber Co Inc
			HG Wood Industries LLC
			Hogan & Storey Wood Prod
			Hogan Lumber Co
			Hood Industries
			HS Hofler & Sons Lumber Co Inc
			Hubbard Forest Ind Inc
			HW Culp Lumber Co
			Idaho Veneer Co
			Industrial Wood Products
			Intermountain Res LLC
			International Paper
			J Franklin Jones Lumber Co Inc
			Jack Batte & Sons Inc
			Jasper Lumber Company
			JD Martin Lumber Co
			JE Jones Lumber Co
			Jerry G Williams & Sons
			JH Knighton Lumber Co
			Johnson Lumber Company
			Jordan Lumber & Supply
			Joseph Timber Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			JP Haynes Lbr Co Inc
			JV Wells Inc
			JW Jones Lumber
			Keadle Lumber Enterprises
			Keller Lumber
			King Lumber Co
			Konkolville Lumber
			Langdale Forest Products
			Laurel Lumber Company
			Leavitt Lumber Co
			Leesville Lumber Co
			Limington Lumber Co
			Longview Fibre Co
			Lovell Lumber Co Inc
			M Kendall Lumber Co
			Manke Lumber Co
			Marriner Lumber Co
			Mason Lumber
			MB Heath & Sons Lumber Co
			MC Dixon Lumber Co Inc
			Mebane Lumber Co Inc
			Metcalf Lumber Co Inc
			Millry Mill Co Inc
			Moose Creek Lumber Co
			Moose River Lumber
			Morgan Lumber Co Inc
			Mount Yonah Lumber Co
			Nagel Lumber
			New Kearsarge Corp
			New South
			Nicolet Hardwoods
			Nieman Sawmills SD
			Nieman Sawmills WY
			North Florida
			Northern Lights Timber & Lumber
			Northern Neck Lumber Co
			Ochoco Lumber Co
			Olon Belcher Lumber Co
			Owens and Hurst Lumber
			Packaging Corp of America
			Page & Hill Forest Products
			Paper, Allied-Industrial, Chemical and Energy Workers International Union
			Parker Lumber
			Pate Lumber Co Inc
			PBS Lumber
			Pedigo Lumber Co
			Piedmont Hardwood Lumber Co
			Pine River Lumber Co
			Pinecrest Lumber Co
			Pleasant River Lumber Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Pleasant Western Lumber Inc
			Plum Creek Timber
			Pollard Lumber
			Portac
			Potlatch
			Potomac Supply
			Precision Lumber Inc
			Pruitt Lumber Inc
			R Leon Williams Lumber Co
			RA Yancey Lumber
			Rajala Timber Co
			Ralph Hamel Forest Products
			Randy D Miller Lumber
			Rappahannock Lumber Co
			Regulus Stud Mills Inc
			Riley Creek Lumber
			Roanoke Lumber Co
			Robbins Lumber
			Robertson Lumber
			Roseburg Forest Products Co
			Rough & Ready
			RSG Forest Products
			Rushmore Forest Products
			RY Timber Inc
			Sam Mabry Lumber Co
			Scotch Lumber
			SDS Lumber Co
			Seacoast Mills Inc
			Seago Lumber
			Seattle-Snohomish
			Seneca Sawmill
			Shaver Wood Products
			Shearer Lumber Products
			Shuqualak Lumber
			SI Storey Lumber
			Sierra Forest Products
			Sierra Pacific Industries
			Sigfridson Wood Products
			Silver City Lumber Inc
			Somers Lbr & Mfg Inc
			South & Jones
			South Coast
			Southern Forest Industries Inc
			Southern Lumber
			St Laurent Forest Products
			Starfire Lumber Co
			Steely Lumber Co Inc
			Stimson Lumber
			Summit Timber Co
			Sundance Lumber
			Superior Lumber

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Swanson Superior Forest Products Inc Swift Lumber Tamarack Mill Taylor Lumber & Treating Inc Temple-Inland Forest Products Thompson River Lumber Three Rivers Timber Thrift Brothers Lumber Co Inc Timco Inc Tolleson Lumber Toney Lumber TR Miller Mill Co Tradewinds of Virginia Ltd Travis Lumber Co Tree Source Industries Inc Tri-State Lumber TTT Studs United Brotherhood of Carpenters and Joiners Viking Lumber Co VP Kiser Lumber Co Walton Lumber Co Inc Warm Springs Forest Products Westvaco Corp Wilkins, Kaiser & Olsen Inc WM Shepherd Lumber Co WR Robinson Lumber Co Inc Wrenn Brothers Inc Wyoming Sawmills Yakama Forest Products Younce & Ralph Lumber Co Inc Zip-O-Log Mills Inc
A-122-840	731-TA-954	Carbon and Certain Alloy Steel Wire Rod/Canada	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-122-847	731-TA-1019B	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission
A-201-504	731-TA-297	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares
A-201-601	731-TA-333	Fresh Cut Flowers/Mexico	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Monterey Flower Farms Topstar Nursery
A-201-802	731-TA-451	Gray Portland Cement and Clinker/Mexico	Alamo Cement Blue Circle BoxCrow Cement Calaveras Cement Capitol Aggregates Centex Cement Florida Crushed Stone Gifford-Hill Hanson Permanente Cement Ideal Basic Industries Independent Workers of North America (Locals 49, 52, 89, 192 and 471) International Union of Operating Engineers (Local 12) National Cement Company of Alabama National Cement Company of California Phoenix Cement Riverside Cement Southdown Tarmac America Texas Industries
A-201-805	731-TA-534	Circular Welded Nonalloy Steel Pipe/Mexico	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A-201-806	731-TA-547	Carbon Steel Wire Rope/Mexico	Bridon American Macwhyte Paulsen Wire Rope The Rochester Corporation United Automobile, Aerospace and Agricultural Implement Workers (Local 960) Williamsport Wire-rope Works Wire Rope Corporation of America
A-201-809	731-TA-582	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-201-817	731-TA-716	Oil Country Tubular Goods/Mexico	IPSCO Koppel Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
A-201-820	731-TA-747	Fresh Tomatoes/Mexico	Accomack County Farm Bureau Ad Hoc Group of Florida, California, Georgia, Pennsylvania, South Carolina, Tennessee and Virginia Tomato Growers Florida Farm Bureau Federation Florida Fruit and Vegetable Association Florida Tomato Exchange Florida Tomato Growers Exchange Gadsden County Tomato Growers Association South Carolina Tomato Association
A-201-822	731-TA-802	Stainless Steel Sheet and Strip/Mexico	Allegheny Ludlum Armco Bethlehem Steel Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America
A-201-827	731-TA-848	Large-Diameter Carbon Steel Seamless Pipe/ Mexico	North Star Steel Timken US Steel United Steelworkers of America USS/Kobe
A-201-828	731-TA-920	Welded Large Diameter Line Pipe/Mexico	American Cast Iron Pipe Berg Steel Pipe Bethlehem Steel Napa Pipe/Oregon Steel Mills Saw Pipes USA Stupp US Steel
A-201-830	731-TA-958	Carbon and Certain Alloy Steel Wire Rod/Mexico	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-201-831	731-TA-1027	Prestressed Concrete Steel Wire Strand/Mexico	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A-201-834	731-TA-1085	Purified Carboxymethylcellulose/Mexico	Aqualon Co a Division of Hercules Inc
A-274-804	731-TA-961	Carbon and Certain Alloy Steel Wire Rod/Trinidad & Tobago	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-301-602	731-TA-329	Fresh Cut Flowers/Colombia	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit Monterey Flower Farms Pajaro Valley Greenhouses Topstar Nursery
A-307-803	731-TA-519	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone Southdown Tarmac America
A-307-805	731-TA-537	Circular Welded Nonalloy Steel Pipe/Venezuela	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A-307-807	731-TA-570	Ferrosilicon/Venezuela	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389)

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-307-820	731-TA-931	Silicomanganese/Venezuela	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639
A-331-602	731-TA-331	Fresh Cut Flowers/Ecuador	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit Monterey Flower Farms Topstar Nursery
A-337-803	731-TA-768	Fresh Atlantic Salmon/Chile	Atlantic Salmon of Maine Cooke Aquaculture US DE Salmon Global Aqua USA Island Aquaculture Maine Coast Nordic Scan Am Fish Farms Treats Island Fisheries Trumpet Island Salmon Farm
A-337-804	731-TA-776	Preserved Mushrooms/Chile	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A-337-806	731-TA-948	Individually Quick Frozen Red Raspberries/Chile	A&A Berry Farms Bahler Farms Bear Creek Farms David Burns Columbia Farms Columbia Fruit George Culp Dobbins Berry Farm Enfield Firestone Packing George Hoffman Farms Heckel Farms Wendell Kreder Curt Maberry Maberry Packing Mike & Jean's Nguyen Berry Farms Nick's Acres

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			North Fork Parson Berry Farm Pickin 'N' Pluckin Postage Stamp Farm Rader RainSweet Scenic Fruit Silverstar Farms Tim Straub Thoeny Farms Townsend Tsugawa Farms Updike Berry Farms Van Laeken Farms
A-351-503	731-TA-262	Iron Construction Castings/Brazil	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry Charlotte Pipe & Foundry Deeter Foundry East Jordan Foundry Le Baron Foundry Municipal Castings Neenah Foundry Opelika Foundry Pinkerton Foundry Tyler Pipe US Foundry & Manufacturing Vulcan Foundry
A-351-505	731-TA-278	Malleable Cast Iron Pipe Fittings/Brazil	Grinnell Stanley G Flagg Stockham Valves & Fittings U-Brand Ward Manufacturing
A-351-602	731-TA-308	Carbon Steel Butt-Weld Pipe Fittings/Brazil	Ladish Mills Iron Works Steel Forgings Tube Forgings of America Weldbend
A-351-603	731-TA-311	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-351-605	731-TA-326	Frozen Concentrated Orange Juice/Brazil	Alcoma Packing B&W Canning Berry Citrus Products Caulkins Indiantown Citrus Citrus Belle Citrus World Florida Citrus Mutual
A-351-804	731-TA-439	Industrial Nitrocellulose/Brazil	Hercules
A-351-806	731-TA-471	Silicon Metal/Brazil	American Alloys Globe Metallurgical International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693) Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech SiMETCO Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60) United Steelworkers of America (Locals 5171, 8538 and 12646)
A-351-809	731-TA-532	Circular Welded Nonalloy Steel Pipe/Brazil	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A-351-817	731-TA-574	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-351-819	731-TA-636	Stainless Steel Wire Rod/Brazil	AL Tech Specialty Steel Armco Steel Carpenter Technology Republic Engineered Steels

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Talley Metals Technology United Steelworkers of America
A-351-820	731-TA-641	Ferrosilicon/Brazil	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-351-824	731-TA-671	Silicomanganese/Brazil	Elkem Metals Oil, Chemical and Atomic Workers (Local 3-639)
A-351-825	731-TA-678	Stainless Steel Bar/Brazil	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A-351-826	731-TA-708	Seamless Pipe/Brazil	Koppel Steel Quanex Timken United States Steel
A-351-828	731-TA-806	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO Ispat/Inland LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
A-351-832	731-TA-953	Carbon and Certain Alloy Steel Wire Rod/Brazil	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			North Star Steel Texas
			Nucor Steel-Nebraska (a division of Nucor Corp)
			Republic Technologies International
			Rocky Mountain Steel Mills
A-351-837	731-TA-1024	Prestressed Concrete Steel Wire Strand/Brazil	American Spring Wire Corp
			Insteel Wire Products Co
			Sivaco Georgia LLC
			Strand Tech Martin Inc
			Sumiden Wire Products Corp
A-351-840	731-TA-1089	Certain Orange Juice/Brazil	A Duda & Sons Inc
			Alico Inc
			John Barnelt
			Ben Hill Griffin Inc
			Bliss Citrus
			BTS A Florida General Partnership
			Cain Groves
			California Citrus Mutual
			Cedar Haven Inc
			Citrus World Inc
			Clonts Groves Inc
			Davis Enterprises Inc
			D Edwards Dickinson
			Evans Properties Inc
			Florida Citrus Commission
			Florida Citrus Mutual
			Florida Farm Bureau Federation
			Florida Fruit & Vegetable Association
			Florida State of Department of Citrus
			Flying V Inc
			GBS Groves Inc
			Graves Brothers Co
			H&S Groves
			Hartwell Groves Inc
			Holly Hill Fruit Products Co
			Jack Melton Family Inc
			K-Bob Inc
			L Dicks Inc
			Lake Pickett Partnership Inc
			Lamb Revocable Trust Gerilyn Rebecca S Lamb Trustee
			Lykes Bros Inc
			Martin J McKenna
			Orange & Sons Inc
			Osgood Groves
			William W Parshall
			PH Freeman & Sons
			Pierie Grove
			Raymond & Melissa Pierie
			Roper Growers Cooperative
			Royal Brothers Groves
			Seminole Tribe of Florida Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Silverman Groves/Rilla Cooper Smoak Groves Inc Sorrells Groves Inc Southern Gardens Groves Corp Southern Gardens Processing Corp Southern Groves Citrus Sun Ag Inc Sunkist Growers Inc Texas Citrus Exchange Texas Citrus Mutual Texas Produce Association Travis Wise Management Inc Uncle Matt's Fresh Inc Varn Citrus Growers Inc
A-357-007	731-TA-157	Carbon Steel Wire Rod/Argentina	Atlantic Steel Continental Steel Georgetown Steel North Star Steel Raritan River Steel
A-357-405	731-TA-208	Barbed Wire and Barbless Wire Strand/Argentina	CF&I Steel Davis Walker Forbes Steel & Wire Oklahoma Steel Wire
A-357-802	731-TA-409	Light-Walled Rectangular Tube/Argentina	Bull Moose Tube Hannibal Industries Harris Tube Maruichi American Searing Industries Southwestern Pipe Western Tube & Conduit
A-357-804	731-TA-470	Silicon Metal/Argentina	American Alloys Elkem Metals Globe Metallurgical International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693) Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech SiMETCO SKW Alloys Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60) United Steelworkers of America (Locals 5171, 8538 and 12646)
A-357-809	731-TA-707	Seamless Pipe/Argentina	Koppel Steel Quanex Timken United States Steel
A-357-810	731-TA-711	Oil Country Tubular Goods/Argentina	IPSCO Koppel Steel Lone Star Steel Maverick Tube

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Newport Steel
			North Star Steel
			US Steel
			USS/Kobe
A-357-812	731-TA-892	Honey/Argentina	AH Meyer & Sons
			Adee Honey Farms
			Althoff Apiaries
			American Beekeeping Federation
			American Honey Producers Association
			Anderson Apiaries
			Arroyo Apiaries
			Artesian Honey Producers
			B Weaver Apiaries
			Bailey Enterprises
			Barkman Honey
			Basler Honey Apiary
			Beals Honey
			Bears Paw Apiaries
			Beaverhead Honey
			Bee Biz
			Bee Haven Honey
			Belliston Brothers Apiaries
			Big Sky Honey
			Bill Rhodes Honey
			Richard E Blake
			Curt Bronnenberg
			Brown's Honey Farms
			Brumley's Bees
			Buhmann Apiaries
			Carys Honey Farms
			Chaparrel Honey
			Charles Apiaries
			Mitchell Charles
			Collins Honey
			Conor Apiaries
			Coy's Honey Farm
			Dave Nelson Apiaries
			Delta Bee
			Eisele's Pollination & Honey
			Ellingsoa's
			Elliott Curtis & Sons
			Charles L Emmons, Sr
			Gause Honey
			Gene Brandi Apiaries
			Griffith Honey
			Haff Apiaries
			Hamilton Bee Farms
			Hamilton Honey
			Happie Bee
			Harvest Honey
			Harvey's Honey

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hiatt Honey
			Hoffman Honey
			Hollman Apiaries
			Honey House
			Honeybee Apiaries
			Gary M Honl
			Rand William Honl and Sydney Jo Honl
			James R & Joann Smith Trust
			Jaynes Bee Products
			Johnston Honey Farms
			Larry Johnston
			Ke-An Honey
			Kent Honeybees
			Lake-Indianhead Honey Farms
			Lamb's Honey Farm
			Las Flores Apiaries
			Mackrill Honey Farms & Sales
			Raymond Marquette
			Mason & Sons Honey
			McCoy's Sunny South Apiaries
			Merrimack Valley Apiaries & Evergreen Honey
			Met 2 Honey Farm
			Missouri River Honey
			Mitchell Brothers Honey
			Monda Honey Farm
			Montana Dakota Honey
			Northern Bloom Honey
			Noye's Apiaries
			Oakes Honey
			Oakley Honey Farms
			Old Mill Apiaries
			Opp Honey
			Oro Dulce
			Peterson's "Naturally Sweet" Honey
			Potoczak Bee Farms
			Price Apiaries
			Pure Sweet Honey Farms
			Robertson Pollination Service
			Robson Honey
			William Robson
			Rosedale Apiaries
			Ryan Apiaries
			Schmidt Honey Farms
			Simpson Apiaries
			Sioux Honey Association
			Smoot Honey
			Solby Honey
			Stahlman Apiaries
			Steve E Parks Apiaries
			Stroope Bee & Honey
			T&D Honey Bee

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Talbott's Honey Terry Apiaries Thompson Apiaries Triple A Farm Tropical Blossom Honey Tubbs Apiaries Venable Wholesale Walter L Wilson Buzz 76 Apiaries Wiebersiek Honey Farms Wilmer Farms Brent J Woodworth Wooten's Golden Queens Yaddof Apiaries
A-357-814	731-TA-898	Hot-Rolled Steel Products/Argentina	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-401-040	AA1921-114	Stainless Steel Plate/Sweden	Jessop Steel
A-401-601	731-TA-316	Brass Sheet and Strip/Sweden	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A-401-603	731-TA-354	Stainless Steel Hollow Products/Sweden	AL Tech Specialty Steel Allegheny Ludlum Steel ARMCO Carpenter Technology Crucible Materials Damacus Tubular Products Specialty Tubing Group
A-401-801	731-TA-397-A	Ball Bearings/Sweden	Barden Corp Emerson Power Transmission Kubar Bearings MPB

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rollway Bearings Torrington
A-401-801	731-TA-397-B	Cylindrical Roller Bearings/Sweden	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A-401-805	731-TA-586	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-401-806	731-TA-774	Stainless Steel Wire Rod/Sweden	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-401-808	731-TA-1087	Purified Carboxymethylcellulose/Sweden	Aqualon Co a Division of Hercules Inc
A-403-801	731-TA-454	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon The Coalition for Fair Atlantic Salmon Trade
A-405-802	731-TA-576	Cut-to-Length Carbon Steel Plate/Finland	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-405-803	731-TA-1084	Purified Carboxymethylcellulose/Finland	Aqualon Co a Division of Hercules Inc
A-412-801	731-TA-399-A	Ball Bearings/United Kingdom	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Torrington
A-412-801	731-TA-399-B	Cylindrical Roller Bearings/United Kingdom	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A-412-803	731-TA-443	Industrial Nitrocellulose/United Kingdom	Hercules
A-412-805	731-TA-468	Sodium Thiosulfate/United Kingdom	Calabrian
A-412-814	731-TA-587	Cut-to-Length Carbon Steel Plate/United Kingdom	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-412-818	731-TA-804	Stainless Steel Sheet and Strip/United Kingdom	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-412-822	731-TA-918	Stainless Steel Bar/United Kingdom	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A-421-701	731-TA-380	Brass Sheet and Strip/Netherlands	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company North Coast Brass & Copper Olin Pegg Metals Revere Copper Products

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			United Steelworkers of America
A-421-804	731-TA-608	Cold-Rolled Carbon Steel Flat Products/Netherlands	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-421-805	731-TA-652	Aramid Fiber/Netherlands	E I du Pont de Nemours
A-421-807	731-TA-903	Hot-Rolled Steel Products/Netherlands	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-421-811	731-TA-1086	Purified Carboxymethylcellulose/Netherlands	Aqualon Co a Division of Hercules Inc
A-423-077	AA1921-198	Sugar/Belgium	Florida Sugar Marketing and Terminal Association
A-423-602	731-TA-365	Industrial Phosphoric Acid/Belgium	Albright & Wilson FMC Hydrite Chemical Monsanto Stauffer Chemical
A-423-805	731-TA-573	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			US Steel United Steelworkers of America
A-423-808	731-TA-788	Stainless Steel Plate in Coils/Belgium	Allegheny Ludlum Armco Steel Lukens Steel North American Stainless United Steelworkers of America
A-427-001	731-TA-44	Sorbitol/France	Lonza Pfizer
A-427-009	731-TA-96	Industrial Nitrocellulose/France	Hercules
A-427-078	AA1921-199	Sugar/France	Florida Sugar Marketing and Terminal Association
A-427-098	731-TA-25	Anhydrous Sodium Metasilicate/France	PQ
A-427-602	731-TA-313	Brass Sheet and Strip/France	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A-427-801	731-TA-392-A	Ball Bearings/France	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A-427-801	731-TA-392-B	Cylindrical Roller Bearings/France	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A-427-801	731-TA-392-C	Spherical Plain Bearings/France	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co Rexnord Inc Rollway Bearings Torrington
A-427-804	731-TA-553	Hot-Rolled Lead and Bismuth Carbon Steel Products/France	Bethlehem Steel Inland Steel Industries USS/Kobe Steel
A-427-808	731-TA-615	Corrosion-Resistant Carbon Steel Flat Products/ France	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-427-811	731-TA-637	Stainless Steel Wire Rod/France	AL Tech Specialty Steel Armco Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-427-814	731-TA-797	Stainless Steel Sheet and Strip/France	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-427-816	731-TA-816	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel Geneva Steel IPSCO Steel National Steel US Steel United Steelworkers of America
A-427-818	731-TA-909	Low Enriched Uranium/France	United States Enrichment Corp USEC Inc
A-427-820	731-TA-913	Stainless Steel Bar/France	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A-428-082	AA1921-200	Sugar/Germany	Florida Sugar Marketing and Terminal Association
A-428-602	731-TA-317	Brass Sheet and Strip/Germany	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A-428-801	731-TA-391-A	Ball Bearings/Germany	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A-428-801	731-TA-391-B	Cylindrical Roller Bearings/Germany	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A-428-801	731-TA-391-C	Spherical Plain Bearings/Germany	Barden Corp Emerson Power Transmission Rollway Bearings Torrington
A-428-802	731-TA-419	Industrial Belts/Germany	The Gates Rubber Company The Goodyear Tire and Rubber Company
A-428-803	731-TA-444	Industrial Nitrocellulose/Germany	Hercules
A-428-807	731-TA-465	Sodium Thiosulfate/Germany	Calabrian
A-428-814	731-TA-604	Cold-Rolled Carbon Steel Flat Products/Germany	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-428-815	731-TA-616	Corrosion-Resistant Carbon Steel Flat Products/ Germany	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-428-816	731-TA-578	Cut-to-Length Carbon Steel Plate/Germany	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-428-820	731-TA-709	Seamless Pipe/Germany	Koppel Steel Quanex Timken United States Steel
A-428-821	731-TA-736	Large Newspaper Printing Presses/Germany	Rockwell Graphics Systems
A-428-825	731-TA-798	Stainless Steel Sheet and Strip/Germany	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-428-830	731-TA-914	Stainless Steel Bar/Germany	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A-437-601	731-TA-341	Tapered Roller Bearings/Hungary	L&S Bearing Timken Torrington
A-437-804	731-TA-426	Sulfanilic Acid/Hungary	Nation Ford Chemical
A-447-801	731-TA-340C	Solid Urea/Estonia	Agrico Chemical American Cyanamid CF Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			First Mississippi Mississippi Chemical Terra International WR Grace
A-449-804	731-TA-878	Steel Concrete Reinforcing Bar/Latvia	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-451-801	731-TA-340D	Solid Urea/Lithuania	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-455-802	731-TA-583	Cut-to-Length Carbon Steel Plate/Poland	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-455-803	731-TA-880	Steel Concrete Reinforcing Bar/Poland	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-469-007	731-TA-126	Potassium Permanganate/Spain	Carus Chemical
A-469-803	731-TA-585	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-469-805	731-TA-682	Stainless Steel Bar/Spain	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A-469-807	731-TA-773	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-469-810	731-TA-890	Stainless Steel Angle/Spain	Slater Steels United Steelworkers of America
A-469-814	731-TA-1083	Chlorinated Isocyanurates/Spain	BioLab Inc Clearon Corp Occidental Chemical Corp
A-471-806	731-TA-427	Sulfanilic Acid/Portugal	Nation Ford Chemical
A-475-059	AA1921-167	Pressure-Sensitive Plastic Tape/Italy	Minnesota Mining & Manufacturing
A-475-601	731-TA-314	Brass Sheet and Strip/Italy	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			United Steelworkers of America
A-475-703	731-TA-385	Granular Polytetrafluoroethylene/Italy	E I du Pont de Nemours ICI Americas
A-475-801	731-TA-393-A	Ball Bearings/Italy	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A-475-801	731-TA-393-B	Cylindrical Roller Bearings/Italy	Barden Corp Emerson Power Transmission MPB Rollway Bearings Torrington
A-475-802	731-TA-413	Industrial Belts/Italy	The Gates Rubber Company The Goodyear Tire and Rubber Company
A-475-811	731-TA-659	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum Armco Steel Butler Armco Independent Union United Steelworkers of America Zanesville Armco Independent Union
A-475-814	731-TA-710	Seamless Pipe/Italy	Koppel Steel Quanex Timken United States Steel
A-475-816	731-TA-713	Oil Country Tubular Goods/Italy	Bellville Tube IPSCO Koppel Steel Lone Star Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
A-475-818	731-TA-734	Pasta/Italy	A Zerega's Sons American Italian Pasta Borden D Merlino & Sons Dakota Growers Pasta Foulds Gilster-Mary Lee Gooch Foods Hershey Foods LaRinascente Macaroni Co Pasta USA Philadelphia Macaroni ST Specialty Foods
A-475-820	731-TA-770	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel Carpenter Technology

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-475-822	731-TA-790	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
A-475-824	731-TA-799	Stainless Steel Sheet and Strip/Italy	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-475-826	731-TA-819	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel US Steel United Steelworkers of America
A-475-828	731-TA-865	Stainless Steel Butt-Weld Pipe Fittings/Italy	Flo-Mac Inc Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A-475-829	731-TA-915	Stainless Steel Bar/Italy	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A-479-801	731-TA-445	Industrial Nitrocellulose/Yugoslavia	Hercules
A-484-801	731-TA-406	Electrolytic Manganese Dioxide/Greece	Chemetals Kerr-McGee Rayovac
A-485-601	731-TA-339	Solid Urea/Romania	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-485-602	731-TA-345	Tapered Roller Bearings/Romania	L&S Bearing Timken

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Torrington
A-485-801	731-TA-395	Ball Bearings/Romania	Barden Corp Emerson Power Transmission Kubar Bearings MPB Rollway Bearings Torrington
A-485-803	731-TA-584	Cut-to-Length Carbon Steel Plate/Romania	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
A-485-805	731-TA-849	Small-Diameter Carbon Steel Seamless Pipe/ Romania	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
A-485-806	731-TA-904	Hot-Rolled Steel Products/Romania	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-489-501	731-TA-273	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit American Tube Bernard Epps Bock Industries Bull Moose Tube Central Steel Tube Century Tube Copperweld Tubing

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Cyclops Hughes Steel & Tube Kaiser Steel Laclede Steel Maruichi American Maverick Tube Merchant Metals Phoenix Steel Pittsburgh Tube Quanex Sharon Tube Southwestern Pipe UNR-Leavitt Welded Tube Western Tube & Conduit Wheatland Tube
A-489-602	731-TA-364	Aspirin/Turkey	Dow Chemical Monsanto Norwich-Eaton
A-489-805	731-TA-735	Pasta/Turkey	A Zerega's Sons American Italian Pasta Borden D Merlino & Sons Dakota Growers Pasta Foulds Gilster-Mary Lee Gooch Foods Hershey Foods LaRinascente Macaroni Co Pasta USA Philadelphia Macaroni ST Specialty Foods
A-489-807	731-TA-745	Steel Concrete Reinforcing Bar/Turkey	AmeriSteel Auburn Steel Birmingham Steel Commercial Metals Marion Steel New Jersey Steel
A-507-502	731-TA-287	Raw In-Shell Pistachios/Iran	Blackwell Land California Pistachio Orchard Keenan Farms Kern Pistachio Hulling & Drying Los Ranchos de Poco Pedro Pistachio Producers of California TM Duche Nut
A-508-604	731-TA-366	Industrial Phosphoric Acid/Israel	Albright & Wilson FMC Hydrite Chemical Monsanto Stauffer Chemical
A-533-502	731-TA-271	Welded Carbon Steel Pipe and Tube/India	Allied Tube & Conduit

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			American Tube Bernard Epps Bock Industries Bull Moose Tube Central Steel Tube Century Tube Copperweld Tubing Cyclops Hughes Steel & Tube Kaiser Steel Laclede Steel Maruichi American Maverick Tube Merchant Metals Phoenix Steel Pittsburgh Tube Quanex Sharon Tube Southwestern Pipe UNR-Leavitt Welded Tube Western Tube & Conduit Wheatland Tube
A-533-806	731-TA-561	Sulfanilic Acid/India	R-M Industries
A-533-808	731-TA-638	Stainless Steel Wire Rod/India	AL Tech Specialty Steel Armco Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-533-809	731-TA-639	Forged Stainless Steel Flanges/India	Gerlin Ideal Forging Maass Flange Markovitz Enterprises
A-533-810	731-TA-679	Stainless Steel Bar/India	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A-533-813	731-TA-778	Preserved Mushrooms/India	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A-533-817	731-TA-817	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
A-533-820	731-TA-900	Hot-Rolled Steel Products/India	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-533-823	731-TA-929	Silicomanganese/ndia	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers International Union, Local 5-0639
A-533-824	731-TA-933	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India	DuPont Teijin Films Mitsubishi Polyester Film LLC SKC America Inc Toray Plastics (America)
A-533-828	731-TA-1025	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A-533-838	731-TA-1061	Carbazole Violet Pigment 23/India	Allegheny Color Corp Barker Fine Color Inc Clariant Corp Nation Ford Chemical Co Sun Chemical Co
A-533-843	731-TA-1096	Certain Lined Paper School Supplies/India	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (USW)
A-538-802	731-TA-514	Cotton Shop Towels/Bangladesh	Milliken
A-549-502	731-TA-252	Welded Carbon Steel Pipe and Tube/Thailand	Allied Tube & Conduit American Tube

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Bernard Epps Bock Industries Bull Moose Tube Central Steel Tube Century Tube Copperweld Tubing Cyclops Hughes Steel & Tube Kaiser Steel Laclede Steel Maruichi American Maverick Tube Merchant Metals Phoenix Steel Pittsburgh Tube Quanex Sharon Tube Southwestern Pipe UNR-Leavitt Welded Tube Western Tube & Conduit Wheatland Tube
A-549-601	731-TA-348	Malleable Cast Iron Pipe Fittings/Thailand	Grinnell Stanley G Flagg Stockham Valves & Fittings U-Brand Ward Manufacturing
A-549-807	731-TA-521	Carbon Steel Butt-Weld Pipe Fittings/Thailand	Hackney Ladish Mills Iron Works Steel Forgings Tube Forgings of America
A-549-812	731-TA-705	Furfuryl Alcohol/Thailand	QO Chemicals
A-549-813	731-TA-706	Canned Pineapple/Thailand	International Longshoreman's and Warehouseman's Union Maui Pineapple
A-549-817	731-TA-907	Hot-Rolled Steel Products/Thailand	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-549-820	731-TA-1028	Prestressed Concrete Steel Wire Strand/Thailand	American Spring Wire Corp

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A-549-821	731-TA-1045	Polyethylene Retail Carrier Bags/Thailand	Aargus Plastics Inc Advance Polybags Inc Advance Polybags (Nevada) Inc Advance Polybags (Northeast) Inc Alpha Industries Inc Alpine Plastics Inc Ampac Packaging LLC API Enterprises Inc Command Packaging Continental Poly Bags Inc Durabag Co Inc Europackaging LLC Genpak LLC (formerly Continental Superbag LLC) Genpak LLC (formerly Strout Plastics) Hilex Poly Co LLC Inteplast Group Ltd PCL Packaging Inc Poly-Pak Industries Inc Roplast Industries Inc Superbag Corp Unistar Plastics LLC Vanguard Plastics Inc VS Plastics LLC
A-552-801	731-TA-1012	Certain Frozen Fish Fillets/Vietnam	America's Catch Inc Aquafarms Catfish Inc Carolina Classics Catfish Inc Catfish Farmers of America Consolidated Catfish Companies Inc Delta Pride Catfish Inc Fish Processors Inc Guidry's Catfish Inc Haring's Pride Catfish Harvest Select Catfish (Alabama Catfish Inc) Heartland Catfish Co (TT&W Farm Products Inc) Prairie Lands Seafood (Illinois Fish Farmers Cooperative) Pride of the Pond Pride of the South Catfish Inc Prime Line Inc Seabrook Seafood Inc Seacat (Arkansas Catfish Growers) Simmons Farm Raised Catfish Inc Southern Pride Catfish LLC Verret Fisheries Inc
A-557-805	731-TA-527	Extruded Rubber Thread/Malaysia	Globe Manufacturing North American Rubber Thread
A-557-809	731-TA-866	Stainless Steel Butt-Weld Pipe Fittings/Malaysia	Flo-Mac Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A-557-813	731-TA-1044	Polyethylene Retail Carrier Bags/Malaysia	Aargus Plastics Inc Advance Polybags Inc Advance Polybags (Nevada) Inc Advance Polybags (Northeast) Inc Alpha Industries Inc Alpine Plastics Inc Ampac Packaging LLC API Enterprises Inc Command Packaging Continental Poly Bags Inc Durabag Co Inc Europackaging LLC Genpak LLC (formerly Continental Superbag LLC) Genpak LLC (formerly Strout Plastics) Hilex Poly Co LLC Inteplast Group Ltd PCL Packaging Inc Poly-Pak Industries Inc Roplast Industries Inc Superbag Corp Unistar Plastics LLC Vanguard Plastics Inc VS Plastics LLC
A-559-502	731-TA-296	Small Diameter Standard and Rectangular Pipe and Tube/Singapore	Allied Tube & Conduit American Tube Bull Moose Tube Cyclops Hannibal Industries Laclede Steel Pittsburgh Tube Sharon Tube Western Tube & Conduit Wheatland Tube
A-559-601	731-TA-370	Color Picture Tubes/Singapore	Industrial Union Department, AFL-CIO International Association of Machinists & Aerospace Workers International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A-559-801	731-TA-396	Ball Bearings/Singapore	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rexnord Inc Rollway Bearings Torrington
A-559-802	731-TA-415	Industrial Belts/Singapore	The Gates Rubber Company The Goodyear Tire and Rubber Company
A-560-801	731-TA-742	Melamine Institutional Dinnerware/Indonesia	Carlisle Food Service Products Lexington United Plastics Manufacturing
A-560-802	731-TA-779	Preserved Mushrooms/Indonesia	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A-560-803	731-TA-787	Extruded Rubber Thread/Indonesia	North American Rubber Thread
A-560-805	731-TA-818	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
A-560-811	731-TA-875	Steel Concrete Reinforcing Bar/Indonesia	AB Steel Mill Inc AmeriSteel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-560-812	731-TA-901	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-560-815	731-TA-957	Carbon and Certain Alloy Steel Wire Rod/Indonesia	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-560-818	731-TA-1097	Certain Lined Paper School Supplies/Indonesia	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (USW)
A-565-801	731-TA-867	Stainless Steel Butt-Weld Pipe Fittings/Philippines	Flo-Mac Inc Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A-570-001	731-TA-125	Potassium Permanganate/China	Carus Chemical
A-570-002	731-TA-130	Chloropicrin/China	LCP Chemicals & Plastics Niklor Chemical
A-570-003	731-TA-103	Cotton Shop Towels/China	Milliken Texel Industries Wikit
A-570-007	731-TA-149	Barium Chloride/China	Chemical Products
A-570-101	731-TA-101	Greige Polyester Cotton Printcloth/China	Alice Manufacturing Clinton Mills Dan River Greenwood Mills Hamrick Mills M Lowenstein Mayfair Mills Mount Vernon Mills
A-570-501	731-TA-244	Natural Bristle Paint Brushes/China	Baltimore Brush Bestt Liebco Elder & Jenks EZ Paintr H&G Industries Joseph Lieberman & Sons Purdy

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rubberset
			Thomas Paint Applicators
			Wooster Brush
A-570-502	731-TA-265	Iron Construction Castings/China	Alhambra Foundry
			Allegheny Foundry
			Bingham & Taylor
			Campbell Foundry
			Charlotte Pipe & Foundry
			Deeter Foundry
			East Jordan Foundry
			Le Baron Foundry
			Municipal Castings
			Neenah Foundry
			Opelika Foundry
			Pinkerton Foundry
			Tyler Pipe
			US Foundry & Manufacturing
			Vulcan Foundry
A-570-504	731-TA-282	Petroleum Wax Candles/China	The Al Root Company
			Candle Artisans Inc
			Candle-Lite
			Cathedral Candle
			Colonial Candle of Cape Cod
			General Wax & Candle
			Lenox Candles
			Lumi-Lite Candle
			Meuch-Kreuzer Candle
			National Candle Association
			Will & Baumer
			WNS
A-570-506	731-TA-298	Porcelain-on-Steel Cooking Ware/China	General Housewares
A-570-601	731-TA-344	Tapered Roller Bearings/China	L&S Bearing
			Timken
			Torrington
A-570-802	731-TA-441	Industrial Nitrocellulose/China	Hercules
A-570-803	731-TA-457-A	Axes and Adzes/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A-570-803	731-TA-457-B	Bars and Wedges/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A-570-803	731-TA-457-C	Hammers and Sledges/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A-570-803	731-TA-457-D	Picks and Mattocks/China	Council Tool Co Inc
			Warwood Tool
			Woodings-Verona
A-570-804	731-TA-464	Sparklers/China	BJ Alan
			Diamond Sparkler
			Elkton Sparkler
A-570-805	731-TA-466	Sodium Thiosulfate/China	Calabrian

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-570-806	731-TA-472	Silicon Metal/China	American Alloys Elkem Metals Globe Metallurgical International Union of Electronics, Electrical, Machine and Furniture Workers (Local 693) Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech SiMETCO SKW Alloys Textile Processors, Service Trades, Health Care Professional and Technical Employees (Local 60) United Steelworkers of America (Locals 5171, 8538 and 12646)
A-570-808	731-TA-474	Chrome-Plated Lug Nuts/China	Consolidated International Automotive Key Manufacturing McGard
A-570-811	731-TA-497	Tungsten Ore Concentrates/China	Curtis Tungsten US Tungsten
A-570-814	731-TA-520	Carbon Steel Butt-Weld Pipe Fittings/China	Hackney Ladish Mills Iron Works Steel Forgings Tube Forgings of America
A-570-815	731-TA-538	Sulfanilic Acid/China	R-M Industries
A-570-819	731-TA-567	Ferrosilicon/China	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-570-822	731-TA-624	Helical Spring Lock Washers/China	Illinois Tool Works
A-570-825	731-TA-653	Sebacic Acid/China	Union Camp
A-570-826	731-TA-663	Paper Clips/China	ACCO USA Labelon/Noesting TRICO Manufacturing
A-570-827	731-TA-669	Cased Pencils/China	Blackfeet Indian Writing Instrument Dixon-Ticonderoga Empire Berol Faber-Castell General Pencil JR Moon Pencil Musgrave Pen & Pencil Panda Writing Instrument Manufacturers Association, Pencil Section
A-570-828	731-TA-672	Silicomanganese/China	Elkem Metals Oil, Chemical and Atomic Workers (Local 3-639)

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-570-830	731-TA-677	Coumarin/China	Rhone-Poulenc
A-570-831	731-TA-683	Fresh Garlic/China	A&D Christopher Ranch Belridge Packing Colusa Produce Denice & Filice Packing El Camino Packing The Garlic Company Vessey and Company
A-570-832	731-TA-696	Pure Magnesium/China	Dow Chemical International Union of Operating Engineers (Local 564) Magnesium Corporation of America United Steelworkers of America (Local 8319)
A-570-835	731-TA-703	Furfuryl Alcohol/China	QO Chemicals
A-570-836	731-TA-718	Glycine/China	Chattem Hampshire Chemical
A-570-840	731-TA-724	Manganese Metal/China	Elkem Metals Kerr-McGee
A-570-842	731-TA-726	Polyvinyl Alcohol/China	Air Products and Chemicals
A-570-844	731-TA-741	Melamine Institutional Dinnerware/China	Carlisle Food Service Products Lexington United Plastics Manufacturing
A-570-846	731-TA-744	Brake Rotors/China	Brake Parts Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers Iroquois Tool Systems Kelsey Hayes Kinetic Parts Manufacturing Overseas Auto Parts Wagner Brake
A-570-847	731-TA-749	Persulfates/China	FMC
A-570-848	731-TA-752	Crawfish Tail Meat/China	A&S Crawfish Acadiana Fisherman's Co-Op Arnaudville Seafood Atchafalaya Crawfish Processors Basin Crawfish Processors Bayou Land Seafood Becnel's Meat & Seafood Bellard's Poultry & Crawfish Bonanza Crawfish Farm Cajun Seafood Distributors Carl's Seafood Catahoula Crawfish Choplin SFD CJ's Seafood & Purged Crawfish Clearwater Crawfish Crawfish Processors Alliance Harvey's Seafood Lawtell Crawfish Processors Louisiana Premium Seafoods Louisiana Seafood LT West

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Phillips Seafood Prairie Cajun Wholesale Seafood Dist Riceland Crawfish Schexnider Crawfish Seafood International Distributors Sylvester's Processors Teche Valley Seafood
A-570-849	731-TA-753	Cut-to-Length Carbon Steel Plate/China	Acme Metals Inc Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel Lukens Inc National Steel US Steel United Steelworkers of America
A-570-850	731-TA-757	Collated Roofing Nails/China	Illinois Tool Works International Staple and Machines Stanley-Bostitch
A-570-851	731-TA-777	Preserved Mushrooms/China	LK Bowman Modern Mushroom Farms Monterey Mushrooms Mount Laurel Canning Mushroom Canning Southwood Farms Sunny Dell Foods United Canning
A-570-852	731-TA-814	Creatine Monohydrate/China	Pfanstiehl Laboratories
A-570-853	731-TA-828	Aspirin/China	Rhodia
A-570-855	731-TA-841	Non-Frozen Apple Juice Concentrate/China	Coloma Frozen Foods Green Valley Apples of California Knouse Foods Coop Mason County Fruit Packers Coop Tree Top
A-570-856	731-TA-851	Synthetic Indigo/China	Buffalo Color United Steelworkers of America
A-570-860	731-TA-874	Steel Concrete Reinforcing Bar/China	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			TXI-Chaparral Steel Co
A-570-862	731-TA-891	Foundry Coke/China	ABC Coke Citizens Gas and Coke Utility Erie Coke Sloss Industries Corp Tonawanda Coke United Steelworkers of America
A-570-863	731-TA-893	Honey/China	AH Meyer & Sons Adee Honey Farms Althoff Apiaries American Beekeeping Federation American Honey Producers Association Anderson Apiaries Arroyo Apiaries Artesian Honey Producers B Weaver Apiaries Bailey Enterprises Barkman Honey Basler Honey Apiary Beals Honey Bears Paw Apiaries Beaverhead Honey Bee Biz Bee Haven Honey Belliston Brothers Apiaries Big Sky Honey Bill Rhodes Honey Richard E Blake Curt Bronnenberg Brown's Honey Farms Brumley's Bees Buhmann Apiaries Carys Honey Farms Chaparrel Honey Charles Apiaries Mitchell Charles Collins Honey Conor Apiaries Coy's Honey Farm Dave Nelson Apiaries Delta Bee Eisele's Pollination & Honey Ellingsoa's Elliott Curtis & Sons Charles L Emmons, Sr Gause Honey Gene Brandi Apiaries Griffith Honey Haff Apiaries Hamilton Bee Farms Hamilton Honey

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Happie Bee
			Harvest Honey
			Harvey's Honey
			Hiatt Honey
			Hoffman Honey
			Hollman Apiaries
			Honey House
			Honeybee Apiaries
			Gary M Honl
			Rand William Honl and Sydney Jo Honl
			James R & Joann Smith Trust
			Jaynes Bee Products
			Johnston Honey Farms
			Larry Johnston
			Ke-An Honey
			Kent Honeybees
			Lake-Indianhead Honey Farms
			Lamb's Honey Farm
			Las Flores Apiaries
			Mackrill Honey Farms & Sales
			Raymond Marquette
			Mason & Sons Honey
			McCoy's Sunny South Apiaries
			Merrimack Valley Apiaries & Evergreen Honey
			Met 2 Honey Farm
			Missouri River Honey
			Mitchell Brothers Honey
			Monda Honey Farm
			Montana Dakota Honey
			Northern Bloom Honey
			Noye's Apiaries
			Oakes Honey
			Oakley Honey Farms
			Old Mill Apiaries
			Opp Honey
			Oro Dulce
			Peterson's "Naturally Sweet" Honey
			Potoczak Bee Farms
			Price Apiaries
			Pure Sweet Honey Farms
			Robertson Pollination Service
			Robson Honey
			William Robson
			Rosedale Apiaries
			Ryan Apiaries
			Schmidt Honey Farms
			Simpson Apiaries
			Sioux Honey Association
			Smoot Honey
			Solby Honey
			Stahlman Apiaries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Steve E Parks Apiaries
			Stroope Bee & Honey
			T&D Honey Bee
			Talbott's Honey
			Terry Apiaries
			Thompson Apiaries
			Triple A Farm
			Tropical Blossom Honey
			Tubbs Apiaries
			Venable Wholesale
			Walter L Wilson Buzz 76 Apiaries
			Wiebersiek Honey Farms
			Wilmer Farms
			Brent J Woodworth
			Wooten's Golden Queens
			Yaddof Apiaries
A-570-864	731-TA-895	Pure Magnesium (Granular)/China	Concerned Employees of Northwest Alloys
			Magnesium Corporation of America
			United Steelworkers of America
			United Steelworkers of America (Local 8319)
A-570-865	731-TA-899	Hot-Rolled Steel Products/China	Bethlehem Steel
			Gallatin Steel
			Independent Steelworkers
			IPSCO
			LTV Steel
			National Steel
			Nucor
			Rouge Steel Co
			Steel Dynamics
			US Steel
			United Steelworkers of America
			WCI Steel Inc
			Weirton Steel
			Wheeling-Pittsburgh Steel Corp
A-570-866	731-TA-921	Folding Gift Boxes/China	Field Container
			Harvard Folding Box
			Sterling Packaging
			Superior Packaging
A-570-867	731-TA-922	Automotive Replacement Glass Windshields/China	PPG Industries
			Safelite Glass
			Viracon/Curvlite Inc
			Visteon Corporation
A-570-868	731-TA-932	Folding Metal Tables and Chairs/China	Krueger International
			McCourt Manufacturing
			Meco
			Virco Manufacturing
A-570-873	731-TA-986	Ferrovanadium/China	Bear Metallurgical Co
			Shieldalloy Metallurgical Corp
A-570-875	731-TA-990	Non-Malleable Cast Iron Pipe Fittings/China	Anvil International Inc
			Buck Co Inc
			Frazier & Frazier Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ward Manufacturing Inc
A-570-877	731-TA-1010	Lawn and Garden Steel Fence Posts/China	Steel City Corp
A-570-878	731-TA-1013	Saccharin/China	PMC Specialties Group Inc
A-570-879	731-TA-1014	Polyvinyl Alcohol/China	Celanese Ltd E I du Pont de Nemours & Co
A-570-880	731-TA-1020	Barium Carbonate/China	Chemical Products Corp
A-570-881	731-TA-1021	Malleable Iron Pipe Fittings/China	Anvil International Inc Buck Co Inc Ward Manufacturing Inc
A-570-882	731-TA-1022	Refined Brown Aluminum Oxide/China	C-E Minerals Treibacher Schleifmittel North America Inc Washington Mills Co Inc
A-570-884	731-TA-1034	Certain Color Television Receivers/China	Five Rivers Electronic Innovations LLC Industrial Division of the Communications Workers of America (IUECWA) International Brotherhood of Electrical Workers (IBEW)
A-570-886	731-TA-1043	Polyethylene Retail Carrier Bags/China	Aargus Plastics Inc Advance Polybags Inc Advance Polybags (Nevada) Inc Advance Polybags (Northeast) Inc Alpha Industries Inc Alpine Plastics Inc Ampac Packaging LLC API Enterprises Inc Command Packaging Continental Poly Bags Inc Durabag Co Inc Europackaging LLC Genpak LLC (formerly Continental Superbag LLC) Genpak LLC (formerly Strout Plastics) Hilex Poly Co LLC Inteplast Group Ltd PCL Packaging Inc Poly-Pak Industries Inc Roplast Industries Inc Superbag Corp Unistar Plastics LLC Vanguard Plastics Inc VS Plastics LLC
A-570-887	731-TA-1046	Tetrahydrofurfuryl Alcohol/China	Penn Specialty Chemicals Inc
A-570-888	731-TA-1047	Ironing Tables and Certain Parts Thereof/China	Home Products International Inc
A-570-890	731-TA-1058	Wooden Bedroom Furniture/China	American Drew American of Martinsville Bassett Furniture Industries Inc Bebe Furniture Carolina Furniture Works Inc Carpenters Industrial Union Local 2093 Century Furniture Industries Country Craft Furniture Inc Craftique Crawford Furniture Mfg Corp

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			EJ Victor Inc Forest Designs Harden Furniture Inc Hart Furniture Higdon Furniture Co IUE Industrial Division of CWA Local 82472 Johnston Tombigbee Furniture Mfg Co Kincaid Furniture Co Inc L & J G Stickley Inc Lea Industries Michels & Co MJ Wood Products Inc Mobel Inc Modern Furniture Manufacturers Inc Moosehead Mfg Co Oakwood Interiors O'Sullivan Industries Inc Pennsylvania House Inc Perdues Inc Sandberg Furniture Mfg Co Inc Stanley Furniture Co Inc Statton Furniture Mfg Assoc T Copeland & Sons Teamsters, Chauffeurs, Warehousemen and Helpers Local 991 Tom Seely Furniture UBC Southern Council of Industrial Workers Local Union 2305 United Steelworkers of America Local 193U Vaughan Furniture Co Inc Vaughan-Bassett Furniture Co Inc Vermont Tubbs Webb Furniture Enterprises Inc
A-570-891	731-TA-1059	Hand Trucks and Certain Parts Thereof/China	B&P Manufacturing Gleason Industrial Products Inc Harper Trucks Inc Magline Inc Precision Products Inc Wesco Industrial Products Inc
A-570-892	731-TA-1060	Carbazole Violet Pigment 23/China	Allegheny Color Corp Barker Fine Color Inc Clariant Corp Nation Ford Chemical Co Sun Chemical Co
A-570-894	731-TA-1070	Certain Tissue Paper Products/China	American Crepe Corp Cindus Corp Eagle Tissue LLC Flower City Tissue Mills Co and Subsidiary Garlock Printing & Converting Corp Green Mtn Specialties Inc Hallmark Cards Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Pacon Corp Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO ("PACE") Paper Service LTD Putney Paper Seaman Paper Co of MA Inc
A-570-895	731-TA-1069	Certain Crepe Paper Products/China	American Crepe Corp Cindus Corp Paper, Allied-Industrial, Chemical and Energy Workers International Union AFL-CIO ("PACE") Seaman Paper Co of MA Inc
A-570-896	731-TA-1071	Alloy Magnesium/China	Garfield Alloys Inc Glass, Molders, Pottery, Plastics & Allied Workers International Local 374 Halaco Engineering MagReTech Inc United Steelworkers of America Local 8319 US Magnesium LLC
A-570-899	731-TA-1091	Artists' Canvas/China	Duro Art Industries ICG/Holliston Mills Inc Signature World Class Canvas LLC Tara Materials Inc
A-570-898	731-TA-1082	Chlorinated Isocyanurates/China	BioLab Inc Clearon Corp Occidental Chemical Corp
A-570-901	731-TA-1095	Certain Lined Paper School Supplies/China	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (USW)
A-570-904	731-TA-1103	Certain Activated Carbon/China	Calgon Carbon Corp Norit Americas Inc
A-570-905	731-TA-1104	Certain Polyester Staple Fiber/China	DAK Americas LLC Formed Fiber Technologies LLC Nan Ya Plastics Corp America Palmetto Synthetics LLC United Synthetics Inc (USI) Wellman Inc
A-570-908	731-TA-1110	Sodium Hexametaphosphate (SHMP)/China	ICL Performance Products LP Innophos Inc
A-580-008	731-TA-134	Color Television Receivers/Korea	Committee to Preserve American Color Television Independent Radionic Workers of America Industrial Union Department, AFL-CIO International Brotherhood of Electrical Workers International Union of Electrical, Radio and Machine Workers
A-580-507	731-TA-279	Malleable Cast Iron Pipe Fittings/Korea	Grinnell

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Stanley G Flagg Stockham Valves & Fittings U-Brand Ward Manufacturing
A-580-601	731-TA-304	Top-of-the-Stove Stainless Steel Cooking Ware/ Korea	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
A-580-603	731-TA-315	Brass Sheet and Strip/Korea	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
A-580-605	731-TA-369	Color Picture Tubes/Korea	Industrial Union Department, AFL-CIO International Association of Machinists & Aerospace Workers International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A-580-803	731-TA-427	Small Business Telephone Systems/Korea	American Telephone & Telegraph Comdial Eagle Telephonic
A-580-805	731-TA-442	Industrial Nitrocellulose/Korea	Hercules
A-580-807	731-TA-459	Polyethylene Terephthalate Film/Korea	E I du Pont de Nemours Hoechst Celanese ICI Americas
A-580-809	731-TA-533	Circular Welded Nonalloy Steel Pipe/Korea	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube USX Western Tube & Conduit Wheatland Tube
A-580-810	731-TA-540	Welded ASTM A-312 Stainless Steel Pipe/Korea	Avesta Sandvik Tube Bristol Metals

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Crucible Materials Damascus Tubular Products United Steelworkers of America
A-580-811	731-TA-546	Carbon Steel Wire Rope/Korea	Bridon American Macwhyte Paulsen Wire Rope The Rochester Corporation United Automobile, Aerospace and Agricultural Implement Workers (Local 960) Williamsport Wire-rope Works Wire Rope Corporation of America
A-580-812	731-TA-556	DRAMs of 1 Megabit and Above/Korea	Micron Technology NEC Electronics Texas Instruments
A-580-813	731-TA-563	Stainless Steel Butt-Weld Pipe Fittings/Korea	Flo-Mac Inc Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A-580-815	731-TA-607	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-580-816	731-TA-618	Corrosion-Resistant Carbon Steel Flat Products/ Korea	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			United Steelworkers of America WCI Steel Weirton Steel
A-580-825	731-TA-715	Oil Country Tubular Goods/Korea	Bellville Tube IPSCO Koppel Steel Lone Star Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
A-580-829	731-TA-772	Stainless Steel Wire Rod/Korea	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-580-831	731-TA-791	Stainless Steel Plate in Coils/Korea	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
A-580-834	731-TA-801	Stainless Steel Sheet and Strip/Korea	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-580-836	731-TA-821	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
A-580-839	731-TA-825	Polyester Staple Fiber/Korea	Arteva Specialties Sarl E I du Pont de Nemours Intercontinental Polymers Nan Ya Corporation America Wellman
A-580-841	731-TA-854	Structural Steel Beams/Korea	Northwestern Steel and Wire Nucor Nucor-Yamato Steel TXI-Chaparral Steel United Steelworkers of America

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-580-844	731-TA-877	Steel Concrete Reinforcing Bar/Korea	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-580-846	731-TA-889	Stainless Steel Angle/Korea	Slater Steels United Steelworkers of America
A-580-847	731-TA-916	Stainless Steel Bar/Korea	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
A-580-850	731-TA-1017	Polyvinyl Alcohol/Korea	Celanese Ltd E I du Pont de Nemours & Co
A-580-852	731-TA-1026	Prestressed Concrete Steel Wire Strand/Korea	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
A-583-008	731-TA-132	Small Diameter Carbon Steel Pipe and Tube/Tawian	Allied Tube & Conduit American Tube Bull Moose Tube Copperweld Tubing J&L Steel Kaiser Steel Merchant Metals Pittsburgh Tube Southwestern Pipe Western Tube & Conduit
A-583-009	731-TA-135	Color Television Receivers/Taiwan	Committee to Preserve American Color Television Independent Radionic Workers of America Industrial Union Department, AFL-CIO International Brotherhood of Electrical Workers International Union of Electrical, Radio and Machine Workers
A-583-080	AA1921-197	Carbon Steel Plate/Taiwan	No Petition (self-initiated by Treasury); Commerce service list identifies:

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Bethlehem Steel China Steel US Steel
A-583-505	731-TA-277	Oil Country Tubular Goods/Taiwan	CF&I Steel Copperweld Tubing Cyclops KPC Lone Star Steel LTV Steel Maverick Tube Quanex US Steel
A-583-507	731-TA-280	Malleable Cast Iron Pipe Fittings/Taiwan	Grinnell Stanley G Flagg Stockham Valves & Fittings U-Brand Ward Manufacturing
A-583-508	731-TA-299	Porcelain-on-Steel Cooking Ware/Taiwan	General Housewares
A-583-603	731-TA-305	Top-of-the-Stove Stainless Steel Cooking Ware/ Taiwan	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
A-583-605	731-TA-310	Carbon Steel Butt-Weld Pipe Fittings/Taiwan	Ladish Mills Iron Works Steel Forgings Tube Forgings of America Weldbend
A-583-803	731-TA-410	Light-Walled Rectangular Tube/Taiwan	Bull Moose Tube Hannibal Industries Harris Tube Maruichi American Searing Industries Southwestern Pipe Western Tube & Conduit
A-583-806	731-TA-428	Small Business Telephone Systems/Taiwan	American Telephone & Telegraph Comdial Eagle Telephonic
A-583-810	731-TA-475	Chrome-Plated Lug Nuts/Taiwan	Consolidated International Automotive Key Manufacturing McGard
A-583-814	731-TA-536	Circular Welded Nonalloy Steel Pipe/Taiwan	Allied Tube & Conduit American Tube Bull Moose Tube Century Tube CSI Tubular Products Cyclops Laclede Steel LTV Tubular Products Maruichi American Sharon Tube

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			USX Western Tube & Conduit Wheatland Tube
A-583-815	731-TA-541	Welded ASTM A-312 Stainless Steel Pipe/Taiwan	Avesta Sandvik Tube Bristol Metals Crucible Materials Damascus Tubular Products United Steelworkers of America
A-583-816	731-TA-564	Stainless Steel Butt-Weld Pipe Fittings/Taiwan	Flo-Mac Inc Gerlin Markovitz Enterprises Shaw Alloy Piping Products Taylor Forge Stainless
A-583-820	731-TA-625	Helical Spring Lock Washers/Taiwan	Illinois Tool Works
A-583-821	731-TA-640	Forged Stainless Steel Flanges/Taiwan	Gerlin Ideal Forging Maass Flange Markovitz Enterprises
A-583-824	731-TA-729	Polyvinyl Alcohol/Taiwan	Air Products and Chemicals
A-583-825	731-TA-743	Melamine Institutional Dinnerware/Taiwan	Carlisle Food Service Products Lexington United Plastics Manufacturing
A-583-826	731-TA-759	Collated Roofing Nails/Taiwan	Illinois Tool Works International Staple and Machines Stanley-Bostitch
A-583-827	731-TA-762	SRAMs/Taiwan	Micron Technology
A-583-828	731-TA-775	Stainless Steel Wire Rod/Taiwan	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-583-830	731-TA-793	Stainless Steel Plate in Coils/Taiwan	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
A-583-831	731-TA-803	Stainless Steel Sheet and Strip/Taiwan	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
A-583-833	731-TA-826	Polyester Staple Fiber/Taiwan	Arteva Specialties Sarl Intercontinental Polymers Nan Ya Plastics Corporation America Wellman
A-583-835	731-TA-906	Hot-Rolled Steel Products/Taiwan	Bethlehem Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-583-837	731-TA-934	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/Taiwan	DuPont Teijin Films Mitsubishi Polyester Film LLC SKC America Inc Toray Plastics (America)
A-588-005	731-TA-48	High Power Microwave Amplifiers/Japan	Aydin MCL
A-588-015	AA1921-66	Television Receivers/Japan	AGIV (USA) Casio Computer CBM America Citizen Watch Funai Electric Hitachi Industrial Union Department JC Penny Matsushita Mitsubishi Electric Montgomery Ward NEC Orion Electric PT Imports Philips Electronics Philips Magnavox Sanyo Sharp Toshiba Toshiba America Consumer Products Victor Company of Japan Zenith Electronics
A-588-028	AA1921-111	Roller Chain/Japan	Acme Chain Division, North American Rockwell American Chain Association Atlas Chain & Precision Products Diamond Chain Link-Belt Chain Division, FMC Morse Chain Division, Borg Warner Rex Chainbelt
A-588-029	AA1921-85	Fish Netting of Man-Made Fiber/Japan	Jovanovich Supply LFSI Trans-Pacific Trading

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-588-038	AA1921-98	Bicycle Speedometers/Japan	Avocet Cat Eye Diversified Products NS International Sanyo Electric Stewart-Warner
A-588-041	AA1921-115	Synthetic Methionine/Japan	Monsanto
A-588-045	AA1921-124	Steel Wire Rope/Japan	AMSTED Industries
A-588-046	AA1921-129	Polychloroprene Rubber/Japan	E I du Pont de Nemours
A-588-054	AA1921-143	Tapered Roller Bearings 4 Inches and Under/Japan	No companies identified as petitioners at the Commission; Commerce service list identifies: American Honda Motor Federal Mogul Ford Motor General Motors Honda Hoover-NSK Bearing Isuzu Itocho ITOCHU International Kanematsu-Goshu USA Kawasaki Heavy Duty Industries Komatsu America Koyo Seiko Kubota Tractor Mitsubishi Motorambar Nachi America Nachi Western Nachi-Fujikoshi Nippon Seiko Nissan Motor Nissan Motor USA NSK NTN Subaru of America Sumitomo Suzuki Motor Timken Toyota Motor Sales Yamaha Motors
A-588-055	AA1921-154	Acrylic Sheet/Japan	Polycast Technology
A-588-056	AA1921-162	Melamine/Japan	Melamine Chemical
A-588-068	AA1921-188	Prestressed Concrete Steel Wire Strand/Japan	American Spring Wire Armco Steel Bethlehem Steel CF&I Steel Florida Wire & Cable
A-588-405	731-TA-207	Cellular Mobile Telephones/Japan	EF Johnson Motorola

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-588-602	731-TA-309	Carbon Steel Butt-Weld Pipe Fittings/Japan	Ladish Mills Iron Works Steel Forgings Tube Forgings of America Weldbend
A-588-604	731-TA-343	Tapered Roller Bearings Over 4 Inches/Japan	L&S Bearing Timken Torrington
A-588-605	731-TA-347	Malleable Cast Iron Pipe Fittings/Japan	Grinnell Stanley G Flagg Stockham Valves & Fittings U-Brand Ward Manufacturing
A-588-609	731-TA-368	Color Picture Tubes/Japan	Industrial Union Department, AFL-CIO International Association of Machinists & Aerospace Workers International Brotherhood of Electrical Workers International Union of Electronic, Electrical, Technical, Salaried and Machine Workers Philips Electronic Components Group United Steelworkers of America Zenith Electronics
A-588-702	731-TA-376	Stainless Steel Butt-Weld Pipe Fittings/Japan	Flo-Mac Inc Flowline Shaw Alloy Piping Products Taylor Forge Stainless
A-588-703	731-TA-377	Internal Combustion Industrial Forklift Trucks/Japan	Ad-Hoc Group of Workers from Hyster's Berea, Kentucky and Sulligent, Alabama Facilities Allied Industrial Workers of America Hyster Independent Lift Truck Builders Union International Association of Machinists & Aerospace Workers United Shop & Service Employees
A-588-704	731-TA-379	Brass Sheet and Strip/Japan	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company North Coast Brass & Copper Olin Pegg Metals Revere Copper Products United Steelworkers of America
A-588-706	731-TA-384	Nitrile Rubber/Japan	Uniroyal Chemical
A-588-707	731-TA-386	Granular Polytetrafluoroethylene/Japan	E I du Pont de Nemours ICI Americas

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
A-588-802	731-TA-389	3.5" Microdisks/Japan	Verbatim
A-588-804	731-TA-394-A	Ball Bearings/Japan	Barden Corp Emerson Power Transmission Kubar Bearings McGill Manufacturing Co MPB Rexnord Inc Rollway Bearings Torrington
A-588-804	731-TA-394-B	Cylindrical Roller Bearings/Japan	Barden Corp Emerson Power Transmission Kubar Bearings MPB Rollway Bearings Torrington
A-588-804	731-TA-394-C	Spherical Plain Bearings/Japan	Barden Corp Emerson Power Transmission Kubar Bearings Rollway Bearings Torrington
A-588-806	731-TA-408	Electrolytic Manganese Dioxide/Japan	Chemetals Kerr-McGee Rayovac
A-588-807	731-TA-414	Industrial Belts/Japan	The Gates Rubber Company The Goodyear Tire and Rubber Company
A-588-809	731-TA-426	Small Business Telephone Systems/Japan	American Telephone & Telegraph Comdial Eagle Telephonic
A-588-810	731-TA-429	Mechanical Transfer Presses/Japan	Allied Products United Autoworkers of America United Steelworkers of America
A-588-811	731-TA-432	Drafting Machines/Japan	Vemco
A-588-812	731-TA-440	Industrial Nitrocellulose/Japan	Hercules
A-588-815	731-TA-461	Gray Portland Cement and Clinker/Japan	Calaveras Cement Hanson Permanente Cement Independent Workers of North America (Locals 49, 52, 89, 192 and 471) International Union of Operating Engineers (Local 12) National Cement Co Inc National Cement Company of California Southdown
A-588-817	731-TA-469	Electroluminescent Flat-Panel Displays/Japan	The Cherry Corporation Electro Plasma Magnascreen OIS Optical Imaging Systems Photonics Technology Planar Systems Plasmaco
A-588-823	731-TA-571	Professional Electric Cutting Tools/Japan	Black & Decker
A-588-826	731-TA-617	Corrosion-Resistant Carbon Steel Flat Products/ Japan	Bethlehem Steel California Steel Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Geneva Steel Gulf States Steel Lukens Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-588-831	731-TA-660	Grain-Oriented Silicon Electrical Steel/Japan	Allegheny Ludlum Armco Steel United Steelworkers of America
A-588-833	731-TA-681	Stainless Steel Bar/Japan	AL Tech Specialty Steel Carpenter Technology Crucible Specialty Metals Electralloy Republic Engineered Steels Slater Steels Talley Metals Technology United Steelworkers of America
A-588-835	731-TA-714	Oil Country Tubular Goods/Japan	IPSCO Koppel Steel Lone Star Steel Co Maverick Tube Newport Steel North Star Steel US Steel
A-588-836	731-TA-727	Polyvinyl Alcohol/Japan	Air Products and Chemicals
A-588-837	731-TA-737	Large Newspaper Printing Presses/Japan	Rockwell Graphics Systems
A-588-838	731-TA-739	Clad Steel Plate/Japan	Lukens Steel
A-588-839	731-TA-740	Sodium Azide/Japan	American Azide
A-588-840	731-TA-748	Gas Turbo-Compressor Systems/Japan	Demag Delaval Dresser-Rand United Steelworkers of America
A-588-841	731-TA-750	Vector Supercomputers/Japan	Cray Research
A-588-843	731-TA-771	Stainless Steel Wire Rod/Japan	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
A-588-845	731-TA-800	Stainless Steel Sheet and Strip/Japan	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Zanesville Armco Independent Organization
A-588-846	731-TA-807	Hot-Rolled Carbon Steel Flat Products/Japan	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO Ispat/Inland LTV Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
A-588-847	731-TA-820	Cut-to-Length Carbon Steel Plate/Japan	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel Tuscaloosa Steel US Steel United Steelworkers of America
A-588-850	731-TA-847	Large-Diameter Carbon Steel Seamless Pipe/Japan	North Star Steel Timken US Steel United Steelworkers of America USS/Kobe
A-588-851	731-TA-847	Small-Diameter Carbon Steel Seamless Pipe/Japan	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
A-588-852	731-TA-853	Structural Steel Beams/Japan	Northwestern Steel and Wire Nucor Nucor-Yamato Steel TXI-Chaparral Steel United Steelworkers of America
A-588-854	731-TA-860	Tin-Mill Products/Japan	Independent Steelworkers United Steelworkers of America Weirton Steel
A-588-856	731-TA-888	Stainless Steel Angle/Japan	Slater Steels United Steelworkers of America
A-588-857	731-TA-919	Welded Large Diameter Line Pipe/Japan	American Cast Iron Pipe

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Berg Steel Pipe Bethlehem Steel Napa Pipe/Oregon Steel Mills Saw Pipes USA Stupp US Steel
A-588-861	731-TA-1016	Polyvinyl Alcohol/Japan	Celenex Ltd E I du Pont de Nemours & Co
A-588-862	731-TA-1023	Certain Ceramic Station Post Insulators/Japan	Lapp Insulator Co LLC Newell Porcelain Co Inc Victor Insulators Inc
A-588-866	731-TA-1090	Superalloy Degassed Chromium/Japan	Eramet Marietta Inc
A-602-803	731-TA-612	Corrosion-Resistant Carbon Steel Flat Products/ Australia	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
A-791-805	731-TA-792	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
A-791-808	731-TA-850	Small-Diameter Carbon Steel Seamless Pipe/South Africa	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
A-791-809	731-TA-905	Hot-Rolled Steel Products/South Africa	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-791-815	731-TA-987	Ferrovanadium/South Africa	Bear Metallurgical Co Shieldalloy Metallurgical Corp
A-821-801	731-TA-340E	Solid Urea/Russia	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-821-802	731-TA-539-C	Uranium/Russia	Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining Solution Mining Total Minerals Umetco Minerals Uranium Resources
A-821-804	731-TA-568	Ferrosilicon/Russia	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-821-805	731-TA-697	Pure Magnesium/Russia	Dow Chemical International Union of Operating Engineers (Local 564) Magnesium Corporation of America United Steelworkers of America (Local 8319)
A-821-807	731-TA-702	Ferrovanadium and Nitrided Vanadium/Russia	Shieldalloy Metallurgical
A-821-809	731-TA-808	Hot-Rolled Carbon Steel Flat Products/Russia	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ispat/Inland LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
A-821-811	731-TA-856	Ammonium Nitrate/Russia	Agrium Air Products and Chemicals El Dorado Chemical LaRoche Mississippi Chemical Nitram Wil-Gro Fertilizer
A-821-817	731-TA-991	Silicon Metal/Russia	Globe Metallurgical Inc SIMCALA Inc
A-821-819	731-TA1072	Pure and Alloy Magnesium/Russia	Garfield Alloys Inc Glass, Molders, Pottery, Plastics & Allied Workers International Local 374 Halaco Engineering MagReTech Inc United Steelworkers of America Local 8319 US Magnesium LLC
A-822-801	731-TA-340B	Solid Urea/Belarus	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-822-804	731-TA-873	Steel Concrete Reinforcing Bar/Belarus	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-823-801	731-TA-340H	Solid Urea/Ukraine	Agrico Chemical

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-823-802	731-TA-539-E	Uranium/Ukraine	Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining Solution Mining Total Minerals Umetco Minerals Uranium Resources
A-823-804	731-TA-569	Ferrosilicon/Ukraine	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-823-805	731-TA-673	Silicomanganese/Ukraine	Elkem Metals Oil, Chemical and Atomic Workers (Local 3-639)
A-823-809	731-TA-882	Steel Concrete Reinforcing Bar/Ukraine	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-823-810	731-TA-894	Ammonium Nitrate/Ukraine	Agrium Air Products and Chemicals Committee for Fair Ammonium Nitrate Trade El Dorado Chemical LaRoche Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Mississippi Chemical Nitram Prodica
A-823-811	731-TA-908	Hot-Rolled Steel Products/Ukraine	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-823-812	731-TA-962	Carbon and Certain Alloy Steel Wire Rod/Ukraine	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-831-801	731-TA-340A	Solid Urea/Armenia	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-834-806	731-TA-902	Hot-Rolled Steel Products/Kazakhstan	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dymanics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-834-807	731-TA-930	Silicomanganese/Kazakhstan	Eramet Marietta Paper, Allied-Industrial, Chemical and Energy Workers

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			International Union, Local 5-0639
A-841-804	731-TA-879	Steel Concrete Reinforcing Bar/Moldova	AB Steel Mill Inc AmeriSteel Auburn Steel Birmingham Steel Border Steel Cascade Steel Rolling Mills Inc CMC Steel Group Co-Steel Inc Marion Steel North Star Steel Co Nucor Steel Rebar Trade Action Coalition Riverview Steel Sheffield Steel TAMCO TXI-Chaparral Steel Co
A-841-805	731-TA-959	Carbon and Certain Alloy Steel Wire Rod/Moldova	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
A-842-801	731-TA-340F	Solid Urea/Tajikistan	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-843-801	731-TA-340G	Solid Urea/Turkmenistan	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-843-802	731-TA-539	Uranium/Kazakhstan	Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Solution Mining Total Minerals Umetco Minerals Uranium Resources
A-843-804	731-TA-566	Ferrosilicon/Kazakhstan	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
A-844-801	731-TA-340I	Solid Urea/Uzbekistan	Agrico Chemical American Cyanamid CF Industries First Mississippi Mississippi Chemical Terra International WR Grace
A-844-802	731-TA-539-F	Uranium/Uzbekistan	Ferret Exploration First Holding Geomex Minerals IMC Fertilizer Malapai Resources Oil, Chemical and Atomic Workers Pathfinder Mines Power Resources Rio Algom Mining Solution Mining Total Minerals Umetco Minerals Uranium Resources
A-851-802	731-TA-846	Small-Diameter Carbon Steel Seamless Pipe/Czech Republic	Koppel Steel North Star Steel Sharon Tube Timken US Steel United Steelworkers of America USS/Kobe Vision Metals' Gulf States Tube
C-122-404	701-TA-224	Live Swine/Canada	National Pork Producers Council Wilson Foods
C-122-805	701-TA-297	Steel Rails/Canada	Bethlehem Steel CF&I Steel
C-122-815	701-TA-309-A	Alloy Magnesium/Canada	Magnesium Corporation of America
C-122-815	701-TA-309-B	Pure Magnesium/Canada	Magnesium Corporation of America
C-122-839	701-TA-414	Softwood Lumber/Canada	71 Lumber Co Almond Bros Lbr Co Anthony Timberlands Balfour Lbr Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ball Lumber
			Banks Lumber Company
			Barge Forest Products Co
			Beadles Lumber Co
			Bearden Lumber
			Bennett Lumber
			Big Valley Band Mill
			Bighorn Lumber Co Inc
			Blue Mountain Lumber
			Buddy Bean Lumber
			Burgin Lumber Co Ltd
			Burt Lumber Company
			C&D Lumber Co
			Ceda-Pine Veneer
			Cersosimo Lumber Co Inc
			Charles Ingram Lumber Co Inc
			Charleston Heart Pine
			Chesterfield Lumber
			Chips
			Chocorua Valley Lumber Co
			Claude Howard Lumber
			Clearwater Forest Industries
			CLW Inc
			CM Tucker Lumber Corp
			Coalition for Fair Lumber Imports Executive Committee
			Cody Lumber Co
			Collins Pine Co
			Collums Lumber
			Columbus Lumber Co
			Contoocook River Lumber
			Conway Guiteau Lumber
			Cornwright Lumber Co
			Crown Pacific
			Daniels Lumber Inc
			Dean Lumber Co Inc
			Deltic Timber Corporation
			Devils Tower Forest Products
			DiPrizio Pine Sales
			Dorchester Lumber Co
			DR Johnson Lumber
			East Brainerd Lumber Co
			East Coast Lumber Company
			Eas-Tex Lumber
			ECK Wood Products
			Ellingson Lumber Co
			Elliott Sawmilling
			Empire Lumber Co
			Evergreen Forest Products
			Excalibur Shelving Systems Inc
			Exley Lumber Co
			FH Stoltze Land & Lumber Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			FL Turlington Lbr Co Inc
			Fleming Lumber
			Flippo Lumber
			Floragen Forest Products
			Frank Lumber Co
			Franklin Timber Co
			Fred Tebb & Sons
			Fremont Sawmill
			Frontier Resources
			Garrison Brothers Lumber Co and Subsidiaries
			Georgia Lumber
			Gilman Building Products
			Godfrey Lumber
			Granite State Forest Prod Inc
			Great Western Lumber Co
			Greenville Molding Inc
			Griffin Lumber Company
			Guess Brothers Lumber
			Gulf Lumber
			Gulf States Paper
			Guy Bennett Lumber
			Hampton Resources
			Hancock Lumber
			Hankins Inc
			Hankins Lumber Co
			Harrigan Lumber
			Harwood Products
			Haskell Lumber Inc
			Hatfield Lumber
			Hedstrom Lumber
			Herrick Millwork Inc
			HG Toler & Son Lumber Co Inc
			HG Wood Industries LLC
			Hogan & Storey Wood Prod
			Hogan Lumber Co
			Hood Industries
			HS Hofler & Sons Lumber Co Inc
			Hubbard Forest Ind Inc
			HW Culp Lumber Co
			Idaho Veneer Co
			Industrial Wood Products
			Intermountain Res LLC
			International Paper
			J Franklin Jones Lumber Co Inc
			Jack Batte & Sons Inc
			Jasper Lumber Company
			JD Martin Lumber Co
			JE Jones Lumber Co
			Jerry G Williams & Sons
			JH Knighton Lumber Co
			Johnson Lumber Company

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Jordan Lumber & Supply
			Joseph Timber Co
			JP Haynes Lbr Co Inc
			JV Wells Inc
			JW Jones Lumber
			Keadle Lumber Enterprises
			Keller Lumber
			King Lumber Co
			Konkolville Lumber
			Langdale Forest Products
			Laurel Lumber Company
			Leavitt Lumber Co
			Leesville Lumber Co
			Limington Lumber Co
			Longview Fibre Co
			Lovell Lumber Co Inc
			M Kendall Lumber Co
			Manke Lumber Co
			Marriner Lumber Co
			Mason Lumber
			MB Heath & Sons Lumber Co
			MC Dixon Lumber Co Inc
			Mebane Lumber Co Inc
			Metcalf Lumber Co Inc
			Millry Mill Co Inc
			Moose Creek Lumber Co
			Moose River Lumber
			Morgan Lumber Co Inc
			Mount Yonah Lumber Co
			Nagel Lumber
			New Kearsarge Corp
			New South
			Nicolet Hardwoods
			Nieman Sawmills SD
			Nieman Sawmills WY
			North Florida
			Northern Lights Timber & Lumber
			Northern Neck Lumber Co
			Ochoco Lumber Co
			Olon Belcher Lumber Co
			Owens and Hurst Lumber
			Packaging Corp of America
			Page & Hill Forest Products
			Paper, Allied-Industrial, Chemical and Energy Workers International Union
			Parker Lumber
			Pate Lumber Co Inc
			PBS Lumber
			Pedigo Lumber Co
			Piedmont Hardwood Lumber Co
			Pine River Lumber Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Pinecrest Lumber Co
			Pleasant River Lumber Co
			Pleasant Western Lumber Inc
			Plum Creek Timber
			Pollard Lumber
			Portac
			Potlatch
			Potomac Supply
			Precision Lumber Inc
			Pruitt Lumber Inc
			R Leon Williams Lumber Co
			RA Yancey Lumber
			Rajala Timber Co
			Ralph Hamel Forest Products
			Randy D Miller Lumber
			Rappahannock Lumber Co
			Regulus Stud Mills Inc
			Riley Creek Lumber
			Roanoke Lumber Co
			Robbins Lumber
			Robertson Lumber
			Roseburg Forest Products Co
			Rough & Ready
			RSG Forest Products
			Rushmore Forest Products
			RY Timber Inc
			Sam Mabry Lumber Co
			Scotch Lumber
			SDS Lumber Co
			Seacoast Mills Inc
			Seago Lumber
			Seattle-Snohomish
			Seneca Sawmill
			Shaver Wood Products
			Shearer Lumber Products
			Shuqualak Lumber
			SI Storey Lumber
			Sierra Forest Products
			Sierra Pacific Industries
			Sigfridson Wood Products
			Silver City Lumber Inc
			Somers Lbr & Mfg Inc
			South & Jones
			South Coast
			Southern Forest Industries Inc
			Southern Lumber
			St Laurent Forest Products
			Starfire Lumber Co
			Steely Lumber Co Inc
			Stimson Lumber
			Summit Timber Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Sundance Lumber Superior Lumber Swanson Superior Forest Products Inc Swift Lumber Tamarack Mill Taylor Lumber & Treating Inc Temple-Inland Forest Products Thompson River Lumber Three Rivers Timber Thrift Brothers Lumber Co Inc Timco Inc Tolleson Lumber Toney Lumber TR Miller Mill Co Tradewinds of Virginia Ltd Travis Lumber Co Tree Source Industries Inc Tri-State Lumber TTT Studs United Brotherhood of Carpenters and Joiners Viking Lumber Co VP Kiser Lumber Co Walton Lumber Co Inc Warm Springs Forest Products Westvaco Corp Wilkins, Kaiser & Olsen Inc WM Shepherd Lumber Co WR Robinson Lumber Co Inc Wrenn Brothers Inc Wyoming Sawmills Yakama Forest Products Younce & Ralph Lumber Co Inc Zip-O-Log Mills Inc
C-122-841	701-TA-418	Carbon and Certain Alloy Steel Wire Rod/Canada	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International Rocky Mountain Steel Mills
C-122-848	701-TA-430B	Hard Red Spring Wheat/Canada	North Dakota Wheat Commission
C-201-505	701-TA-265	Porcelain-on-Steel Cooking Ware/Mexico	General Housewares
C-201-810	701-TA-325	Cut-to-Length Carbon Steel Plate/Mexico	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-307-804	303-TA-21	Gray Portland Cement and Clinker/Venezuela	Florida Crushed Stone Southdown Tarmac America
C-307-808	303-TA-23	Ferrosilicon/Venezuela	AIMCOR Alabama Silicon American Alloys Globe Metallurgical Oil, Chemical and Atomic Workers (Local 389) Silicon Metaltech United Autoworkers of America (Local 523) United Steelworkers of America (Locals 2528, 3081, 5171 and 12646)
C-333-401	701-TA-E	Cotton Shop Towels/Peru	No case at the Commission; Commerce service list identifies: Durafab Kleen-Tex Industries Lewis Eckert Robb Milliken Pavis & Harcourt
C-351-037	104-TAA-21	Cotton Yarn/Brazil	American Yarn Spinners Association Harriet & Henderson Yarns LaFar Industries
C-351-504	701-TA-249	Heavy Iron Construction Castings/Brazil	Alhambra Foundry Allegheny Foundry Bingham & Taylor Campbell Foundry Charlotte Pipe & Foundry Deeter Foundry East Jordan Foundry Le Baron Foundry Municipal Castings Neenah Foundry Opelika Foundry Pinkerton Foundry Tyler Pipe US Foundry & Manufacturing Vulcan Foundry
C-351-604	701-TA-269	Brass Sheet and Strip/Brazil	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
C-351-818	701-TA-320	Cut-to-Length Carbon Steel Plate/Brazil	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-351-829	701-TA-384	Hot-Rolled Carbon Steel Flat Products/Brazil	Acme Steel Bethlehem Steel California Steel Industries Gallatin Steel Geneva Steel Gulf States Steel Independent Steelworkers IPSCO Ispat/Inland LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Weirton Steel Wheeling-Pittsburgh Steel Corp
C-351-833	701-TA-417	Carbon and Certain Alloy Steel Wire Rod/Brazil	AmeriSteel Birmingham Steel Cascade Steel Rolling Mills Connecticut Steel Corp Co-Steel Raritan GS Industries Keystone Consolidated Industries North Star Steel Texas Nucor Steel-Nebraska (a division of Nucor Corp) Republic Technologies International

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rocky Mountain Steel Mills
C-357-004	701-TA-A	Carbon Steel Wire Rod/Argentina	Atlantic Steel Continental Steel Georgetown Steel North Star Steel Raritan River Steel
C-357-813	701-TA-402	Honey/Argentina	AH Meyer & Sons Adee Honey Farms Althoff Apiaries American Beekeeping Federation American Honey Producers Association Anderson Apiaries Arroyo Apiaries Artesian Honey Producers B Weaver Apiaries Bailey Enterprises Barkman Honey Basler Honey Apiary Beals Honey Bears Paw Apiaries Beaverhead Honey Bee Biz Bee Haven Honey Belliston Brothers Apiaries Big Sky Honey Bill Rhodes Honey Richard E Blake Curt Bronnenberg Brown's Honey Farms Brumley's Bees Buhmann Apiaries Carys Honey Farms Chaparrel Honey Charles Apiaries Mitchell Charles Collins Honey Conor Apiaries Coy's Honey Farm Dave Nelson Apiaries Delta Bee Eisele's Pollination & Honey Ellingsoa's Elliott Curtis & Sons Charles L Emmons, Sr Gause Honey Gene Brandi Apiaries Griffith Honey Haff Apiaries Hamilton Bee Farms Hamilton Honey Happie Bee

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Harvest Honey
			Harvey's Honey
			Hiatt Honey
			Hoffman Honey
			Hollman Apiaries
			Honey House
			Honeybee Apiaries
			Gary M Honl
			Rand William Honl and Sydney Jo Honl
			James R & Joann Smith Trust
			Jaynes Bee Products
			Johnston Honey Farms
			Larry Johnston
			Ke-An Honey
			Kent Honeybees
			Lake-Indianhead Honey Farms
			Lamb's Honey Farm
			Las Flores Apiaries
			Mackrill Honey Farms & Sales
			Raymond Marquette
			Mason & Sons Honey
			McCoy's Sunny South Apiaries
			Merrimack Valley Apiaries & Evergreen Honey
			Met 2 Honey Farm
			Missouri River Honey
			Mitchell Brothers Honey
			Monda Honey Farm
			Montana Dakota Honey
			Northern Bloom Honey
			Noye's Apiaries
			Oakes Honey
			Oakley Honey Farms
			Old Mill Apiaries
			Opp Honey
			Oro Dulce
			Peterson's "Naturally Sweet" Honey
			Potoczak Bee Farms
			Price Apiaries
			Pure Sweet Honey Farms
			Robertson Pollination Service
			Robson Honey
			William Robson
			Rosedale Apiaries
			Ryan Apiaries
			Schmidt Honey Farms
			Simpson Apiaries
			Sioux Honey Association
			Smoot Honey
			Solby Honey
			Stahlman Apiaries
			Steve E Parks Apiaries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Stroope Bee & Honey T&D Honey Bee Talbott's Honey Terry Apiaries Thompson Apiaries Triple A Farm Tropical Blossom Honey Tubbs Apiaries Venable Wholesale Walter L Wilson Buzz 76 Apiaries Wiebersiek Honey Farms Wilmer Farms Brent J Woodworth Wooten's Golden Queens Yaddof Apiaries
C-357-815	701-TA-404	Hot-Rolled Steel Products/Argentina	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C-401-401	701-TA-231	Cold-Rolled Carbon Steel Flat Products/Sweden	Bethlehem Steel Chaparral US Steel
C-401-804	701-TA-327	Cut-to-Length Carbon Steel Plate/Sweden	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-403-802	701-TA-302	Fresh and Chilled Atlantic Salmon/Norway	Heritage Salmon The Coalition for Fair Atlantic Salmon Trade
C-408-046	104-TAA-7	Sugar/EU	No petition at the Commission; Commerce service list identifies:

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			AJ Yates Alexander & Baldwin American Farm Bureau Federation American Sugar Cane League American Sugarbeet Growers Association Amstar Sugar Florida Sugar Cane League Florida Sugar Marketing and Terminal Association H&R Brokerage Hawaiian Agricultural Research Center Leach Farms Michigan Farm Bureau Michigan Sugar Rio Grande Valley Sugar Growers Association Sugar Cane Growers Cooperative of Florida Talisman Sugar US Beet Sugar Association United States Beet Sugar Association United States Cane Sugar Refiners' Association
C-412-815	701-TA-328	Cut-to-Length Carbon Steel Plate/United Kingdom	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-412-821	701-TA-412	Low Enriched Uranium/United Kingdom	United States Enrichment Corp USEC Inc
C-421-601	701-TA-278	Fresh Cut Flowers/Netherlands	Burdette Coward California Floral Council Floral Trade Council Florida Flower Association Gold Coast Uanko Nursery Hollandia Wholesale Florist Manatee Fruit Monterey Flower Farms Topstar Nursery
C-421-809	701-TA-411	Low Enriched Uranium/Netherlands	United States Enrichment Corp USEC Inc
C-423-806	701-TA-319	Cut-to-Length Carbon Steel Plate/Belgium	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-423-809	701-TA-376	Stainless Steel Plate in Coils/Belgium	Allegheny Ludlum Armco Steel Lukens Steel North American Stainless United Steelworkers of America
C-427-603	701-TA-270	Brass Sheet and Strip/France	Allied Industrial Workers of America American Brass Bridgeport Brass Chase Brass & Copper Hussey Copper International Association of Machinists & Aerospace Workers Mechanics Educational Society of America (Local 56) The Miller Company Olin Revere Copper Products United Steelworkers of America
C-427-805	701-TA-315	Hot-Rolled Lead and Bismuth Carbon Steel Products/France	Bethlehem Steel Inland Steel Industries USS/Kobe Steel
C-427-810	701-TA-348	Corrosion-Resistant Carbon Steel Flat Products/ France	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C-427-815	701-TA-380	Stainless Steel Sheet and Strip/France	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C-427-817	701-TA-387	Cut-to-Length Carbon Steel Plate/France	Bethlehem Steel Geneva Steel IPSCO Steel National Steel US Steel United Steelworkers of America
C-427-819	701-TA-409	Low Enriched Uranium/France	United States Enrichment Corp USEC Inc
C-428-817	701-TA-340	Cold-Rolled Carbon Steel Flat Products/Germany	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C-428-817	701-TA-349	Corrosion-Resistant Carbon Steel Flat Products/ Germany	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C-428-817	701-TA-322	Cut-to-Length Carbon Steel Plate/Germany	Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-428-829	701-TA-410	Low Enriched Uranium/Germany	United States Enrichment Corp USEC Inc
C-437-805	701-TA-426	Sulfanilic Acid/Hungary	Nation Ford Chemical
C-469-004	701-TA-178	Stainless Steel Wire Rod/Spain	AL Tech Specialty Steel Armco Steel Carpenter Technology Colt Industries Cyclops Guterl Special Steel Joslyn Stainless Steels Republic Steel
C-469-804	701-TA-326	Cut-to-Length Carbon Steel Plate/Spain	Bethlehem Steel California Steel Industries CitiSteel USA Inc Geneva Steel Gulf States Steel Inland Steel Industries Lukens Steel National Steel Nextech Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America
C-475-812	701-TA-355	Grain-Oriented Silicon Electrical Steel/Italy	Allegheny Ludlum Armco Steel Butler Armco Independent Union United Steelworkers of America Zanesville Armco Independent Union
C-475-815	701-TA-362	Seamless Pipe/Italy	Koppel Steel Quanex Timken United States Steel
C-475-817	701-TA-364	Oil Country Tubular Goods/Italy	IPSCO Koppel Steel Lone Star Steel Maverick Tube Newport Steel North Star Steel US Steel USS/Kobe
C-475-819	701-TA-365	Pasta/Italy	A Zerega's Sons American Italian Pasta

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Borden D Merlino & Sons Dakota Growers Pasta Foulds Gilster-Mary Lee Gooch Foods Hershey Foods LaRinascente Macaroni Co Pasta USA Philadelphia Macaroni ST Specialty Foods
C-475-821	701-TA-373	Stainless Steel Wire Rod/Italy	AL Tech Specialty Steel Carpenter Technology Republic Engineered Steels Talley Metals Technology United Steelworkers of America
C-475-823	701-TA-377	Stainless Steel Plate in Coils/Italy	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
C-475-825	701-TA-381	Stainless Steel Sheet and Strip/Italy	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C-475-827	701-TA-390	Cut-to-Length Carbon Steel Plate/Italy	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel US Steel United Steelworkers of America
C-475-830	701-TA-413	Stainless Steel Bar/Italy	Carpenter Technology Crucible Specialty Metals Electralloy Empire Specialty Steel Republic Technologies International Slater Steels United Steelworkers of America
C-489-502	701-TA-253	Welded Carbon Steel Pipe and Tube/Turkey	Allied Tube & Conduit American Tube Bernard Epps Bock Industries Bull Moose Tube

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Central Steel Tube Century Tube Copperweld Tubing Cyclops Hughes Steel & Tube Kaiser Steel Laclede Steel Maruichi American Maverick Tube Merchant Metals Phoenix Steel Pittsburgh Tube Quanex Sharon Tube Southwestern Pipe UNR-Leavitt Welded Tube Western Tube & Conduit Wheatland Tube
C-489-806	701-TA-366	Pasta/Turkey	A Zerega's Sons American Italian Pasta Borden D Merlino & Sons Dakota Growers Pasta Foulds Gilster-Mary Lee Gooch Foods Hershey Foods LaRinascente Macaroni Co Pasta USA Philadelphia Macaroni ST Specialty Foods
C-507-501	N/A	Raw In-Shell Pistachios/Iran	Blackwell Land Co Cal Pure Pistachios Inc California Pistachio Commission California Pistachio Orchards Keenan Farms Inc Kern Pistachio Hulling & Drying Co-Op Los Rancheros de Poco Pedro Pistachio Producers of California TM Duche Nut Co Inc
C-507-601	N/A	Roasted In-Shell Pistachios/Iran	Cal Pure Pistachios Inc California Pistachio Commission Keenan Farms Inc Kern Pistachio Hulling & Drying Co-Op Pistachio Producers of California TM Duche Nut Co Inc
C-508-605	701-TA-286	Industrial Phosphoric Acid/Israel	Albright & Wilson FMC Hydrite Chemical Monsanto

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Stauffer Chemical
C-533-063	303-TA-13	Iron Metal Castings/India	Campbell Foundry Le Baron Foundry Municipal Castings Neenah Foundry Pinkerton Foundry US Foundry & Manufacturing Vulcan Foundry
C-533-807	701-TA-318	Sulfanilic Acid/India	R-M Industries
C-533-818	701-TA-388	Cut-to-Length Carbon Steel Plate/India	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
C-533-821	701-TA-405	Hot-Rolled Steel Products/India	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C-533-825	701-TA-415	Polyethylene Terephthalate Film, Sheet and Strip (PET Film)/India	DuPont Teijin Films Mitsubishi Polyester Film LLC SKC America Inc Toray Plastics (America)
C-533-829	701-TA-432	Prestressed Concrete Steel Wire Strand/India	American Spring Wire Corp Insteel Wire Products Co Sivaco Georgia LLC Strand Tech Martin Inc Sumiden Wire Products Corp
C-533-839	701-TA-437	Carbazole Violet Pigment 23/India	Allegheny Color Corp Barker Fine Color Inc Clariant Corp Nation Ford Chemical Co Sun Chemical Co
C-533-844	701-TA-442	Certain Lined Paper School Supplies/India	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (USW)
C-535-001	701-TA-202	Cotton Shop Towels/Pakistan	Milliken
C-549-818	701-TA-408	Hot-Rolled Steel Products/Thailand	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C-560-806	701-TA-389	Cut-to-Length Carbon Steel Plate/Indonesia	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
C-560-813	701-TA-406	Hot-Rolled Steel Products/Indonesia	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
C-560-819	701-TA-443	Certain Lined Paper School Supplies/Indonesia	Fay Paper Products Inc MeadWestvaco Consumer & Office Products Norcom Inc Pacon Corp Roaring Spring Blank Book Co Top Flight Inc United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC (USW)

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
C-580-602	701-TA-267	Top-of-the-Stove Stainless Steel Cooking Ware/ Korea	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
C-580-818	701-TA-342	Cold-Rolled Carbon Steel Flat Products/Korea	Armco Steel Bethlehem Steel California Steel Industries Gulf States Steel Inland Steel Industries LTV Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C-580-818	701-TA-350	Corrosion-Resistant Carbon Steel Flat Products/ Korea	Armco Steel Bethlehem Steel California Steel Industries Geneva Steel Gulf States Steel Inland Steel Industries LTV Steel Lukens Steel National Steel Nextech Rouge Steel Co Sharon Steel Theis Precision Steel Thompson Steel US Steel United Steelworkers of America WCI Steel Weirton Steel
C-580-835	701-TA-382	Stainless Steel Sheet and Strip/Korea	Allegheny Ludlum Armco Steel Bethlehem Steel Butler Armco Independent Union Carpenter Technology Corp J&L Specialty Steel North American Stainless United Steelworkers of America Zanesville Armco Independent Organization
C-580-837	701-TA-391	Cut-to-Length Carbon Steel Plate/Korea	Bethlehem Steel CitiSteel USA Inc Geneva Steel Gulf States Steel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			IPSCO Steel National Steel Tuscaloosa Steel US Steel United Steelworkers of America
C-580-842	701-TA-401	Structural Steel Beams/Korea	Northwestern Steel and Wire Nucor Nucor-Yamato Steel TXI-Chaparral Steel United Steelworkers of America
C-580-851	701-TA-431	DRAMs and DRAM Modules/Korea	Dominion Semiconductor LLC/Micron Technology Inc Infineon Technologies Richmond LP Micron Technology Inc
C-583-604	701-TA-268	Top-of-the-Stove Stainless Steel Cooking Ware/ Taiwan	Farberware Regal Ware Revere Copper & Brass WearEver/Proctor Silex
C-791-806	701-TA-379	Stainless Steel Plate in Coils/South Africa	Allegheny Ludlum Armco Steel J&L Specialty Steel Lukens Steel North American Stainless United Steelworkers of America
C-791-810	701-TA-407	Hot-Rolled Steel Products/South Africa	Bethlehem Steel Gallatin Steel Independent Steelworkers IPSCO LTV Steel National Steel Nucor Rouge Steel Co Steel Dynamics US Steel United Steelworkers of America WCI Steel Inc Weirton Steel Wheeling-Pittsburgh Steel Corp
A-331-802	731-TA-1065	Certain Frozen Warmwater Shrimp and Prawns/ Ecuador	
A-351-838	731-TA-1063	Certain Frozen Warmwater Shrimp and Prawns/ Brazil	
A-533-840	731-TA-1066	Certain Frozen Warmwater Shrimp and Prawns/ India	
A-549-822	731-TA-1067	Certain Frozen Warmwater Shrimp and Prawns/ Thailand	
A-552-802	731-TA-1068	Certain Frozen Warmwater Shrimp and Prawns/ Vietnam	
A-570-893	731-TA-1064	Certain Frozen Warmwater Shrimp and Prawns/ China	Petitioners/Supporters for all six cases listed: Abadie, Al J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Abadie, Anthony
			Abner, Charles
			Abraham, Steven
			Abshire, Gabriel J
			Ackerman, Dale J
			Acosta, Darryl L
			Acosta, Jerry J Sr
			Acosta, Leonard C
			Acosta, Wilson Pula Sr
			Adam, Denise T
			Adam, Michael A
			Adam, Richard B Jr
			Adam, Sherry P
			Adam, William E
			Adam, Alcide J Jr
			Adams, Dudley
			Adams, Elizabeth L
			Adams, Ervin
			Adams, Ervin
			Adams, George E
			Adams, Hursy J
			Adams, James Arthur
			Adams, Kelly
			Adams, Lawrence J Jr
			Adams, Randy
			Adams, Ritchie
			Adams, Steven A
			Adams, Ted J
			Adams, Tim
			Adams, Whitney P Jr
			Agoff, Ralph J
			Aguilar, Rikardo
			Aguillard, Roddy G
			Alario, Don Ray
			Alario, Nat
			Alario, Pete J
			Alario, Timmy
			Albert, Craig J
			Albert, Junior J
			Alexander, Everett O
			Alexander, Robert F Jr
			Alexie, Benny J
			Alexie, Corkey A
			Alexie, Dolphy
			Alexie, Felix Jr
			Alexie, Gwendolyn
			Alexie, John J
			Alexie, John V
			Alexie, Larry J Sr
			Alexie, Larry Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Alexie, Vincent L Jr
			Alexis, Barry S
			Alexis, Craig W
			Alexis, Micheal
			Alexis, Monique
			Alfonso, Anthony E Jr
			Alfonso, Jesse
			Alfonso, Nicholas
			Alfonso, Paul Anthony
			Alfonso, Randy
			Alfonso, Terry S Jr
			Alfonso, Vernon Jr
			Alfonso, Yvette
			Alimia, Angelo A Jr
			Allemand, Dean J
			Allen, Annie
			Allen, Carolyn Sue
			Allen, Jackie
			Allen, Robin
			Allen, Wayne
			Allen, Wilbur L
			Allen, Willie J III
			Allen, Willie Sr
			Alphonso, John
			Ancalade, Leo J
			Ancar, Claudene
			Ancar, Jerry T
			Ancar, Joe C
			Ancar, Merlin Sr
			Ancar, William Sr
			Ancelet, Gerald Ray
			Anderson, Andrew David
			Anderson, Ernest W
			Anderson, Jerry
			Anderson, John
			Anderson, Lynwood
			Anderson, Melinda Rene
			Anderson, Michael Brian
			Anderson, Ronald L Sr
			Anderson, Ronald Louis Jr
			Andonie, Miguel
			Andrews, Anthony R
			Andry, Janice M
			Andry, Rondey S
			Angelle, Louis
			Anglada, Eugene Sr
			Ansardi, Lester
			Anselmi, Darren
			Aparicio, Alfred
			Aparicio, David
			Aparicio, Ernest

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Arabie, Georgia P
			Arabie, Joseph
			Arcement, Craig J
			Arcement, Lester C
			Arcemont, Donald Sr
			Arceneaux, Matthew J
			Arceneaux, Michael K
			Areas, Christopher J
			Armbruster, John III
			Armbruster, Paula D
			Armstrong, Jude Jr
			Arnesen, George
			Arnold, Lonnie L Jr
			Arnona, Joseph T
			Arnondin, Robert
			Arthur, Brenda J
			Assavedo, Floyd
			Atwood, Gregory Kenneth
			Au, Chow D
			Au, Robert
			Aucoin, Dewey F
			Aucoin, Earl
			Aucoin, Laine A
			Aucoin, Perry J
			Austin, Dennis
			Austin, Dennis J
			Authement, Brice
			Authement, Craig L
			Authement, Dion J
			Authement, Gordon
			Authement, Lance M
			Authement, Larry
			Authement, Larry Sr
			Authement, Roger J
			Authement, Sterling P
			Autin, Bobby
			Autin, Bruce J
			Autin, Kenneth D
			Autin, Marvin J
			Autin, Paul F Jr
			Autin, Roy
			Avenel, Albert J Jr
			Ba Wells, Tran Thi
			Babb, Conny
			Babin, Brad
			Babin, Joey L
			Babin, Klint
			Babin, Molly
			Babin, Norman J
			Babineaux, Kirby
			Babineaux, Vicki

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Bach, Ke Van
			Bach, Reo Long
			Backman, Benny
			Badeaux, Todd
			Baham, Dewayne
			Bailey, Albert
			Bailey, Antoine III
			Bailey, David B Sr
			Bailey, Don
			Baker, Clarence
			Baker, Donald Earl
			Baker, James
			Baker, Kenneth
			Baker, Ronald J
			Balderas, Antonio
			Baldwin, Richard Prentiss
			Ballard, Albert
			Ballas, Barbara A
			Ballas, Charles J
			Baltz, John F
			Ban, John
			Bang, Bruce K
			Barbaree, Joe W
			Barbe, Mark A and Cindy
			Barber, Louie W Jr
			Barber, Louie W Sr
			Barbier, Percy T
			Barbour, Raymond A
			Bargainear, James E
			Barisich, George A
			Barisich, Joseph J
			Barnette, Earl
			Barnhill, Nathan
			Barrios, Clarence
			Barrios, Corbert J
			Barrios, Corbert M
			Barrios, David
			Barrios, John
			Barrios, Shane James
			Barrois, Angela Gail
			Barrois, Dana A
			Barrois, Tracy James
			Barrois, Wendell Jude Jr
			Barthe, Keith Sr
			Barthelemy, Allen M
			Barthelemy, John A
			Barthelemy, Rene T Sr
			Barthelemy, Walter A Jr
			Bartholomew, Mitchell
			Bartholomew, Neil W
			Bartholomew, Thomas E

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Bartholomew, Wanda C
			Basse, Donald J Sr
			Bates, Mark
			Bates, Ted Jr
			Bates, Vernon Jr
			Battle, Louis
			Baudoin, Drake J
			Baudoin, Murphy A
			Baudouin, Stephen
			Bauer, Gary
			Baye, Glen P
			Bean, Charles A
			Beazley, William E
			Becnel, Glenn J
			Becnel, Kent
			Beecher, Carold F
			Beechler, Ronald
			Bell, James E
			Bell, Ronald A
			Bellanger, Arnold
			Bellanger, Clifton
			Bellanger, Scott J
			Belsome, Derrell M
			Belsome, Karl M
			Bennett, Cecil A Jr
			Bennett, Gary Lynn
			Bennett, Irin Jr
			Bennett, James W Jr
			Bennett, Louis
			Benoit, Francis J
			Benoit, Nicholas L
			Benoit, Paula T
			Benoit, Tenna J Jr
			Benton, Walter T
			Berger, Ray W
			Bergeron, Alfred Scott
			Bergeron, Jeff
			Bergeron, Nolan A
			Bergeron, Ulysses J
			Bernard, Lamont L
			Berner, Mark J
			Berthelot, Gerard J Sr
			Berthelot, James A
			Berthelot, Myron J
			Bertrand, Jerl C
			Beverung, Keith J
			Bianchini, Raymond W
			Bickham, Leo E
			Bienvenu, Charles
			Biggs, Jerry W Sr
			Bigler, Delbert

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Billington, Richard
			Billiot, Alfredia
			Billiot, Arthur
			Billiot, Aubrey
			Billiot, Barell J
			Billiot, Betty
			Billiot, Bobby J
			Billiot, Brian K
			Billiot, Cassidy
			Billiot, Charles Sr
			Billiot, Chris J Sr
			Billiot, E J E
			Billiot, Earl W Sr
			Billiot, Ecton L
			Billiot, Emary
			Billiot, Forest Jr
			Billiot, Gerald
			Billiot, Harold J
			Billiot, Jacco A
			Billiot, Jake A
			Billiot, James Jr
			Billiot, Joseph S Jr
			Billiot, Laurence V
			Billiot, Leonard F Jr
			Billiot, Lisa
			Billiot, Mary L
			Billiot, Paul J Sr
			Billiot, Shirley L
			Billiot, Steve M
			Billiot, Thomas Adam
			Billiot, Thomas Sr
			Billiot, Wenceslaus Jr
			Billiott, Alexander J
			Biron, Yale
			Black, William C
			Blackston, Larry E
			Blackwell, Wade H III
			Blackwell, Wade H Jr
			Blanchard, Albert
			Blanchard, Andrew J
			Blanchard, Billy J
			Blanchard, Cyrus
			Blanchard, Daniel A
			Blanchard, Dean
			Blanchard, Douglas Jr
			Blanchard, Dwayne
			Blanchard, Elgin
			Blanchard, Gilbert
			Blanchard, Jade
			Blanchard, James
			Blanchard, John F Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Blanchard, Katie
			Blanchard, Kelly
			Blanchard, Matt Joseph
			Blanchard, Michael
			Blanchard, Quentin Timothy
			Blanchard, Roger Sr
			Blanchard, Walton H Jr
			Bland, Quyen T
			Blouin, Roy A
			Blume, Jack Jr
			Bodden, Arturo
			Bodden, Jasper
			Bollinger, Donald E
			Bolotte, Darren W
			Bolton, Larry F
			Bondi, Paul J
			Bonvillain, Jimmy J
			Bonvillian, Donna M
			Boone, Clifton Felix
			Boone, Donald F II
			Boone, Donald F III (Ricky)
			Boone, Gregory T
			Boquet, Noriss P Jr
			Boquet, Wilfred Jr
			Bordelon, Glenn Sr
			Bordelon, James P
			Bordelon, Shelby P
			Borden, Benny
			Borne, Crystal
			Borne, Dina L
			Borne, Edward Joseph Jr
			Borne, Edward Sr
			Bosarge, Hubert Lawrence
			Bosarge, Robert
			Bosarge, Sandra
			Bosarge, Steve
			Boudlauch, Durel A Jr
			Boudoin, Larry Terrell
			Boudoin, Nathan
			Boudreaux, Brent J
			Boudreaux, Elvin J III
			Boudreaux, James C Jr
			Boudreaux, James N
			Boudreaux, Jessie
			Boudreaux, Leroy A
			Boudreaux, Mark
			Boudreaux, Paul Sr
			Boudreaux, Richard D
			Boudreaux, Ronald Sr
			Boudreaux, Sally
			Boudreaux, Veronica

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Boudwin, Dwayne
			Boudwin, Jewel James Sr
			Boudwin, Wayne
			Bouise, Norman
			Boulet, Irwin J Jr
			Boullion, Debra
			Bourg, Allen T
			Bourg, Benny
			Bourg, Chad J
			Bourg, Channon
			Bourg, Chris
			Bourg, Douglas
			Bourg, Glenn A
			Bourg, Jearmie Sr
			Bourg, Kent A
			Bourg, Mark
			Bourg, Nolan P
			Bourg, Ricky J
			Bourgeois, Albert P
			Bourgeois, Brian J Jr
			Bourgeois, Daniel
			Bourgeois, Dwayne
			Bourgeois, Jake
			Bourgeois, Johnny M
			Bourgeois, Johnny M Jr
			Bourgeois, Leon A
			Bourgeois, Louis A
			Bourgeois, Merrie E
			Bourgeois, Randy P
			Bourgeois, Reed
			Bourgeois, Webley
			Bourn, Chris
			Bourque, Murphy Paul
			Bourque, Ray
			Bousegard, Duvic Jr
			Boutte, Manuel J Jr
			Bouvier, Colbert A II
			Bouzigard, Dale J
			Bouzigard, Edgar J III
			Bouzigard, Eeris
			Bowers, Harold
			Bowers, Tommy
			Boyd, David E Sr
			Boyd, Elbert
			Boykin, Darren L
			Boykin, Thomas Carol
			Bradley, James
			Brady, Brian
			Brandhurst, Kay
			Brandhurst, Ray E Sr
			Brandhurst, Raymond J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Braneff, David G
			Brannan, William P
			Branom, Donald James Jr
			Braud, James M
			Brazan, Frank J
			Breaud, Irvin F Jr
			Breaux, Barbara
			Breaux, Brian J
			Breaux, Charlie M
			Breaux, Clifford
			Breaux, Colin E
			Breaux, Daniel Jr
			Breaux, Larry J
			Breaux, Robert J Jr
			Breaux, Shelby
			Briscoe, Robert F Jr
			Britsch, L D Jr
			Broussard, Dwayne E
			Broussard, Eric
			Broussard, Keith
			Broussard, Larry
			Broussard, Mark A
			Broussard, Roger David
			Broussard, Roger R
			Broussard, Steve P
			Brown, Cindy B
			Brown, Colleen
			Brown, Donald G
			Brown, John W
			Brown, Paul R
			Brown, Ricky
			Brown, Toby H
			Bruce, Adam J
			Bruce, Adam J Jr
			Bruce, Bob R
			Bruce, Daniel M Sr
			Bruce, Eli T Sr
			Bruce, Emelda L
			Bruce, Gary J Sr
			Bruce, James P
			Bruce, Lester J Jr
			Bruce, Margie L
			Bruce, Mary P
			Bruce, Nathan
			Bruce, Robert
			Bruce, Russell
			Brudnock, Peter Sr
			Brunet, Elton J
			Brunet, Joseph A
			Brunet, Joseph A
			Brunet, Levy J Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Brunet, Raymond Sr
			Bryan, David N
			Bryant, Ina Fay V
			Bryant, Jack D Sr
			Bryant, James Larry
			Buford, Ernest
			Bui, Ben
			Bui, Dich
			Bui, Dung Thi
			Bui, Huong T
			Bui, Ngan
			Bui, Nhuan
			Bui, Nuoi Van
			Bui, Tai
			Bui, Tien
			Bui, Tommy
			Bui, Xuan and De Nguyen
			Bui, Xuanmai
			Bull, Delbert E
			Bundy, Belvina (Kenneth)
			Bundy, Kenneth Sr
			Bundy, Nicky
			Bundy, Ronald J
			Bundy, Ronnie J
			Buquet, John Jr
			Buras, Clayton M
			Buras, Leander
			Buras, Robert M Jr
			Buras, Waylon J
			Burlett, Elliott C
			Burlett, John C Jr
			Burnell, Charles B
			Burnell, Charles R
			Burnham, Deanna Lea
			Burns, Stuart E
			Burroughs, Lindsey Hilton Jr
			Burton, Ronnie
			Busby, Hardy E
			Busby, Tex H
			Busch, RC
			Bush, Robert A
			Bussey, Tyler
			Butcher, Dorothy
			Butcher, Rocky J
			Butler, Albert A
			Butler, Aline M
			Bychurch, Johnny
			Bychurch, Johnny Jr
			Cabanilla, Alex
			Caboz, Jose Santos
			Cacioppo, Anthony Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Caddell, David
			Cadiere, Mae Quick
			Cadiere, Ronald J
			Cahill, Jack
			Caillouet, Stanford Jr
			Caison, Jerry Lane Jr
			Calcagno, Stephen Paul Sr
			Calderone, John S
			Callahan, Gene P Sr
			Callahan, Michael J
			Callahan, Russell
			Callais, Ann
			Callais, Franklin D
			Callais, Gary D
			Callais, Michael
			Callais, Michael
			Callais, Sandy
			Callais, Terrence
			Camardelle, Anna M
			Camardelle, Chris J
			Camardelle, David
			Camardelle, Edward J III
			Camardelle, Edward J Jr
			Camardelle, Harris A
			Camardelle, Knowles
			Camardelle, Noel T
			Camardelle, Tilman J
			Caminita, John A III
			Campo, Donald Paul
			Campo, Kevin
			Campo, Nicholas J
			Campo, Roy
			Campo, Roy Sr
			Camus, Ernest M Jr
			Canova, Carl
			Cantrelle, Alvin
			Cantrelle, Eugene J
			Cantrelle, Otis A Sr
			Cantrelle, Otis Jr (Buddy)
			Cantrelle, Philip A
			Cantrelle, Tate Joseph
			Canty, Robert Jamies
			Cao, Anna
			Cao, Billy
			Cao, Billy Viet
			Cao, Binh Quang
			Cao, Chau
			Cao, Dan Dien
			Cao, Dung Van
			Cao, Gio Van
			Cao, Hiep A

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Cao, Linh Huyen
			Cao, Nghia Thi
			Cao, Nhieu V
			Cao, Si-Van
			Cao, Thanh Kim
			Cao, Tuong Van
			Carinhas, Jack G Jr
			Carl, Joseph Allen
			Carlos, Gregory
			Carlos, Irvin
			Carmadelle, David J
			Carmadelle, Larry G
			Carmadelle, Rudy J
			Carrere, Anthony T Jr
			Carrier, Larry J
			Caruso, Michael
			Casanova, David W Sr
			Cassagne, Alphonse G III
			Cassagne, Alphonse G IV
			Cassidy, Mark
			Casso, Joseph
			Castelin, Gilbert
			Castelin, Sharon
			Castellanos, Raul L
			Castelluccio, John A Jr
			Castille, Joshua
			Caulfield, Adolph Jr
			Caulfield, Hope
			Caulfield, James M Jr
			Caulfield, Jean
			Cepriano, Salvador
			Cerdes, Julius W Jr
			Cerise, Marla
			Chabert, John
			Chaisson, Dean J
			Chaisson, Henry
			Chaisson, Vincent A
			Chaix, Thomas B III
			Champagne, Brian
			Champagne, Harold P
			Champagne, Kenton
			Champagne, Leon J
			Champagne, Leroy A
			Champagne, Lori
			Champagne, Timmy D
			Champagne, Willard
			Champlin, Kim J
			Chance, Jason R
			Chancey, Jeff
			Chapa, Arturo
			Chaplin Robert G Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Chaplin, Saxby Stowe
			Charles, Christopher
			Charpentier, Allen J
			Charpentier, Alvin J
			Charpentier, Daniel J
			Charpentier, Lawrence
			Charpentier, Linton
			Charpentier, Melanie
			Charpentier, Murphy Jr
			Charpentier, Robert J
			Chartier, Michelle
			Chau, Minh Huu
			Chauvin, Anthony
			Chauvin, Anthony P Jr
			Chauvin, Carey M
			Chauvin, David James
			Chauvin, James E
			Chauvin, Kimberly Kay
			Cheeks, Alton Bruce
			Cheers, Elwood
			Chenier, Ricky
			Cheramie, Alan
			Cheramie, Alan J Jr
			Cheramie, Alton J
			Cheramie, Berwick Jr
			Cheramie, Berwick Sr
			Cheramie, Daniel James Sr
			Cheramie, Danny
			Cheramie, David J
			Cheramie, David P
			Cheramie, Dickey J
			Cheramie, Donald
			Cheramie, Enola
			Cheramie, Flint
			Cheramie, Harold L
			Cheramie, Harry J Sr
			Cheramie, Harry Jr
			Cheramie, Harvey Jr
			Cheramie, Harvey Sr
			Cheramie, Henry J Sr
			Cheramie, James A
			Cheramie, James P
			Cheramie, Jody P
			Cheramie, Joey J
			Cheramie, Johnny
			Cheramie, Joseph A
			Cheramie, Lee Allen
			Cheramie, Linton J
			Cheramie, Mark A
			Cheramie, Murphy J
			Cheramie, Nathan A Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Cheramie, Neddy P
			Cheramie, Nicky J
			Cheramie, Ojess M
			Cheramie, Paris P
			Cheramie, Robbie
			Cheramie, Rodney E Jr
			Cheramie, Ronald
			Cheramie, Roy
			Cheramie, Roy A
			Cheramie, Sally K
			Cheramie, Terry J
			Cheramie, Terry Jr
			Cheramie, Timmy
			Cheramie, Tina
			Cheramie, Todd M
			Cheramie, Tommy
			Cheramie, Wayne A
			Cheramie, Wayne A Jr
			Cheramie, Wayne F Sr
			Cheramie, Wayne J
			Cheramie, Webb Jr
			Chevalier, Mitch
			Chew, Thomas J
			Chhun, Samantha
			Chiasson, Jody J
			Chiasson, Manton P Jr
			Chiasson, Michael P
			Childress, Gordon
			Chisholm, Arthur
			Chisholm, Henry Jr
			Christen, David Jr
			Christen, Vernon
			Christmas, John T Jr
			Chung, Long V
			Ciaccio, Vance
			Cibilic, Bozidar
			Cieutat, John
			Cisneros, Albino
			Ciuffi, Michael L
			Clark, James M
			Clark, Jennings
			Clark, Mark A
			Clark, Ricky L
			Cobb, Michael A
			Cochran, Jimmy
			Coleman, Ernest
			Coleman, Freddie Jr
			Colletti, Rodney A
			Collier, Ervin J
			Collier, Wade
			Collins, Bernard J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Collins, Bruce J Jr
			Collins, Donald
			Collins, Earline
			Collins, Eddie F Jr
			Collins, Jack
			Collins, Jack
			Collins, Julius
			Collins, Lawson Bruce Sr
			Collins, Lindy S Jr
			Collins, Logan A Jr
			Collins, Robert
			Collins, Timmy P
			Collins, Vendon Jr
			Collins, Wilbert Jr
			Collins, Woodrow
			Colson, Chris and Michelle
			Comardelle, Michael J
			Comeaux, Allen J
			Compeaux, Curtis J
			Compeaux, Gary P
			Compeaux, Harris
			Cone, Jody
			Contreras, Mario
			Cook, Edwin A Jr
			Cook, Edwin A Sr
			Cook, Joshua
			Cook, Larry R Sr
			Cook, Scott
			Cook, Theodore D
			Cooksey, Ernest Neal
			Cooper, Acy J III
			Cooper, Acy J Jr
			Cooper, Acy Sr
			Cooper, Christopher W
			Cooper, Jon C
			Cooper, Marla F
			Cooper, Vincent J
			Copeman, John R
			Corley, Ronald E
			Cornett, Eddie
			Cornwall, Roger
			Cortez, Brenda M
			Cortez, Cathy
			Cortez, Curtis
			Cortez, Daniel P
			Cortez, Edgar
			Cortez, Keith J
			Cortez, Leslie J
			Cosse, Robert K
			Coston, Clayton
			Cotsovolos, John Gordon

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Coulon, Allen J Jr
			Coulon, Allen J Sr
			Coulon, Amy M
			Coulon, Cleveland F
			Coulon, Darrin M
			Coulon, Don
			Coulon, Earline N
			Coulon, Ellis Jr
			Coursey, John W
			Courville, Ronnie P
			Cover, Darryl L
			Cowdrey, Michael Dudley
			Cowdrey, Michael Nelson
			Crain, Michael T
			Crawford, Bryan D
			Crawford, Steven J
			Creamer, Quention
			Credeur, Todd A Sr
			Credeur, Tony J
			Creppel, Carlton
			Creppel, Catherine
			Creppel, Craig Anthony
			Creppel, Freddy
			Creppel, Isadore Jr
			Creppel, Julinne G III
			Creppel, Kenneth
			Creppel, Kenneth
			Creppel, Nathan J Jr
			Creppell, Michel P
			Cristina, Charles J
			Crochet, Sterling James
			Crochet, Tony J
			Crosby, Benjy J
			Crosby, Darlene
			Crosby, Leonard W Jr
			Crosby, Ted J
			Crosby, Thomas
			Crum, Lonnie
			Crum, Tommy Lloyd
			Cruz, Jesus
			Cubbage, Melinda T
			Cuccia, Anthony J
			Cuccia, Anthony J Jr
			Cuccia, Kevin
			Cumbie, Bryan E
			Cure, Mike
			Curole, Keith J
			Curole, Kevin P
			Curole, Margaret B
			Curole, Willie P Jr
			Cutrer, Jason C

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Cvitanovich, T
			Daigle, Alfred
			Daigle, Cleve and Nona
			Daigle, David John
			Daigle, EJ
			Daigle, Glenn
			Daigle, Jamie J
			Daigle, Jason
			Daigle, Kirk
			Daigle, Leonard P
			Daigle, Lloyd
			Daigle, Louis J
			Daigle, Melanie
			Daigle, Michael J
			Daigle, Michael Wayne and JoAnn
			Daisy, Jeff
			Dale, Cleveland L
			Dang, Ba
			Dang, Dap
			Dang, David
			Dang, Duong
			Dang, Khang
			Dang, Khang and Tam Phan
			Dang, Loan Thi
			Dang, Minh
			Dang, Minh Van
			Dang, Son
			Dang, Tao Kevin
			Dang, Thang Duc
			Dang, Thien Van
			Dang, Thuong
			Dang, Thuy
			Dang, Van D
			Daniels, David
			Daniels, Henry
			Daniels, Leslie
			Danos, Albert Sr
			Danos, James A
			Danos, Jared
			Danos, Oliver J
			Danos, Ricky P
			Danos, Rodney
			Danos, Timothy A
			d'Antignac, Debi
			d'Antignac, Jack
			Dantin, Archie A
			Dantin, Mark S Sr
			Dantin, Stephen Jr
			Dao, Paul
			Dao, Vang
			Dao-Nguyen, Chrysti

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Darda, Albert L Jr
			Darda, Gertrude
			Darda, Herbert
			Darda, J C
			Darda, Jeremy
			Darda, Tammy
			Darda, Trudy
			Dardar, Alvin
			Dardar, Basile J
			Dardar, Basile Sr
			Dardar, Cindy
			Dardar, David
			Dardar, Donald S
			Dardar, Edison J Sr
			Dardar, Gayle Picou
			Dardar, Gilbert B
			Dardar, Gilbert Sr
			Dardar, Isadore J Jr
			Dardar, Jacqueline
			Dardar, Jonathan M
			Dardar, Lanny
			Dardar, Larry J
			Dardar, Many
			Dardar, Neal A
			Dardar, Norbert
			Dardar, Patti V
			Dardar, Percy B Sr
			Dardar, Rose
			Dardar, Rusty J
			Dardar, Samuel
			Dardar, Summersgill
			Dardar, Terry P
			Dardar, Toney M Jr
			Dardar, Toney Sr
			Dargis, Stephen M
			Dassau, Louis
			David, Philip J Jr
			Davis, Cliff
			Davis, Daniel A
			Davis, Danny A
			Davis, James
			Davis, John W
			Davis, Joseph D
			Davis, Michael Steven
			Davis, Ronald B
			Davis, William T Jr
			Davis, William Theron
			Dawson, JT
			de la Cruz, Avery T
			Dean, Ilene L
			Dean, John N

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Dean, Stephen
			DeBarge, Brian K
			DeBarge, Sherry
			DeBarge, Thomas W
			Decoursey, John
			Dedon, Walter
			Deere, Daryl
			Deere, David E
			Deere, Dennis H
			Defelice, Robin
			Defelice, Tracie L
			DeHart, Ashton J Sr
			Dehart, Bernard J
			Dehart, Blair
			Dehart, Clevis
			Dehart, Clevis Jr
			DeHart, Curtis P Sr
			Dehart, Eura Sr
			Dehart, Ferrell John
			Dehart, Leonard M
			DeHart, Troy
			DeJean, Chris N Jr
			DeJean, Chris N Sr
			Dekemel, Bonnie D
			Dekemel, Wm J Jr
			Delande, Paul
			Delande, Ten Chie
			Delatte, Michael J Sr
			Delaune, Kip M
			Delaune, Thomas J
			Delaune, Todd J
			Delcambre, Carroll A
			Delgado, Jesse
			Delino, Carlton
			Delino, Lorene
			Deloach, Stephen W Jr
			DeMoll, Herman J Jr
			DeMoll, Herman J Sr
			DeMoll, James C Jr
			DeMoll, Ralph
			DeMoll, Robert C
			DeMoll, Terry R
			DeMolle, Freddy
			DeMolle, Otis
			Dennis, Fred
			Denty, Steve
			Deroche, Barbara H
			Derouen, Caghe
			Deshotel, Rodney
			DeSilvey, David
			Despaux, Byron J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Despaux, Byron J Jr
			Despaux, Glen A
			Despaux, Ken
			Despaux, Kerry
			Despaux, Suzanna
			Detillier, David E
			DeVaney, Bobby C Jr
			Dickey, Wesley Frank
			Diep, Vu
			Dinger, Anita
			Dinger, Corbert Sr
			Dinger, Eric
			Dingler, Mark H
			Dinh, Chau Thanh
			Dinh, Khai Duc
			Dinh, Lien
			Dinh, Toan
			Dinh, Vincent
			Dion, Ernest
			Dion, Paul A
			Dion, Thomas Autry
			Disalvo, Paul A
			Dismuke, Robert E Sr
			Ditcharo, Dominick III
			Dixon, David
			Do, Cuong V
			Do, Dan C
			Do, Dung V
			Do, Hai Van
			Do, Hieu
			Do, Hung V
			Do, Hung V
			Do, Johnny
			Do, Kiet Van
			Do, Ky Hong
			Do, Ky Quoc
			Do, Lam
			Do, Liet Van
			Do, Luong Van
			Do, Minh Van
			Do, Nghiep Van
			Do, Ta
			Do, Ta Phon
			Do, Than Viet
			Do, Thanh V
			Do, Theo Van
			Do, Thien Van
			Do, Tinh A
			Do, Tri
			Do, Vi V
			Doan, Anh Thi

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Doan, Joseph
			Doan, Mai
			Doan, Minh
			Doan, Ngoc
			Doan, Tran Van
			Domangue, Darryl
			Domangue, Emile
			Domangue, Mary
			Domangue, Michael
			Domangue, Paul
			Domangue, Ranzell Sr
			Domangue, Stephen
			Domangue, Westley
			Domingo, Carolyn
			Dominique, Amy R
			Dominque, Gerald R
			Donini, Ernest N
			Donnelly, David C
			Donohue, Holly M
			Dooley, Denise F
			Dopson, Craig B
			Dore, Presley J
			Dore, Preston J Jr
			Dorr, Janthan C Jr
			Doucet, Paul J Sr
			Downey, Colleen
			Doxey, Robert Lee Sr
			Doxey, Ruben A
			Doxey, William L
			Doyle, John T
			Drawdy, John Joseph
			Drury, Bruce W Jr
			Drury, Bruce W Sr
			Drury, Bryant J
			Drury, Eric S
			Drury, Helen M
			Drury, Jeff III
			Drury, Kevin
			Drury, Kevin S Sr
			Drury, Steve R
			Drury, Steven J
			Dubberly, James F
			Dubberly, James Michael
			Dubberly, James Michael Jr
			Dubberly, John J
			Dubois, Euris A
			Dubois, John D Jr
			Dubois, Lonnie J
			Duck, Kermit Paul
			Dudenhefer, Anthony
			Dudenhefer, Connie S

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Dudenhefer, Eugene A
			Dudenhefer, Milton J Jr
			Duet, Brad J
			Duet, Darrel A
			Duet, Guy J
			Duet, Jace J
			Duet, Jay
			Duet, John P
			Duet, Larson
			Duet, Ramie
			Duet, Raymond J
			Duet, Tammy B
			Duet, Tyrone
			Dufrene, Archie
			Dufrene, Charles
			Dufrene, Curt F
			Dufrene, Elson A
			Dufrene, Eric F
			Dufrene, Eric F Jr
			Dufrene, Eric John
			Dufrene, Golden J
			Dufrene, Jeremy M
			Dufrene, Juliette B
			Dufrene, Leroy J
			Dufrene, Milton J
			Dufrene, Ronald A Jr
			Dufrene, Ronald A Sr
			Dufrene, Scottie M
			Dufrene, Toby
			Dugar, Edward A II
			Dugas, Donald John
			Dugas, Henri J IV
			Duhe, Greta
			Duhe, Robert
			Duhon, Charles
			Duhon, Douglas P
			Duncan, Faye E
			Duncan, Gary
			Duncan, Loyde C
			Dunn, Bob
			Duong, Billy
			Duong, Chamroeun
			Duong, EM
			Duong, Ho Tan Phi
			Duong, Kong
			Duong, Mau
			Duplantis, Blair P
			Duplantis, David
			Duplantis, Frankie J
			Duplantis, Maria
			Duplantis, Teddy W

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Duplantis, Wedgir J Jr
			Duplessis, Anthony James Sr
			Duplessis, Bonnie S
			Duplessis, Clarence R
			Dupre, Brandon P
			Dupre, Cecile
			Dupre, David A
			Dupre, Davis J Jr
			Dupre, Easton J
			Dupre, Jimmie Sr
			Dupre, Linward P
			Dupre, Mary L
			Dupre, Michael J
			Dupre, Michael J Jr
			Dupre, Randall P
			Dupre, Richard A
			Dupre, Rudy P
			Dupre, Ryan A
			Dupre, Tony J
			Dupre, Troy A
			Dupree, Bryan
			Dupree, Derrick
			Dupree, Malcolm J Sr
			Dupuis, Clayton J
			Durand, Walter Y
			Dusang, Melvin A
			Duval, Denval H Sr
			Duval, Wayne
			Dyer, Nadine D
			Dyer, Tony
			Dykes, Bert L
			Dyson, Adley L Jr
			Dyson, Adley L Sr
			Dyson, Amy
			Dyson, Casandra
			Dyson, Clarence III
			Dyson, Jimmy Jr
			Dyson, Jimmy L Sr
			Dyson, Kathleen
			Dyson, Maricela
			Dyson, Phillip II
			Dyson, Phillip Sr
			Dyson, William
			Eckerd, Bill
			Edens, Angela Blake
			Edens, Donnie
			Edens, Jeremy Donald
			Edens, Nancy M
			Edens, Steven L
			Edens, Timothy Dale
			Edgar, Daniel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Edgar, Joey
			Edgerson, Roosevelt
			Edwards,Tommy W III
			Ellerbee, Jody Duane
			Ellison, David Jr
			Encalade, Alfred Jr
			Encalade, Anthony T
			Encalade, Cary
			Encalade, Joshua C
			Encalade, Stanley A
			Enclade, Joseph L
			Enclade, Michael Sr and Jeannie Pitre
			Enclade, Rodney J
			Englade, Alfred
			Ennis, A L Jr
			Erickson, Grant G
			Erlinger, Carroll
			Erlinger, Gary R
			Eschete, Keith A
			Esfeller, Benny A
			Eskine, Kenneth
			Esponge, Ernest J
			Estaves, David Sr
			Estaves, Ricky Joseph
			Estay, Allen J
			Estay, Wayne
			Esteves, Anthony E Jr
			Estrada, Orestes
			Evans, Emile J Jr
			Evans, Kevin J
			Evans, Lester
			Evans, Lester J Jr
			Evans, Tracey J Sr
			Everson, George C
			Eymard, Brian P Sr
			Eymard, Jervis J and Carolyn B
			Fabiano, Morris C
			Fabra, Mark
			Fabre, Alton Jr
			Fabre, Ernest J
			Fabre, Kelly V
			Fabre, Peggy B
			Fabre, Sheron
			Fabre, Terry A
			Fabre, Wayne M
			Falcon, Mitchell J
			Falgout, Barney
			Falgout, Jerry P
			Falgout, Leroy J
			Falgout, Timothy J
			Fanguy, Barry G

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Fanning, Paul Jr
			Farris, Thomas J
			Fasone, Christopher J
			Fasone, William J
			Faulk, Lester J
			Favaloro, Thomas J
			Favre, Michael Jr
			Fazende, Jeffery
			Fazende, Thomas
			Fazende, Thomas G
			Fazzio, Anthony
			Fazzio, Douglas P
			Fazzio, Maxine J
			Fazzio, Steve
			Felarise, EJ
			Felarise, Wayne A Sr
			Fernandez, John
			Fernandez, Laudelino
			Ferrara, Audrey B
			Ficarino, Dominick Jr
			Fields, Bryan
			Fillinich, Anthony
			Fillinich, Anthony Sr
			Fillinich, Jack
			Fincher, Penny
			Fincher, William
			Fisch, Burton E
			Fisher, Kelly
			Fisher, Kirk
			Fisher, Kirk A
			Fitch, Adam
			Fitch, Clarence J Jr
			Fitch, Hanson
			Fitzgerald, Burnell
			Fitzgerald, Kirk
			Fitzgerald, Kirk D
			Fitzgerald, Ricky J Jr
			Fleming, John M
			Fleming, Meigs F
			Fleming, Mike
			Flick, Dana
			Flores, Helena D
			Flores, Thomas
			Flowers, Steve W
			Flowers, Vincent F
			Folse, David M
			Folse, Heath
			Folse, Mary L
			Folse, Ronald B
			Fonseca, Francis Sr
			Fontaine, William S

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Fontenot, Peggy D
			Ford, Judy
			Ford, Warren Wayne
			Foreman, Ralph Jr
			Foret, Alva J
			Foret, Billy J
			Foret, Brent J
			Foret, Glenn
			Foret, Houston
			Foret, Jackie P
			Foret, Kurt J Sr
			Foret, Lovelace A Sr
			Foret, Loveless A Jr
			Foret, Mark M
			Foret, Patricia C
			Forrest, David P
			Forsyth, Hunter
			Forsythe, John
			Fortune, Michael A
			France, George J
			Francis, Albert
			Franklin, James K
			Frankovich, Anthony
			Franks, Michael
			Frauenberger, Richard Wayne
			Frazier, David J
			Frazier, David M
			Frazier, James
			Frazier, Michael
			Frederick, Davis
			Frederick, Johnnie and Jeannie
			Fredrick, Michael
			Freeman, Arthur D
			Freeman, Darrel P Sr
			Freeman, Kenneth F
			Freeman, Larry Scott
			Frelich, Charles P
			Frelich, Floyd J
			Frelich, Kent
			Frerics, Doug
			Frerks, Albert R Jr
			Frickey, Darell
			Frickey, Darren
			Frickey, Dirk I
			Frickey, Eric J
			Frickey, Harry J Jr
			Frickey, Jimmy
			Frickey, Rickey J
			Frickey, Westley J
			Friloux, Brad
			Frisella, Jeanette M

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Frisella, Jerome A Jr
			Frost, Michael R
			Fruge, Wade P
			Gadson, James
			Gaines, Dwayne
			Gala, Christine
			Galjour, Jess J
			Galjour, Reed
			Gallardo, John W
			Gallardo, Johnny M
			Galliano, Anthony
			Galliano, Horace J
			Galliano, Joseph Sr
			Galliano, Logan J
			Galliano, Lynne L
			Galliano, Moise Jr
			Galloway, AT Jr
			Galloway, Jimmy D
			Galloway, Judy L
			Galloway, Mark D
			Galt, Giles F
			Gambarella, Luvencie J
			Ganoi, Kristine
			Garcia, Ana Maria
			Garcia, Anthony
			Garcia, Edward
			Garcia, Kenneth
			Garner, Larry S
			Gary, Dalton J
			Gary, Ernest J
			Gary, Leonce Jr
			Garza, Andres
			Garza, Jose H
			Gaskill, Elbert Clinton and Sandra
			Gaspar, Timothy
			Gaspard, Aaron and Hazel C
			Gaspard, Dudley A Jr
			Gaspard, Leonard J
			Gaspard, Michael A
			Gaspard, Michael Sr
			Gaspard, Murry
			Gaspard, Murry A Jr
			Gaspard, Murry Sr
			Gaspard, Murvin
			Gaspard, Ronald Sr
			Gaspard, Ronald Wayne Jr
			Gaubert, Elizabeth
			Gaubert, Gregory M
			Gaubert, Melvin
			Gaudet, Allen J IV
			Gaudet, Ricky Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gauthier, Hewitt J Sr
			Gautreaux, William A
			Gay, Norman F
			Gay, Robert G
			Gazzier, Daryl G
			Gazzier, Emanuel A
			Gazzier, Wilfred E
			Gegenheimer, William F
			Geiling, James
			Geisman, Tony
			Gentry, Robert
			Gentry, Samuel W Jr
			George, James J Jr
			Gerica, Clara
			Gerica, Peter
			Giambrone, Corey P
			Gibson, Eddie E
			Gibson, Joseph
			Gibson, Ronald F
			Gilden, Eddie Jr
			Gilden, Eddie Sr
			Gilden, Inez W
			Gilden, Wayne
			Gillikin, James D
			Girard, Chad Paul
			Giroir, Mark S
			Gisclair, Anthony J
			Gisclair, Anthony Joseph Sr
			Gisclair, August
			Gisclair, Dallas J Sr
			Gisclair, Doyle A
			Gisclair, Kip J
			Gisclair, Ramona D
			Gisclair, Wade
			Gisclair, Walter
			Glover, Charles D
			Glynn, Larry
			Goetz, George
			Goings, Robert Eugene
			Golden, George T
			Golden, William L
			Gollot, Brian
			Gollot, Edgar R
			Gonzales, Arnold Jr
			Gonzales, Mrs Cyril E Jr
			Gonzales, Rene R
			Gonzales, Rudolph S Jr
			Gonzales, Rudolph S Sr
			Gonzales, Sylvia A
			Gonzales, Tim J
			Gonzalez, Jorge Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gonzalez, Julio
			Gordon, Donald E
			Gordon, Patrick Alvin
			Gore, Henry H
			Gore, Isabel
			Gore, Pam
			Gore, Thomas L
			Gore, Timothy Ansel
			Gottschalk, Gregory
			Gourgues, Harold C Jr
			Goutierrez, Tony C
			Govea, Joaquin
			Graham, Darrell
			Graham, Steven H
			Granger, Albert J Sr
			Granich, James
			Granier, Stephen J
			Grass, Michael
			Graves, Robert N Sr
			Gray, Jeannette
			Gray, Monroe
			Gray, Shirley E
			Gray, Wayne A Sr
			Graybill, Ruston
			Green, Craig X
			Green, James W
			Green, James W Jr
			Green, Shaun
			Greenlaw, W C Jr
			Gregoire, Ernest L
			Gregoire, Rita M
			Gregory, Curtis B
			Gregory, Mercedes E
			Grice, Raymond L Jr
			Griffin, Alden J Sr
			Griffin, Craig
			Griffin, David D
			Griffin, Elvis Joseph Jr
			Griffin, Faye
			Griffin, Faye Ann
			Griffin, Jimmie J
			Griffin, Nolty J
			Griffin, Rickey
			Griffin, Sharon
			Griffin, Timothy
			Griffin, Troy D
			Groff, Alfred A
			Groff, John A
			Groover, Hank
			Gros, Brent J Sr
			Gros, Craig J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gros, Danny A
			Gros, Gary Sr
			Gros, Junius A Jr
			Gros, Keven
			Gros, Michael A
			Gross, Homer
			Grossie, Janet M
			Grossie, Shane A
			Grossie, Tate
			Grow, Jimmie C
			Guenther, John J
			Guenther, Raphael
			Guerra, Bruce
			Guerra, Chad L
			Guerra, Fabian C
			Guerra, Guy A
			Guerra, Jerry V Sr
			Guerra, Kurt P Sr
			Guerra, Ricky J Sr
			Guerra, Robert
			Guerra, Ryan
			Guerra, Troy A
			Guerra, William Jr
			Guidroz, Warren J
			Guidry, Alvin A
			Guidry, Andy J
			Guidry, Arthur
			Guidry, Bud
			Guidry, Calvin P
			Guidry, Carl J
			Guidry, Charles J
			Guidry, Chris J
			Guidry, Clarence P
			Guidry, Clark
			Guidry, Clint
			Guidry, Clinton P Jr
			Guidry, Clyde A
			Guidry, David
			Guidry, Dobie
			Guidry, Douglas J Sr
			Guidry, Elgy III
			Guidry, Elgy Jr
			Guidry, Elwin A Jr
			Guidry, Gerald A
			Guidry, Gordon Jr
			Guidry, Guillaume A
			Guidry, Harold
			Guidry, Jason
			Guidry, Jessie J
			Guidry, Jessie Joseph
			Guidry, Jonathan B

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Guidry, Joseph T Jr
			Guidry, Keith M
			Guidry, Kenneth J
			Guidry, Kerry A
			Guidry, Marco
			Guidry, Maurin T and Tamika
			Guidry, Michael J
			Guidry, Nolan J Sr
			Guidry, Randy Peter Sr
			Guidry, Rhonda S
			Guidry, Robert C
			Guidry, Robert Joseph
			Guidry, Robert Wayne
			Guidry, Roger
			Guidry, Ronald
			Guidry, Roy Anthony
			Guidry, Roy J
			Guidry, Tammy
			Guidry, Ted
			Guidry, Thomas P
			Guidry, Timothy
			Guidry, Troy
			Guidry, Troy
			Guidry, Ulysses
			Guidry, Vicki
			Guidry, Wayne J
			Guidry, Wyatt
			Guidry, Yvonne
			Guidry-Calva, Holly A
			Guilbeaux, Donald J
			Guilbeaux, Lou
			Guillie, Shirley
			Guillory, Horace H
			Guillot, Benjamin J Jr
			Guillot, Rickey A
			Gulledge, Lee
			Gutierrez, Anita
			Guy, Jody
			Guy, Kimothy Paul
			Guy, Wilson
			Ha, Cherie Lan
			Ha, Co Dong
			Ha, Lai Thuy Thi
			Ha, Lyanna
			Hadwall, John R
			Hafford, Johnny
			Hagan, Jules
			Hagan, Marianna
			Haiglea, Robbin Richard
			Hales, William E
			Halili, Rhonda L

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hall, Byron S
			Hall, Darrel T Sr
			Hall, Lorrie A
			Hammer, Michael P
			Hammock, Julius Michael
			Hancock, Jimmy L
			Handlin, William Sr
			Hang, Cam T
			Hansen, Chris
			Hansen, Eric P
			Hanson, Edmond A
			Harbison, Louis
			Hardee, William P
			Hardison, Louis
			Hardy John C
			Hardy, Sharon
			Harmon, Michelle
			Harrington, George J
			Harrington, Jay
			Harris, Bobby D
			Harris, Buster
			Harris, Jimmy Wayne Sr
			Harris, Johnny Ray
			Harris, Kenneth A
			Harris, Ronnie
			Harris, Susan D
			Harris, William
			Harrison, Daniel L
			Hartmann, Leon M Jr
			Hartmann, Walter Jr
			Hattaway, Errol Henry
			Haycock, Kenneth
			Haydel, Gregory
			Hayes, Clinton
			Hayes, Katherine F
			Hayes, Lod Jr
			Hean, Hong
			Heathcock, Walter Jr
			Hebert, Albert Joseph
			Hebert, Bernie
			Hebert, Betty Jo
			Hebert, Chris
			Hebert, Craig J
			Hebert, David
			Hebert, David Jr
			Hebert, Earl J
			Hebert, Eric J
			Hebert, Jack M
			Hebert, Johnny Paul
			Hebert, Jonathan
			Hebert, Jules J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hebert, Kim M
			Hebert, Lloyd S III
			Hebert, Michael J
			Hebert, Myron A
			Hebert, Norman
			Hebert, Patrick
			Hebert, Patrick A
			Hebert, Pennington Jr
			Hebert, Philip
			Hebert, Robert A
			Hebert, Terry W
			Hedrick, Gerald J Jr
			Helmer, Claudia A
			Helmer, Gerry J
			Helmer, Herman C Jr
			Helmer, Kenneth
			Helmer, Larry J Sr
			Helmer, Michael A Sr
			Helmer, Rusty L
			Helmer, Windy
			Hemmenway, Jack
			Henderson, Brad
			Henderson, Curtis
			Henderson, David A Jr
			Henderson, David A Sr
			Henderson, Johnny
			Henderson, Olen
			Henderson, P Loam
			Henry, Joanne
			Henry, Rodney
			Herbert, Patrick and Terry
			Hereford, Rodney O Jr
			Hereford, Rodney O Sr
			Hernandez, Corey
			Herndon, Mark
			Hertel, Charles W
			Hertz, Edward C Sr
			Hess, Allen L Sr
			Hess, Henry D Jr
			Hess, Jessica R
			Hess, Wayne B
			Hewett, Emma
			Hewett, James
			Hickman, John
			Hickman, Marvin
			Hicks, Billy M
			Hicks, James W
			Hicks, Larry W
			Hicks, Walter R
			Hien, Nguyen
			Higgins, Joseph J III

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hill, Darren S
			Hill, Joseph R
			Hill, Sharon
			Hill, Willie E Jr
			Hills, Herman W
			Hingle, Barbara E
			Hingle, Rick A
			Hingle, Roland T Jr
			Hingle, Roland T Sr
			Hingle, Ronald J
			Hinojosa, R
			Hinojosa, Randy
			Hinojosa, Ricky A
			Hipps, Nicole Marie
			Ho, Dung Tan
			Ho, Hung
			Ho, Jennifer
			Ho, Jimmy
			Ho, Lam
			Ho, Nam
			Ho, Nga T
			Ho, O
			Ho, Sang N
			Ho, Thanh Quoc
			Ho, Thien Dang
			Ho, Tien Van
			Ho, Tri Tran
			Hoang, Dung T
			Hoang, Hoa T and Tam Hoang
			Hoang, Huy Van
			Hoang, Jennifer Vu
			Hoang, John
			Hoang, Julie
			Hoang, Kimberly
			Hoang, Linda
			Hoang, Loan
			Hoang, San Ngoc
			Hoang, Tro Van
			Hoang, Trung Kim
			Hoang, Trung Tuan
			Hoang, Vincent Huynh
			Hodges, Ralph W
			Hoffpaviiz, Harry K
			Holland, Vidal
			Holler, Boyce Dwight Jr
			Hollier, Dennis J
			Holloway, Carl D
			Hong, Tai Van
			Hood, Malcolm
			Hopton, Douglas
			Horaist, Shawn P

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Hostetler, Warren L II
			Hotard, Claude
			Hotard, Emile J Jr
			Howard, Jeff
			Howerin, Billy Sr
			Howerin, Wendell Sr
			Hubbard, Keith
			Hubbard, Perry III
			Huber, Berry T
			Huber, Charles A
			Huck, Irma Elaine
			Huck, Steven R
			Huckabee, Harold
			Hue, Patrick A
			Hughes, Brad J
			Hults, Thomas
			Hutcherson, Daniel J
			Hutchinson, Douglas
			Hutchinson, George D
			Hutchinson, William H
			Hutto, Cynthia E
			Hutto, Henry G Jr
			Huynh, Chien Thi
			Huynh, Dong Xuan
			Huynh, Dung
			Huynh, Dung V
			Huynh, Hai
			Huynh, Hai
			Huynh, Hai Van
			Huynh, Hoang D
			Huynh, Hoang Van
			Huynh, Hung
			Huynh, James N
			Huynh, Johhny Hiep
			Huynh, Johnnie
			Huynh, Kim
			Huynh, Lay
			Huynh, Long
			Huynh, Mack Van
			Huynh, Mau Van
			Huynh, Minh
			Huynh, Minh Van
			Huynh, Nam Van
			Huynh, Thai
			Huynh, Tham Thi
			Huynh, Thanh
			Huynh, Thanh
			Huynh, The V
			Huynh, Tri
			Huynh, Truc
			Huynh, Tu

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Huynh, Tu
			Huynh, Tung Van
			Huynh, Van X
			Huynh, Viet Van
			Huynh, Vuong Van
			Hymel, Joseph Jr
			Hymel, Michael D
			Hymel, Nolan J Sr
			Ingham, Herbert W
			Inglis, Richard M
			Ingraham, Joseph S
			Ingraham, Joyce
			Ipock, Billy
			Ipock, William B
			Ireland, Arthur Allen
			Iver, George Jr
			Jackson, Alfred M
			Jackson, Carl John
			Jackson, David
			Jackson, Eugene O
			Jackson, Glenn C Jr
			Jackson, Glenn C Sr
			Jackson, James Jerome
			Jackson, John D
			Jackson, John Elton Sr
			Jackson, Levi
			Jackson, Nancy L
			Jackson, Robert W
			Jackson, Shannon
			Jackson, Shaun C
			Jackson, Steven A
			Jacob, Ronald R
			Jacob, Warren J Jr
			Jacobs, L Anthony
			Jacobs, Lawrence F
			Jarreau, Billy and Marilyn
			Jarvis, James D
			Jaye, Emma
			Jeanfreau, Vincent R
			Jefferies, William
			Jemison, Timothy Michael Sr
			Jennings, Jacob
			Joffrion, Harold J Jr
			Johnson, Albert F
			Johnson, Ashley Lamar
			Johnson, Bernard Jr
			Johnson, Brent W
			Johnson, Bruce Warem
			Johnson, Carl S
			Johnson, Carolyn
			Johnson, Clyde Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Johnson, David G
			Johnson, David Paul
			Johnson, Gary Allen Sr
			Johnson, George D
			Johnson, Michael A
			Johnson, Randy J
			Johnson, Regenia
			Johnson, Robert
			Johnson, Ronald Ray Sr
			Johnson, Steve
			Johnson, Thomas Allen Jr
			Johnston, Ronald
			Joly, Nicholas J Jr
			Jones, Charles
			Jones, Clinton
			Jones, Daisy Mae
			Jones, Jeffery E
			Jones, Jerome N Sr
			Jones, John W
			Jones, Larry
			Jones, Len
			Jones, Michael G Sr
			Jones, Paul E
			Jones, Perry T Sr
			Jones, Ralph William
			Jones, Richard G Sr
			Jones, Stephen K
			Jones, Wayne
			Joost, Donald F
			Jordan, Dean
			Jordan, Hubert William III (Bert)
			Jordan, Hurbert W Jr
			Judalet, Ramon G
			Judy, William Roger
			Julian, Ida
			Julian, John I Sr
			Juneau, Anthony Sr
			Juneau, Bruce
			Juneau, Robert A Jr and Laura K
			Jurjevich, Leander J
			Kain, Jules B Sr
			Kain, Martin A
			Kalliainen, Dale
			Kalliainen, Richard
			Kang, Chamroeun
			Kang, Sambo
			Kap, Brenda
			Keen, Robert Steven
			Keenan, Robert M
			Kellum, Kenneth Sr
			Kellum, Larry Gray Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Kellum, Roxanne
			Kelly, Roger B
			Kelly, Thomas E
			Kendrick, Chuck J
			Kennair, Michael S
			Kennedy, Dothan
			Kenney, David Jr
			Kenney, Robert W
			Kent, Michael A
			Keo, Bunly
			Kerchner, Steve
			Kern, Thurmond
			Khin, Sochenda
			Khui, Lep and Nga Ho
			Kidd, Frank
			Kiesel, Edward C and Lorraine T
			Kiff, Hank J
			Kiff, Melvin
			Kiffe, Horace
			Kim, Puch
			Kimbrough, Carson
			Kim-Tun, Soeun
			King, Andy A
			King, Donald Jr
			King, James B
			King, Thornell
			King, Wesley
			Kit, An
			Kizer, Anthony J
			Kleimann, Robert
			Knapp, Alton P Jr
			Knapp, Alton P Sr
			Knapp, Ellis L Jr
			Knapp, Melvin L
			Knapp, Theresa
			Knecht, Frederick Jr
			Knezek, Lee
			Knight, George
			Knight, Keith B
			Knight, Robert E
			Koch, Howard J
			Kong, Seng
			Konitz, Bobby
			Koo, Herman
			Koonce, Curtis S
			Koonce, Howard N
			Kopszywa, Mark L
			Kopszywa, Stanley J
			Kotulja, Stejepan
			Kraemer, Bridget
			Kraemer, Wilbert J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Kraemer, Wilbert Jr
			Kramer, David
			Krantz, Arthur Jr
			Krantz, Lori
			Kraver, C W
			Kreger, Ronald A Sr
			Kreger, Roy J Sr
			Kreger, Ryan A
			Krennerich, Raymond A
			Kroke, Stephen E
			Kruth, Frank D
			Kuchler, Alphonse L III
			Kuhn, Bruce A Sr
			Kuhn, Gerard R Jr
			Kuhn, Gerard R Sr
			Kuhns, Deborah
			LaBauve, Kerry
			LaBauve, Sabrina
			LaBauve, Terry
			LaBiche, Todd A
			LaBove, Carroll
			LaBove, Frederick P
			Lachica, Jacqueline
			Lachico, Douglas
			Lacobon, Tommy W Jr
			Lacobon, Tony C
			LaCoste, Broddie
			LaCoste, Carl
			LaCoste, Dennis E
			LaCoste, Grayland J
			LaCoste, Malcolm Jr
			LaCoste, Melvin
			LaCoste, Melvin W Jr
			LaCoste, Ravin J Jr
			LaCoste, Ravin Sr
			Ladner, Clarence J III
			Ladson, Earlene G
			LaFont, Douglas A Sr
			LaFont, Edna S
			LaFont, Jackin
			LaFont, Noces J Jr
			LaFont, Weyland J Sr
			LaFrance, Joseph T
			Lagarde, Frank N
			Lagarde, Gary Paul
			Lagasse, Michael F
			Lai, Hen K
			Lai, Then
			Lam, Cang Van
			Lam, Cui
			Lam, Dong Van

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Lam, Hiep Tan
			Lam, Lan Van
			Lam, Lee Phenh
			Lam, Phan
			Lam, Qui
			Lam, Sochen
			Lam, Tai
			Lam, Tinh Huu
			Lambas, Jessie J Sr
			Lanclos, Paul
			Landry, David A
			Landry, Dennis J
			Landry, Edward N Jr
			Landry, George
			Landry, George M
			Landry, James F
			Landry, Jude C
			Landry, Robert E
			Landry, Ronald J
			Landry, Samuel J Jr
			Landry, Tracy
			Lane, Daniel E
			Lapeyrouse, Lance M
			Lapeyrouse, Rosalie
			Lapeyrouse, Tillman Joseph
			LaRive, James L Jr
			LaRoche, Daniel S
			Lasseigne, Betty
			Lasseigne, Blake
			Lasseigne, Floyd
			Lasseigne, Frank
			Lasseigne, Harris Jr
			Lasseigne, Ivy Jr
			Lasseigne, Jefferson
			Lasseigne, Jefferson P Jr
			Lasseigne, Johnny J
			Lasseigne, Marlene
			Lasseigne, Nolan J
			Lasseigne, Trent
			Lat, Chhiet
			Latapie, Charlotte A
			Latapie, Crystal
			Latapie, Jerry
			Latapie, Joey G
			Latapie, Joseph
			Latapie, Joseph F Sr
			Latapie, Travis
			Latiolais, Craig J
			Latiolais, Joel
			Lau, Ho Thanh
			Laughlin, James G

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Laughlin, James Mitchell
			Laurent, Yvonne M
			Lavergne, Roger
			Lawdros, Terrance Jr
			Layrisson, Michael A III
			Le, Amanda
			Le, An Van
			Le, Ben
			Le, Binh T
			Le, Cheo Van
			Le, Chinh Thanh
			Le, Chinh Thanh and Yen Vo
			Le, Cu Thi
			Le, Dai M
			Le, Dale
			Le, David Rung
			Le, Du M
			Le, Duc V
			Le, Duoc M
			Le, Hien V
			Le, Houston T
			Le, Hung
			Le, Jimmy
			Le, Jimmy and Hoang
			Le, Khoa
			Le, Kim
			Le, Ky Van
			Le, Lang Van
			Le, Lily
			Le, Lisa Tuyet Thi
			Le, Loi
			Le, Minh Van
			Le, Muoi Van
			Le, My
			Le, My V
			Le, Nam and Xhan-Minh Le
			Le, Nam Van
			Le, Nhieu T
			Le, Nhut Hoang
			Le, Nu Thi
			Le, Phuc Van
			Le, Que V
			Le, Quy
			Le, Robert
			Le, Sam Van
			Le, Sau V
			Le, Son
			Le, Son
			Le, Son H
			Le, Son Quoc
			Le, Son Van

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Le, Su
			Le, Tam V
			Le, Thanh Huong
			Le, Tong Minh
			Le, Tony
			Le, Tracy Lan Chi
			Le, Tuan Nhu
			Le, Viet Hoang
			Le, Vui
			Leaf, Andrew Scott
			Leary, Roland
			LeBeauf, Thomas
			LeBlanc, Donnie
			LeBlanc, Edwin J
			LeBlanc, Enoch P
			LeBlanc, Gareth R III
			LeBlanc, Gareth R Jr
			LeBlanc, Gerald E
			LeBlanc, Hubert C
			LeBlanc, Jerald
			LeBlanc, Jesse Jr
			LeBlanc, Keenon Anthony
			LeBlanc, Lanvin J
			LeBlanc, Luke A
			LeBlanc, Marty J
			LeBlanc, Marty J Jr
			LeBlanc, Mickel J
			LeBlanc, Robert Patrick
			LeBlanc, Scotty M
			LeBlanc, Shelton
			LeBlanc, Terry J
			LeBoeuf, Brent J
			LeBoeuf, Emery J
			LeBoeuf, Joseph R
			LeBoeuf, Tammy Y
			LeBouef, Dale
			LeBouef, Edward J
			LeBouef, Ellis J Jr
			LeBouef, Gillis
			LeBouef, Jimmie
			LeBouef, Leslie
			LeBouef, Lindy J
			LeBouef, Micheal J
			LeBouef, Raymond
			LeBouef, Tommy J
			LeBouef, Wiley Sr
			LeBourgeois, Stephen A
			LeCompte, Alena
			LeCompte, Aubrey J
			LeCompte, Etha
			LeCompte, Jesse C Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			LeCompte, Jesse Jr
			LeCompte, Jesse Sr
			LeCompte, Lyle
			LeCompte, Patricia F
			LeCompte, Todd
			LeCompte, Troy A Sr
			Ledet, Brad
			Ledet, Bryan
			Ledet, Carlton
			Ledet, Charles J
			Ledet, Jack A
			Ledet, Kenneth A
			Ledet, Mark
			Ledet, Maxine B
			Ledet, Mervin
			Ledet, Phillip John
			Ledoux, Dennis
			Ledwig, Joe J
			Lee, Carl
			Lee, James K
			Lee, Marilyn
			Lee, Otis M Jr
			Lee, Raymond C
			Lee, Robert E
			Lee, Steven J
			Leek, Mark A
			LeGaux, Roy J Jr
			Legendre, Kerry
			Legendre, Paul
			Leger, Andre
			LeGros, Alex M
			LeJeune, Philip Jr
			LeJeune, Philip Sr
			LeJeune, Ramona V
			LeJeunee, Debbie
			LeJuine, Eddie R
			LeLand, Allston Bochet
			Leland, Rutledge B III
			Leland, Rutledge B Jr
			LeLeaux, David
			Leleux, Kevin J
			Lemoine, Jeffery Jr
			Leonard, Dan
			Leonard, Dexter J Jr
			Leonard, Micheal A
			Lepine, Leroy L
			Lesso, Rudy Jr
			Lester, Shawn
			Levron, Dale T
			Levy, Patrick T
			Lewis, Kenneth

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Lewis, Mark Steven
			Libersat, Anthony R
			Libersat, Kim
			Licatino, Daniel Jr
			Lichenstein, Donald L
			Lilley, Douglas P
			Lim, Chhay
			Lim, Koung
			Lim, Tav Seng
			Linden, Eric L
			Liner, Claude J Jr
			Liner, Harold
			Liner, Jerry
			Liner, Kevin
			Liner, Michael B Sr
			Liner, Morris T Jr
			Liner, Morris T Sr
			Liner, Tandy M
			Linh, Pham
			Linwood, Dolby
			Lirette, Alex J Sr
			Lirette, Bobby and Sheri
			Lirette, Chester Patrick
			Lirette, Daniel J
			Lirette, Dean J
			Lirette, Delvin J Jr
			Lirette, Delvin Jr
			Lirette, Desaire J
			Lirette, Eugis P Sr
			Lirette, Guy A
			Lirette, Jeannie
			Lirette, Kern A
			Lirette, Ron C
			Lirette, Russell (Chico) Jr
			Lirette, Shaun Patrick
			Lirette, Terry J Sr
			Little, William A
			Little, William Boyd
			Liv, Niem S
			Livaudais, Ernest J
			Liverman, Harry R
			LoBue, Michael Anthony Sr
			Locascio, Dustin
			Lockhart, William T
			Lodrigue, Jimmy A
			Lodrigue, Kerry
			Lombardo, Joseph P
			Lombas, James A Jr
			Lombas, Kim D
			Londrie, Harley
			Long, Cao Thanh

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Long, Dinh
			Long, Robert
			Longo, Ronald S Jr
			Longwater, Ryan Heath
			Loomer, Rhonda
			Lopez, Celestino
			Lopez, Evelio
			Lopez, Harry N
			Lopez, Ron
			Lopez, Scott
			Lopez, Stephen R Jr
			Lord, Michael E Sr
			Loupe, George Jr
			Loupe, Ted
			Lovell, Billy
			Lovell, Bobby Jason
			Lovell, Bradford John
			Lovell, Charles J Jr
			Lovell, Clayton
			Lovell, Douglas P
			Lovell, Jacob G
			Lovell, Lois
			Lovell, Slade M
			Luke, Bernadette C
			Luke, David
			Luke, Dustan
			Luke, Henry
			Luke, Jeremy Paul
			Luke, Keith J
			Luke, Patrick A
			Luke, Patrick J
			Luke, Paul Leroy
			Luke, Rudolph J
			Luke, Samantha
			Luke, Sidney Jr
			Luke, Terry Patrick Jr
			Luke, Terry Patrick Sr
			Luke, Timothy
			Luke, Wiltz J
			Lund, Ora G
			Luneau, Ferrell J
			Luong, Kevin
			Luong, Thu X
			Luscy, Lydia
			Luscy, Richard
			Lutz, William A
			Luu, Binh
			Luu, Vinh
			Luu, Vinh V
			Ly, Bui
			Ly, Hen

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ly, Hoc
			Ly, Kelly D
			Ly, Nu
			Ly, Sa
			Ly, Ven
			Lyall, Rosalie
			Lycett, James A
			Lyons, Berton J
			Lyons, Berton J Sr
			Lyons, Jack
			Lyons, Jerome M
			Mackey, Marvin Sr
			Mackie, Kevin L
			Maggio, Wayne A
			Magwood, Edwin Wayne
			Mai, Danny V
			Mai, Lang V
			Mai, Tai
			Mai, Trach Xuan
			Maise, Rubin J
			Maise, Todd
			Majoue, Ernest J
			Majoue, Nathan L
			Malcombe, David
			Mallett, Irvin Ray
			Mallett, Jimmie
			Mallett, Lawrence J
			Mallett, Mervin B
			Mallett, Rainbow
			Mallett, Stephney
			Malley, Ned F Jr
			Mamolo, Charles H Sr
			Mamolo, Romeo C Jr
			Mamolo, Terry A
			Mancera, Jesus
			Manuel, Joseph R
			Manuel, Shon
			Mao, Chandarasy
			Mao, Kim
			Marcel, Michelle
			Marchese, Joe Jr
			Mareno, Ansley
			Mareno, Brent J
			Mareno, Kenneth L
			Marie, Allen J
			Marie, Marty
			Marmande, Al
			Marmande, Alidore
			Marmande, Denise
			Marquize, Heather
			Marquize, Kip

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Marris, Roy C Jr
			Martin, Darren
			Martin, Dean J
			Martin, Dennis
			Martin, Jody W
			Martin, John F III
			Martin, Michael A
			Martin, Nora S
			Martin, Rod J
			Martin, Roland J Jr
			Martin, Russel J Sr
			Martin, Sharon J
			Martin, Tanna G
			Martin, Wendy
			Martinez, Carl R
			Martinez, Henry
			Martinez, Henry Joseph
			Martinez, Lupe
			Martinez, Michael
			Martinez, Rene J
			Mason, James F Jr
			Mason, Johnnie W
			Mason, Luther
			Mason, Mary Lois
			Mason, Percy D Jr
			Mason, Walter
			Matherne, Anthony
			Matherne, Blakland Sr
			Matherne, Bradley J
			Matherne, Claude I Jr
			Matherne, Clifford P
			Matherne, Curlis J
			Matherne, Forest J
			Matherne, George J
			Matherne, Glenn A
			Matherne, Grace L
			Matherne, James C
			Matherne, James J Jr
			Matherne, James J Sr
			Matherne, Joey A
			Matherne, Keith
			Matherne, Larry Jr
			Matherne, Louis M Sr
			Matherne, Louis Michael
			Matherne, Nelson
			Matherne, Thomas G
			Matherne, Thomas G Jr
			Matherne, Thomas Jr
			Matherne, Thomas M Sr
			Matherne, Wesley J
			Mathews, Patrick

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Mathurne, Barry
			Matte, Martin J Sr
			Mauldin, Johnny
			Mauldin, Mary
			Mauldin, Shannon
			Mavar, Mark D
			Mayeux, Lonies A Jr
			Mayeux, Roselyn P
			Mayfield, Gary
			Mayfield, Henry A Jr
			Mayfield, James J III
			Mayon, Allen J
			Mayon, Wayne Sr
			McAnespy, Henry
			McAnespy, Louis
			McCall, Marcus H
			McCall, R Terry Sr
			McCarthy, Carliss
			McCarthy, Michael
			McCauley, Byron Keith
			McCauley, Katrina
			McClantoc, Robert R and Debra
			McClellan, Eugene Gardner
			McCormick, Len
			McCuiston, Denny Carlton
			McDonald, Allan
			McElroy, Harry J
			McFarlain, Merlin J Jr
			McGuinn, Dennis
			McIntosh, James Richard
			McIntyre, Michael D
			McIver, John H Jr
			McKendree, Roy
			McKenzie, George B
			McKinzie, Bobby E
			McKoin, Robert
			McKoin, Robert F Jr
			McLendon, Jonathon S
			McNab, Robert Jr
			McQuaig, Don W
			McQuaig, Oliver J
			Medine, David P
			Mehaffey, John P
			Melancon, Brent K
			Melancon, Neva
			Melancon, Rickey
			Melancon, Roland Jr
			Melancon, Roland T Jr
			Melancon, Sean P
			Melancon, Terral J
			Melancon, Timmy J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Melanson, Ozimea J III
			Melerine, Angela
			Melerine, Brandon T
			Melerine, Claude A
			Melerine, Claude A Jr
			Melerine, Dean J
			Melerine, Eric W Jr
			Melerine, John D Sr
			Melerine, Linda C
			Melerine, Raymond Joseph
			Melford, Daniel W Sr
			Mello, Nelvin
			Men, Sophin
			Menendez, Wade E
			Menesses, Dennis
			Menesses, James H
			Menesses, Jimmy
			Menesses, Louis
			Menge, Lionel A
			Menge, Vincent J
			Mercy, Dempsey
			Merrick, Harold A
			Merrick, Kevin Sr
			Merritt, Darren Sr
			Messer, Chase
			Meyers, Otis J
			Miarm, Soeum
			Michel, Steven D
			Middleton, Dan Sr
			Migues, Henry
			Migues, Kevin L Sr
			Milam, Ricky
			Miles, Ricky David
			Miley, Donna J
			Militello, Joseph
			Miller, David W
			Miller, Fletcher N
			Miller, James A
			Miller, Larry B
			Miller, Mabry Allen Jr
			Miller, Michael E
			Miller, Michele K
			Miller, Randy A
			Miller, Rhonda E
			Miller, Wayne
			Millet, Leon B
			Millington, Donnie
			Millington, Ronnie
			Millis, Moses
			Millis, Raeford
			Millis, Timmie Lee

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Mine, Derrick
			Miner, Peter G
			Minh, Kha
			Minh, Phuc-Truong
			Mitchell, Ricky Allen
			Mitchell, Todd
			Mitchum, Francis Craig
			Mixon, G C
			Mobley, Bryan A
			Mobley, Jimmy Sr
			Mobley, Robertson
			Mock, Frank Sr
			Mock, Frankie E Jr
			Mock, Jesse R II
			Mock, Terry Lyn
			Molero, Louis F III
			Molero, Louis Frank
			Molinere, Al L
			Molinere, Floyd
			Molinere, Roland Jr
			Molinere, Stacey
			Moll, Angela
			Moll, Jerry J Jr
			Moll, Jonathan P
			Moll, Julius J
			Moll, Randall Jr
			Mollere, Randall
			Mones, Philip J Jr
			Mones, Tino
			Moody, Guy D
			Moore, Carl Stephen
			Moore, Curtis L
			Moore, Kenneth
			Moore, Richard
			Moore, Willis
			Morales, Anthony
			Morales, Clinton A
			Morales, Daniel Jr
			Morales, Daniel Sr
			Morales, David
			Morales, Elwood J Jr
			Morales, Eugene J Jr
			Morales, Eugene J Sr
			Morales, Kimberly
			Morales, Leonard L
			Morales, Phil J Jr
			Morales, Raul
			Moran, Scott
			Moreau, Allen Joseph
			Moreau, Berlin J Sr
			Moreau, Daniel R

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Moreau, Hubert J
			Moreau, Mary
			Moreau, Rickey J Sr
			Morehead, Arthur B Jr
			Moreno, Ansley
			Morgan, Harold R
			Morici, John
			Morris, Herbert Eugene
			Morris, Jesse A
			Morris, Jesse A Sr
			Morris, Preston
			Morrison, Stephen D Jr
			Morton, Robert A
			Morvant, Keith M
			Morvant, Patsy Lishman
			Moschettieri, Chalam
			Moseley, Kevin R
			Motley, Michele
			Mouille, William L
			Mouton, Ashton J
			Moveront, Timothy
			Mund, Mark
			Murphy, Denis R
			Muth, Gary J Sr
			Myers, Joseph E Jr
			Na, Tran Van
			Naccio, Andrew
			Nacio, Lance M
			Nacio, Noel
			Nacio, Philocles J Sr
			Naquin, Alton J
			Naquin, Andrew J Sr
			Naquin, Antoine Jr
			Naquin, Autry James
			Naquin, Bobby J and Sheila
			Naquin, Bobby Jr
			Naquin, Christine
			Naquin, Dean J
			Naquin, Donna P
			Naquin, Earl
			Naquin, Earl L
			Naquin, Freddie
			Naquin, Gerald
			Naquin, Henry
			Naquin, Irvin J
			Naquin, Jerry Joseph Jr
			Naquin, Kenneth J Jr
			Naquin, Kenneth J Sr
			Naquin, Linda L
			Naquin, Lionel A Jr
			Naquin, Mark D Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Naquin, Marty J Sr
			Naquin, Milton H IV
			Naquin, Oliver A
			Naquin, Robert
			Naquin, Roy A
			Naquin, Vernon
			Navarre, Curtis J
			Navero, Floyd G Jr
			Neal, Craig A
			Neal, Roy J Jr
			Neely, Bobby H
			Nehlig, Raymond E Sr
			Neil, Dean
			Neil, Jacob
			Neil, Julius
			Neil, Robert J Jr
			Neil, Tommy Sr
			Nelson, Billy J Sr
			Nelson, Deborah
			Nelson, Elisha W
			Nelson, Ernest R
			Nelson, Faye
			Nelson, Fred H Sr
			Nelson, Gordon Kent Sr
			Nelson, Gordon W III
			Nelson, Gordon W Jr
			Nelson, John Andrew
			Nelson, William Owen Jr
			Nelton, Aaron J Jr
			Nelton, Steven J
			Nettleton, Cody
			Newell, Ronald B
			Newsome, Thomas E
			Newton, Paul J
			Nghiem, Billy
			Ngo, Chuong Van
			Ngo, Duc
			Ngo, Hung V
			Ngo, Liem Thanh
			Ngo, Maxie
			Ngo, The T
			Ngo, Truong Dinh
			Ngo, Van Lo
			Ngo, Vu Hoang
			Ngoc, Lam Lam
			Ngu,Thoi
			Nguyen, Amy
			Nguyen, An Hoang
			Nguyen, Andy Dung
			Nguyen, Andy T
			Nguyen, Anh and Thanh D Tiet

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Ba
			Nguyen, Ba Van
			Nguyen, Bac Van
			Nguyen, Bao Q
			Nguyen, Bay Van
			Nguyen, Be
			Nguyen, Be
			Nguyen, Be
			Nguyen, Be Em
			Nguyen, Bich Thao
			Nguyen, Bien V
			Nguyen, Binh
			Nguyen, Binh Cong
			Nguyen, Binh V
			Nguyen, Binh Van
			Nguyen, Binh Van
			Nguyen, Binh Van
			Nguyen, Bui Van
			Nguyen, Ca Em
			Nguyen, Can
			Nguyen, Can Van
			Nguyen, Canh V
			Nguyen, Charlie
			Nguyen, Chien
			Nguyen, Chien Van
			Nguyen, Chin
			Nguyen, Chinh Van
			Nguyen, Christian
			Nguyen, Chuc
			Nguyen, Chung
			Nguyen, Chung Van
			Nguyen, Chuong Hoang
			Nguyen, Chuong V
			Nguyen, Chuyen
			Nguyen, Coolly Dinh
			Nguyen, Cuong
			Nguyen, Dai
			Nguyen, Dan T
			Nguyen, Dan Van
			Nguyen, Dan Van
			Nguyen, Dang
			Nguyen, Danny
			Nguyen, David
			Nguyen, Day Van
			Nguyen, De Van
			Nguyen, Den
			Nguyen, Diem
			Nguyen, Dien
			Nguyen, Diep
			Nguyen, Dinh
			Nguyen, Dinh V

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Dong T
			Nguyen, Dong Thi
			Nguyen, Dong X
			Nguyen, Duc
			Nguyen, Duc Van
			Nguyen, Dung
			Nguyen, Dung Anh and Xuan Duong
			Nguyen, Dung Ngoc
			Nguyen, Dung Van
			Nguyen, Dung Van
			Nguyen, Duoc
			Nguyen, Duong V
			Nguyen, Duong Van
			Nguyen, Duong Xuan
			Nguyen, Francis N
			Nguyen, Frank
			Nguyen, Gary
			Nguyen, Giang T
			Nguyen, Giang Truong
			Nguyen, Giau Van
			Nguyen, Ha T
			Nguyen, Ha Van
			Nguyen, Hai Van
			Nguyen, Hai Van
			Nguyen, Han Van
			Nguyen, Han Van
			Nguyen, Hang
			Nguyen, Hanh T
			Nguyen, Hao Van
			Nguyen, Harry H
			Nguyen, Henri Hiep
			Nguyen, Henry-Trang
			Nguyen, Hien
			Nguyen, Hien V
			Nguyen, Hiep
			Nguyen, Ho
			Nguyen, Ho V
			Nguyen, Hoa
			Nguyen, Hoa
			Nguyen, Hoa N
			Nguyen, Hoa Van
			Nguyen, Hoang
			Nguyen, Hoang
			Nguyen, Hoang T
			Nguyen, Hoi
			Nguyen, Hon Xuong
			Nguyen, Huan
			Nguyen, Hung
			Nguyen, Hung
			Nguyen, Hung
			Nguyen, Hung M

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Hung Manh
			Nguyen, Hung Van
			Nguyen, Hung-Joseph
			Nguyen, Huu Nghia
			Nguyen, Hy Don N
			Nguyen, Jackie Tin
			Nguyen, James
			Nguyen, James N
			Nguyen, Jefferson
			Nguyen, Jennifer
			Nguyen, Jimmy
			Nguyen, Jimmy
			Nguyen, Joachim
			Nguyen, Joe
			Nguyen, John R
			Nguyen, John Van
			Nguyen, Johnny
			Nguyen, Joseph Minh
			Nguyen, Kenny Hung Mong
			Nguyen, Kevin
			Nguyen, Khai
			Nguyen, Khanh
			Nguyen, Khanh and Viet Dinh
			Nguyen, Khanh Q
			Nguyen, Khiem
			Nguyen, Kien Phan
			Nguyen, Kim
			Nguyen, Kim Mai
			Nguyen, Kim Thoa
			Nguyen, Kinh V
			Nguyen, Lai
			Nguyen, Lai
			Nguyen, Lai Tan
			Nguyen, Lam
			Nguyen, Lam Van
			Nguyen, Lam Van
			Nguyen, Lam Van
			Nguyen, Lan
			Nguyen, Lang
			Nguyen, Lang
			Nguyen, Lanh
			Nguyen, Lap Van
			Nguyen, Lap Van
			Nguyen, Le
			Nguyen, Lien and Hang Luong
			Nguyen, Lien Thi
			Nguyen, Linda Oan
			Nguyen, Linh Thi
			Nguyen, Linh Van
			Nguyen, Lintt Danny
			Nguyen, Lluu

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Loc
			Nguyen, Loi
			Nguyen, Loi
			Nguyen, Long Phi
			Nguyen, Long T
			Nguyen, Long Viet
			Nguyen, Luom T
			Nguyen, Mai Van
			Nguyen, Man
			Nguyen, Mao-Van
			Nguyen, Mary
			Nguyen, Mary
			Nguyen, Melissa
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh
			Nguyen, Minh Ngoc
			Nguyen, Minh Van
			Nguyen, Moot
			Nguyen, Mui Van
			Nguyen, Mung T
			Nguyen, Muoi
			Nguyen, My Le Thi
			Nguyen, My Tan
			Nguyen, My V
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nam Van
			Nguyen, Nancy
			Nguyen, Nancy
			Nguyen, Nghi
			Nguyen, Nghi Q
			Nguyen, Nghia
			Nguyen, Nghiep
			Nguyen, Ngoc Tim
			Nguyen, Ngoc Van
			Nguyen, Nguyet
			Nguyen, Nhi
			Nguyen, Nho Van
			Nguyen, Nina
			Nguyen, Nuong
			Nguyen, Peter
			Nguyen, Peter Thang
			Nguyen, Peter V
			Nguyen, Phe
			Nguyen, Phong
			Nguyen, Phong Ngoc
			Nguyen, Phong T

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Phong Xuan
			Nguyen, Phu Huu
			Nguyen, Phuc
			Nguyen, Phuoc H
			Nguyen, Phuoc Van
			Nguyen, Phuong
			Nguyen, Phuong
			Nguyen, Quang
			Nguyen, Quang
			Nguyen, Quang Dang
			Nguyen, Quang Dinh
			Nguyen, Quang Van
			Nguyen, Quoc Van
			Nguyen, Quyen Minh
			Nguyen, Quyen T
			Nguyen, Quyen-Van
			Nguyen, Ran T
			Nguyen, Randon
			Nguyen, Richard
			Nguyen, Richard Nghia
			Nguyen, Rick Van
			Nguyen, Ricky Tinh
			Nguyen, Roe Van
			Nguyen, Rose
			Nguyen, Sam
			Nguyen, Sandy Ha
			Nguyen, Sang Van
			Nguyen, Sau V
			Nguyen, Si Ngoc
			Nguyen, Son
			Nguyen, Son Thanh
			Nguyen, Son Van
			Nguyen, Song V
			Nguyen, Steve
			Nguyen, Steve Q
			Nguyen, Steven Giap
			Nguyen, Sung
			Nguyen, Tai
			Nguyen, Tai The
			Nguyen, Tai Thi
			Nguyen, Tam
			Nguyen, Tam Minh
			Nguyen, Tam Thanh
			Nguyen, Tam V
			Nguyen, Tam Van
			Nguyen, Tan
			Nguyen, Ten Tan
			Nguyen, Thach
			Nguyen, Thang
			Nguyen, Thanh
			Nguyen, Thanh

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Thanh
			Nguyen, Thanh Phuc
			Nguyen, Thanh V
			Nguyen, Thanh Van
			Nguyen, Thanh Van
			Nguyen, Thanh Van
			Nguyen, Thanh Van
			Nguyen, Thao
			Nguyen, Thi Bich Hang
			Nguyen, Thiet
			Nguyen, Thiet
			Nguyen, Tho Duke
			Nguyen, Thoa D
			Nguyen, Thoa Thi
			Nguyen, Thomas
			Nguyen, Thu
			Nguyen, Thu and Rose
			Nguyen, Thu Duc
			Nguyen, Thu Van
			Nguyen, Thuan
			Nguyen, Thuan
			Nguyen, Thuong
			Nguyen, Thuong Van
			Nguyen, Thuy
			Nguyen, Thuyen
			Nguyen, Thuyen
			Nguyen, Tinh
			Nguyen, Tinh Van
			Nguyen, Toan
			Nguyen, Toan Van
			Nguyen, Tommy
			Nguyen, Tony
			Nguyen, Tony
			Nguyen, Tony
			Nguyen, Tony D
			Nguyen, Tony Hong
			Nguyen, Tony Si
			Nguyen, Tra
			Nguyen, Tra
			Nguyen, Tracy T
			Nguyen, Tri D
			Nguyen, Trich Van
			Nguyen, Trung Van
			Nguyen, Tu Van
			Nguyen, Tuan
			Nguyen, Tuan A
			Nguyen, Tuan H
			Nguyen, Tuan Ngoc
			Nguyen, Tuan Q
			Nguyen, Tuan Van
			Nguyen, Tung

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Nguyen, Tuyen Duc
			Nguyen, Tuyen Van
			Nguyen, Ty and Ngoc Ngo
			Nguyen, Van H
			Nguyen, Van Loi
			Nguyen, Vang Van
			Nguyen, Viet
			Nguyen, Viet
			Nguyen, Viet V
			Nguyen, Viet Van
			Nguyen, Vinh Van
			Nguyen, Vinh Van
			Nguyen, Vinh Van
			Nguyen, VT
			Nguyen, Vu Minh
			Nguyen, Vu T
			Nguyen, Vu Xuan
			Nguyen, Vui
			Nguyen, Vuong V
			Nguyen, Xuong Kim
			Nhan, Tran Quoc
			Nhon, Seri
			Nichols, Steve Anna
			Nicholson, Gary
			Nixon, Leonard
			Noble, Earl
			Noland, Terrel W
			Normand, Timothy
			Norris, Candace P
			Norris, John A
			Norris, Kenneth L
			Norris, Kevin J
			Nowell, James E
			Noy, Phen
			Nunez, Conrad
			Nunez, Jody
			Nunez, Joseph Paul
			Nunez, Randy
			Nunez, Wade Joseph
			Nyuyen, Toan
			Oberling, Darryl
			O'Blance, Adam
			O'Brien, Gary S
			O'Brien, Mark
			O'Brien, Michele
			Ogden, John M
			Oglesby, Henry
			Oglesby, Phyllis
			O'Gwynn, Michael P Sr
			Ohmer, Eva G
			Ohmer, George J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Olander, Hazel
			Olander, Rodney
			Olander, Roland J
			Olander, Russell J
			Olander, Thomas
			Olano, Kevin
			Olano, Owen J
			Olano, Shelby F
			Olds, Malcolm D Jr
			Olinde, Wilfred J Jr
			Oliver, Charles
			O'Neil, Carey
			Oracoy, Brad R
			Orage, Eugene
			Orlando, Het
			Oteri, Robert F
			Oubre, Faron P
			Oubre, Thomas W
			Ourks, SokHoms K
			Owens, Larry E
			Owens, Sheppard
			Owens, Timothy
			Pacaccio, Thomas Jr
			Padgett, Kenneth J
			Palmer, Gay Ann P
			Palmer, John W
			Palmer, Mack
			Palmisano, Daniel P
			Palmisano, Dwayne Jr
			Palmisano, Kim
			Palmisano, Larry J
			Palmisano, Leroy J
			Palmisano, Robin G
			Pam, Phuong Bui
			Parfait, Antoine C Jr
			Parfait, Jerry Jr
			Parfait, John C
			Parfait, Joshua K
			Parfait, Mary F
			Parfait, Mary S
			Parfait, Olden G Jr
			Parfait, Robert C Jr
			Parfait, Robert C Sr
			Parfait, Rodney
			Parfait, Shane A
			Parfait, Shelton J
			Parfait, Timmy J
			Parker, Clyde A
			Parker, Franklin L
			Parker, Paul A
			Parker, Percy Todd

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Parks, Daniel Duane
			Parks, Ellery Doyle Jr
			Parrett, Joseph D Jr
			Parria, Danny
			Parria, Gavin C Sr
			Parria, Gillis F Jr
			Parria, Gillis F Sr
			Parria, Jerry D
			Parria, Kip G
			Parria, Lionel J Sr
			Parria, Louis III
			Parria, Louis J Sr
			Parria, Louis Jr
			Parria, Michael
			Parria, Ronald
			Parria, Ross
			Parria, Troy M
			Parrish, Charles
			Parrish, Walter L
			Passmore, Penny
			Pate, Shane
			Paterbaugh, Richard
			Patingo, Roger D
			Paul, Robert Emmett
			Payne, John Francis
			Payne, Stuart
			Peatross, David A
			Pelas, James Curtis
			Pelas, Jeffery
			Pellegrin, Corey P
			Pellegrin, Curlynn
			Pellegrin, James A Jr
			Pellegrin, Jordey
			Pellegrin, Karl
			Pellegrin, Karl J
			Pellegrin, Randy
			Pellegrin, Randy Sr
			Pellegrin, Rodney J Sr
			Pellegrin, Samuel
			Pellegrin, Troy Sr
			Peltier, Clyde
			Peltier, Rodney J
			Pena, Bartolo Jr
			Pena, Israel
			Pendarvis, Gracie
			Pennison, Elaine
			Pennison, Milton G
			Pequeno, Julius
			Percle, David P
			Perez, Allen M
			Perez, David J

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Perez, David P
			Perez, Derek
			Perez, Edward Jr
			Perez, Henry Jr
			Perez, Joe B
			Perez, Tilden A Jr
			Perez, Warren A Jr
			Perez, Warren A Sr
			Perez, Wesley
			Perrin, Dale
			Perrin, David M
			Perrin, Edward G Sr
			Perrin, Errol Joseph Jr
			Perrin, Jerry J
			Perrin, Kenneth V
			Perrin, Kevin
			Perrin, Kline J Sr
			Perrin, Kurt M
			Perrin, Michael
			Perrin, Michael A
			Perrin, Murphy P
			Perrin, Nelson C Jr
			Perrin, Pershing J Jr
			Perrin, Robert
			Perrin, Tim J
			Perrin, Tony
			Persohn, William T
			Peshoff, Kirk Lynn
			Pete, Alfred F Jr
			Pete, Alfred F Sr
			Pfleeger, William A
			Pham, An V
			Pham, Anh My
			Pham, Bob
			Pham, Cho
			Pham, Cindy
			Pham, David
			Pham, Dung
			Pham, Dung Phuoc
			Pham, Dung Phuoc
			Pham, Duong Van
			Pham, Gai
			Pham, Hai
			Pham, Hai Hong
			Pham, Hien
			Pham, Hien C
			Pham, Hiep
			Pham, Hieu
			Pham, Huan Van
			Pham, Hung
			Pham, Hung V

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Pham, Hung V
			Pham, Huynh
			Pham, John
			Pham, Johnny
			Pham, Joseph S
			Pham, Kannin
			Pham, Nga T
			Pham, Nhung T
			Pham, Osmond
			Pham, Paul P
			Pham, Phong-Thanh
			Pham, Phung
			Pham, Quoc V
			Pham, Steve Ban
			Pham, Steve V
			Pham, Thai Van
			Pham, Thai Van
			Pham, Thanh
			Pham, Thanh
			Pham, Thanh V
			Pham, Thinh
			Pham, Thinh V
			Pham, Tommy V
			Pham, Tran and Thu Quang
			Pham, Ut Van
			Phan, Anh Thi
			Phan, Banh Van
			Phan, Cong Van
			Phan, Dan T
			Phan, Hoang
			Phan, Hung Thanh
			Phan, Johnny
			Phan, Lam
			Phan, Luyen Van
			Phan, Nam V
			Phan, Thong
			Phan, Tien V
			Phan, Toan
			Phan, Tu Van
			Phat, Lam Mau
			Phelps, John D
			Phillips, Bruce A
			Phillips, Danny D
			Phillips, Gary
			Phillips, Harry Louis
			Phillips, James C Jr
			Phillips, Kristrina W
			Phipps, AW
			Phonthaasa, Khaolop
			Phorn, Phen
			Pickett, Kathy

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Picou, Calvin Jr
			Picou, Gary M
			Picou, Jennifer
			Picou, Jerome J
			Picou, Jordan J
			Picou, Randy John
			Picou, Ricky Sr
			Picou, Terry
			Pierce, Aaron
			Pierce, Dean
			Pierce, Elwood
			Pierce, Imogene
			Pierce, Stanley
			Pierce, Taffie Boone
			Pierre, Ivy
			Pierre, Joseph
			Pierre, Joseph C Jr
			Pierre, Paul J
			Pierre, Ronald J
			Pierron, Jake
			Pierron, Patsy H
			Pierron, Roger D
			Pinell, Ernie A
			Pinell, Harry J Jr
			Pinell, Jody J
			Pinell, Randall James
			Pinnell, Richard J
			Pinnell, Robert
			Pitre, Benton J
			Pitre, Carol
			Pitre, Claude A Sr
			Pitre, Elrod
			Pitre, Emily B
			Pitre, Glenn P
			Pitre, Herbert
			Pitre, Jeannie
			Pitre, Leo P
			Pitre, Robert Jr
			Pitre, Robin
			Pitre, Ryan P
			Pitre, Ted J
			Pittman, Roger
			Pizani, Bonnie
			Pizani, Craig
			Pizani, Jane
			Pizani, Terrill J
			Pizani, Terry M
			Pizani, Terry M Jr
			Plaisance, Arthur E
			Plaisance, Burgess
			Plaisance, Darren

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Plaisance, Dean J Sr
			Plaisance, Dorothy B
			Plaisance, Dwayne
			Plaisance, Earl J Jr
			Plaisance, Errance H
			Plaisance, Evans P
			Plaisance, Eves A III
			Plaisance, Gideons
			Plaisance, Gillis S
			Plaisance, Henry A Jr
			Plaisance, Jacob
			Plaisance, Jimmie J
			Plaisance, Joyce
			Plaisance, Keith
			Plaisance, Ken G
			Plaisance, Lawrence J
			Plaisance, Lucien Jr
			Plaisance, Peter A Sr
			Plaisance, Peter Jr
			Plaisance, Richard J
			Plaisance, Russel P
			Plaisance, Russell P Sr
			Plaisance, Thomas
			Plaisance, Thomas J
			Plaisance, Wayne P
			Plaisance, Whitney III
			Plork, Phan
			Poche, Glenn J Jr
			Poche, Glenn J Sr
			Pockrus, Gerald
			Poiencot, Russell Jr
			Poillion, Charles A
			Polito, Gerald
			Polkey, Gary J
			Polkey, Richard R Jr
			Polkey, Ronald
			Polkey, Shawn Michael
			Pollet, Lionel J Sr
			Pomgoria, Mario
			Ponce, Ben
			Ponce, Lewis B
			Poon, Raymond
			Pope, Robert
			Popham, Winford A
			Poppell, David M
			Porche, Ricky J
			Portier, Bobby
			Portier, Chad
			Portier, Corinne L
			Portier, Penelope J
			Portier, Robbie

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Portier, Russel A Sr
			Portier, Russell
			Potter, Hubert Edward Jr
			Potter, Robert D
			Potter, Robert J
			Pounds, Terry Wayne
			Powers, Clyde T
			Prejean, Dennis J
			Price, Carl
			Price, Curtis
			Price, Edwin J
			Price, Franklin J
			Price, George J Sr
			Price, Norris J Sr
			Price, Steve J Jr
			Price, Timmy T
			Price, Wade J
			Price, Warren J
			Prihoda, Steve
			Primeaux, Scott
			Pritchard, Dixie J
			Pritchard, James Ross Jr
			Prosperie, Claude J Jr
			Prosperie, Myron
			Prout, Rollen
			Prout, Sharonski K
			Prum, Thou
			Pugh, Charles D Jr
			Pugh, Charles Sr
			Pugh, Cody
			Pugh, Deanna
			Pugh, Donald
			Pugh, Nickolas
			Punch, Alvin Jr
			Punch, Donald J
			Punch, Todd M
			Punch, Travis J
			Purata, Maria
			Purse, Emil
			Purvis, George
			Quach, Duc
			Quach, James D
			Quach, Joe
			Quach, Si Tan
			Quinn, Dora M
			Racca, Charles
			Racine, Sylvan P Jr
			Radulic, Igor
			Ragas, Albert G
			Ragas, Gene
			Ragas, John D

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ragas, Jonathan
			Ragas, Richard A
			Ragas, Ronda S
			Ralph, Lester B
			Ramirez, Alfred J Jr
			Randazzo, John A Jr
			Randazzo, Rick A
			Rando, Stanley D
			Ranko, Ellis Gerald
			Rapp, Dwayne
			Rapp, Leroy and Sedonia
			Rawlings, John H Sr
			Rawlings, Ralph E
			Rawls, Norman E
			Ray, Leo
			Ray, William C Jr
			Raynor, Steven Earl
			Readenour, Kelty O
			Reagan, Roy
			Reason, Patrick W
			Reaux, Paul S Sr
			Reaves, Craig A
			Reaves, Laten
			Rebert, Paul J Sr
			Rebert, Steve M Jr
			Rebstock, Charles
			Rector, Lance Jr
			Rector, Warren L
			Redden, Yvonne
			Regnier, Leoncea B
			Remondet, Garland Jr
			Renard, Lanny
			Reno, Edward
			Reno, George C
			Reno, George H
			Reno, George T
			Reno, Harry
			Revell, Ben David
			Reyes, Carlton
			Reyes, Dwight D Sr
			Reynon, Marcello Jr
			Rhodes, Randolph N
			Rhoto, Christopher L
			Ribardi, Frank A
			Rich, Wanda Heafner
			Richard, Bruce J
			Richard, David L
			Richard, Edgar J
			Richard, James Ray
			Richard, Melissa
			Richard, Randall K

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Richardson, James T
			Richert, Daniel E
			Richo, Earl Sr
			Richoux, Dudley Donald Jr
			Richoux, Irvin J Jr
			Richoux, Judy
			Richoux, Larry
			Richoux, Mary A
			Riego, Raymond A
			Riffle, Josiah B
			Rigaud, Randall Ryan
			Riggs, Jeffrey B
			Riley, Jackie Sr
			Riley, Raymond
			Rinkus, Anthony J III
			Rios, Amado
			Ripp, Norris M
			Robbins, Tony
			Robert, Dan S
			Roberts, Michael A
			Robertson, Kevin
			Robeson, Richard S Jr
			Robichaux, Craig J
			Robin, Alvin G
			Robin, Cary Joseph
			Robin, Charles R III
			Robin, Danny J
			Robin, Donald
			Robin, Floyd A
			Robin, Kenneth J Sr
			Robin, Ricky R
			Robinson, Johnson P III
			Robinson, Walter
			Roccaforte, Clay
			Rodi, Dominick R
			Rodi, Rhonda
			Rodrigue, Brent J
			Rodrigue, Carrol Sr
			Rodrigue, Glenn
			Rodrigue, Lerlene
			Rodrigue, Reggie Sr
			Rodrigue, Sonya
			Rodrigue, Wayne
			Rodriguez, Barry
			Rodriguez, Charles V Sr
			Rodriguez, Gregory
			Rodriguez, Jesus
			Rodriguez, Joseph C Jr
			Roeum, Orn
			Rogers, Barry David
			Rogers, Chad

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Rogers, Chad M
			Rogers, Kevin J
			Rogers, Nathan J
			Rojas, Carlton J Sr
			Rojas, Curtis Sr
			Rojas, Dennis J Jr
			Rojas, Dennis J Sr
			Rojas, Gordon V
			Rojas, Kerry D
			Rojas, Kerry D Jr
			Rojas, Randy J Sr
			Rojas, Raymond J Jr
			Roland, Brad
			Roland, Mathias C
			Roland, Vincent
			Rollins, Theresa
			Rollo, Wayne A
			Rome, Victor J IV
			Romero, D H
			Romero, Kardel J
			Romero, Norman
			Romero, Philip J
			Ronquille, Glenn
			Ronquille, Norman C
			Ronquillo, Earl
			Ronquillo, Richard J
			Ronquillo, Timothy
			Roseburrough, Charles R Jr
			Ross, Dorothy
			Ross, Edward Danny Jr
			Ross, Leo L
			Ross, Robert A
			Roth, Joseph F Jr
			Roth, Joseph M Jr
			Rotolo, Carolyn
			Rotolo, Feliz
			Rouse, Jimmy
			Roussel, Michael D Jr
			Roy, Henry Lee Jr
			Rudolph, Chad A
			Ruiz, Donald W
			Ruiz, James L
			Ruiz, Paul E
			Ruiz, Paul R
			Russell, Bentley R
			Russell, Casey
			Russell, Daniel
			Russell, James III
			Russell, Julie Ann
			Russell, Michael J
			Russell, Nicholas M

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Russell, Paul
			Rustick, Kenneth
			Ruttley, Adrian K
			Ruttley, Ernest T Jr
			Ruttley, JT
			Ryan, James C Sr
			Rybiski, Rhebb R
			Ryder, Luther V
			Sadler, Stewart
			Sagnes, Everett
			Saha, Amanda K
			Saling, Don M
			Saltalamacchia, Preston J
			Saltalamacchia, Sue A
			Salvato, Lawrence Jr
			Samanie, Caroll J
			Samanie, Frank J
			Samsome, Don
			Sanamo, Troy P
			Sanchez, Augustine
			Sanchez, Jeffery A
			Sanchez, Juan
			Sanchez, Robert A
			Sanders, William Shannon
			Sandras, R J
			Sandras, R J Jr
			Sandrock, Roy R III
			Santini, Lindberg W Jr
			Santiny, James
			Santiny, Patrick
			Sapia, Carroll J Jr
			Sapia, Eddie J Jr
			Sapia, Willard
			Saturday, Michael Rance
			Sauce, Carlton Joseph
			Sauce, Joseph C Jr
			Saucier, Houston J
			Sauls, Russell
			Savage, Malcolm H
			Savant, Raymond
			Savoie, Allen
			Savoie, Brent T
			Savoie, James
			Savoie, Merlin F Jr
			Savoie, Reginald M II
			Sawyer, Gerald
			Sawyer, Rodney
			Scarabin, Clifford
			Scarabin, Michael J
			Schaffer, Kelly
			Schaubhut, Curry A

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Schellinger, Lester B Jr
			Schexnaydre, Michael
			Schirmer, Robert Jr
			Schjott, Joseph J Sr
			Schlindwein, Henry
			Schmit, Paul A Jr
			Schmit, Paul A Sr
			Schmit, Victor J Jr
			Schouest, Ellis J III
			Schouest, Ellis Jr
			Schouest, Juston
			Schouest, Mark
			Schouest, Noel
			Schrimpf, Robert H Jr
			Schultz, Troy A
			Schwartz, Sidney
			Scott, Aaron J
			Scott, Audie B
			Scott, James E III
			Scott, Milford P
			Scott, Paul
			Seabrook, Terry G
			Seal, Charles T
			Seal, Joseph G
			Seaman, Garry
			Seaman, Greg
			Seaman, Ollie L Jr
			Seaman, Ollie L Sr
			Seang, Meng
			Sehon, Robert Craig
			Sekul, Morris G
			Sekul, S George
			Sellers, Isaac Charles
			Seng, Sophan
			Serigne, Adam R
			Serigne, Elizabeth
			Serigne, James J III
			Serigne, Kimmie J
			Serigne, Lisa M
			Serigne, Neil
			Serigne, O'Neil N
			Serigne, Richard J Sr
			Serigne, Rickey N
			Serigne, Ronald Raymond
			Serigne, Ronald Roch
			Serigne, Ross
			Serigny, Gail
			Serigny, Wayne A
			Serpas, Lenny Jr
			Sessions, William O III
			Sessions, William O Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Sevel, Michael D
			Sevin, Carl Anthony
			Sevin, Earline
			Sevin, Janell A
			Sevin, Joey
			Sevin, Nac J
			Sevin, O'Neil and Symantha
			Sevin, Phillip T
			Sevin, Shane
			Sevin, Shane Anthony
			Sevin, Stanley J
			Sevin, Willis
			Seymour, Janet A
			Shackelford, David M
			Shaffer, Curtis E
			Shaffer, Glynnon D
			Shay, Daniel A
			Shilling, Jason
			Shilling, L E
			Shugars, Robert L
			Shutt, Randy
			Sifuentes, Esteban
			Sifuentes, Fernando
			Silver, Curtis A Jr
			Simon, Curnis
			Simon, John
			Simon, Leo
			Simpson, Mark
			Sims, Donald L
			Sims, Mike
			Singley, Charlie Sr
			Singley, Glenn
			Singley, Robert Joseph
			Sirgo, Jace
			Sisung, Walter
			Sisung, Walter Jr
			Skinner, Gary M Sr
			Skinner, Richard
			Skipper, Malcolm W
			Skrmetta, Martin J
			Smelker, Brian H
			Smith, Brian
			Smith, Carl R Jr
			Smith, Clark W
			Smith, Danny
			Smith, Danny M Jr
			Smith, Donna
			Smith, Elmer T Jr
			Smith, Glenda F
			Smith, James E
			Smith, Margie T

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Smith, Mark A
			Smith, Nancy F
			Smith, Raymond C Sr
			Smith, Tim
			Smith, Walter M Jr
			Smith, William T
			Smithwick, Ted Wayne
			Smoak, Bill
			Smoak, William W III
			Snell, Erick
			Snodgrass, Sam
			Soeung, Phat
			Soileau, John C Sr
			Sok, Kheng
			Sok, Montha
			Sok, Nhip
			Solet, Darren
			Solet, Donald M
			Solet, Joseph R
			Solet, Raymond J
			Solorzano, Marilyn
			Son, Kim
			Son, Sam Nang
			Son, Samay
			Son, Thuong Cong
			Soprano, Daniel
			Sork, William
			Sou, Mang
			Soudelier, Louis Jr
			Soudelier, Shannon
			Sour, Yem Kim
			Southerland, Robert
			Speir, Barbara Kay
			Spell, Jeffrey B
			Spell, Mark A
			Spellmeyer, Joel F Sr
			Spencer, Casey
			Spiers, Donald A
			Sprinkle, Avery M
			Sprinkle, Emery Shelton Jr
			Sprinkle, Joseph Warren
			Squarsich, Kenneth J
			Sreiy, Siphan
			St Amant, Dana A
			St Ann, Mr and Mrs Jerome K
			St Pierre, Darren
			St Pierre, Scott A
			Staves, Patrick
			Stechmann, Chad
			Stechmann, Karl J
			Stechmann, Todd

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Steele, Arnold D Jr
			Steele, Henry H III
			Steen, Carl L
			Steen, James D
			Steen, Kathy G
			Stein, Norris J Jr
			Stelly, Adlar
			Stelly, Carl A
			Stelly, Chad P
			Stelly, Delores
			Stelly, Sandrus J Sr
			Stelly, Sandrus Jr
			Stelly, Toby J
			Stelly, Veronica G
			Stelly, Warren
			Stephenson, Louis
			Stevens, Alvin
			Stevens, Curtis D
			Stevens, Donald
			Stevens, Glenda
			Stewart, Chester Jr
			Stewart, Derald
			Stewart, Derek
			Stewart, Fred
			Stewart, Jason F
			Stewart, Ronald G
			Stewart, William C
			Stiffler, Thanh
			Stipelcovich, Lawrence L
			Stipelcovich, Todd J
			Stockfett, Brenda
			Stokes, Todd
			Stone-Rinkus, Pamela
			Strader, Steven R
			Strickland, Kenneth
			Strickland, Rita G
			Stuart, James Vernon
			Stutes, Rex E
			Sulak, Billy W
			Sun, Hong Sreng
			Surmik, Donald D
			Swindell, Keith M
			Sylve, Dennis A
			Sylve, James L
			Sylve, Nathan
			Sylve, Scott
			Sylvesr, Paul A
			Ta, Ba Van
			Ta, Chris
			Tabb, Calvin
			Taliancich, Andrew

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Taliancich, Ivan
			Taliancich, Joseph M
			Taliancich, Srecka
			Tan, Ho Dung
			Tan, Hung
			Tan, Lan T
			Tan, Ngo The
			Tang, Thanh
			Tanner, Robert Charles
			Taravella, Raymond
			Tassin, Alton J
			Tassin, Keith P
			Tate, Archie P
			Tate, Terrell
			Tauzier, Kevin M
			Taylor, Doyle L
			Taylor, Herman R
			Taylor, Herman R Jr
			Taylor, J P Jr
			Taylor, John C
			Taylor, Leander J Sr
			Taylor, Leo Jr
			Taylor, Lewis
			Taylor, Nathan L
			Taylor, Robert L
			Taylor, Robert M
			Teap, Phal
			Tek, Heng
			Templat, Paul
			Terluin, John L III
			Terrebonne, Adrein Scott
			Terrebonne, Alphonse J
			Terrebonne, Alton S Jr
			Terrebonne, Alton S Sr
			Terrebonne, Carol
			Terrebonne, Carroll
			Terrebonne, Chad
			Terrebonne, Chad Sr
			Terrebonne, Daniel J
			Terrebonne, Donavon J
			Terrebonne, Gary J Sr
			Terrebonne, Jimmy Jr
			Terrebonne, Jimmy Sr
			Terrebonne, Kline A
			Terrebonne, Lanny
			Terrebonne, Larry F Jr
			Terrebonne, Scott
			Terrebonne, Steven
			Terrebonne, Steven
			Terrebonne, Toby J
			Terrel, Chad J Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Terrell, C Todd
			Terrio, Brandon James
			Terrio, Harvey J Jr
			Terry, Eloise P
			Tesvich, Kuzma D
			Thac, Dang Van
			Thach, Phuong
			Thai, Huynh Tan
			Thai, Paul
			Thai, Thomas
			Thanh, Thien
			Tharpe, Jack
			Theriot, Anthony
			Theriot, Carroll A Jr
			Theriot, Clay J Jr
			Theriot, Craig A
			Theriot, Dean P
			Theriot, Donnie
			Theriot, Jeffery C
			Theriot, Larry J
			Theriot, Lynn
			Theriot, Mark A
			Theriot, Roland P Jr
			Theriot, Wanda J
			Thibodaux, Jared
			Thibodeaux, Bart James
			Thibodeaux, Brian A
			Thibodeaux, Brian M
			Thibodeaux, Calvin A Jr
			Thibodeaux, Fay F
			Thibodeaux, Glenn P
			Thibodeaux, Jeffrey
			Thibodeaux, Jonathan
			Thibodeaux, Josephine
			Thibodeaux, Keith
			Thibodeaux, Tony J
			Thibodeaux, Warren J
			Thidobaux, James V Sr
			Thiet, Tran
			Thomas, Alvin
			Thomas, Brent
			Thomas, Dally S
			Thomas, Janie G
			Thomas, John Richard
			Thomas, Kenneth Ward
			Thomas, Monica P
			Thomas, Ralph L Jr
			Thomas, Ralph Lee Jr
			Thomas, Randall
			Thomas, Robert W
			Thomas, Willard N Jr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Thomassie, Gerard
			Thomassie, Nathan A
			Thomassie, Philip A
			Thomassie, Ronald J
			Thomassie, Tracy Joseph
			Thompson, Bobbie
			Thompson, David W
			Thompson, Edwin A
			Thompson, George
			Thompson, James D Jr
			Thompson, James Jr
			Thompson, John E
			Thompson, John R
			Thompson, Randall
			Thompson, Sammy
			Thompson, Shawn
			Thong, R
			Thonn, John J Jr
			Thonn, Victor J
			Thorpe, Robert Lee Jr
			Thurman, Charles E
			Tiet, Thanh Duc
			Tilghman, Gene E
			Tillett, Billy Carl
			Tillman, Lewis A Jr
			Tillman, Timothy P and Yvonne M
			Tillotson, Pat
			Tinney, Mark A
			Tisdale, Georgia W
			Tiser, Oscar
			Tiser, Thomas C Jr
			Tiser, Thomas C Sr
			To, Cang Van
			To, Du Van
			Todd, Fred Noel
			Todd, Patricia J
			Todd, Rebecca G
			Todd, Robert C and Patricia J
			Todd, Vonnie Frank Jr
			Tompkins, Gerald Paul II
			Toney, George Jr
			Tong, Hai V
			Tong, Linh C
			Toomer, Christina Abbott
			Toomer, Christy
			Toomer, Frank G Jr
			Toomer, Jeffrey E
			Toomer, Kenneth
			Toomer, Lamar K
			Toomer, Larry Curtis and Tina
			Toomer, William Kemp

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Torrible, David P
			Torrible, Jason
			Touchard, Anthony H
			Touchard, John B Jr
			Touchard, Paul V Jr
			Touchet, Eldridge III
			Touchet, Eldridge Jr
			Toups, Anthony G
			Toups, Bryan
			Toups, Jeff
			Toups, Jimmie J
			Toups, Kim
			Toups, Manuel
			Toups, Ted
			Toups, Tommy
			Toureau, James
			Tower, H Melvin
			Townsend, Harmon Lynn
			Townsend, Marion Brooks
			Tra, Hop T
			Trabeau, James D
			Trahan, Allen A Jr
			Trahan, Alvin Jr
			Trahan, Druby
			Trahan, Dudley
			Trahan, Elie J
			Trahan, Eric J
			Trahan, James
			Trahan, Karen C
			Trahan, Lynn P Sr
			Trahan, Ricky
			Trahan, Ronald J
			Trahan, Tracey L
			Trahan, Wayne Paul
			Tran, Allen Hai
			Tran, Andana
			Tran, Anh
			Tran, Anh
			Tran, Anh N
			Tran, Bay V
			Tran, Bay Van
			Tran, Binh
			Tran, Binh Van
			Tran, Ca Van
			Tran, Cam Van
			Tran, Chau V
			Tran, Chau Van
			Tran, Chau Van
			Tran, Chi T
			Tran, Christina Phuong
			Tran, Chu V

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Tran, Cuong
			Tran, Cuong
			Tran, Danny Duc
			Tran, Den
			Tran, Dien
			Tran, Dinh M
			Tran, Dinh Q
			Tran, Doan
			Tran, Dung Van
			Tran, Duoc
			Tran, Duoc
			Tran, Duong
			Tran, Eric
			Tran, Francis
			Tran, Francis
			Tran, Giang
			Tran, Giao
			Tran, Ha Mike
			Tran, Hai
			Tran, Hien H
			Tran, Hiep Phuoc
			Tran, Hieu
			Tran, Hoa
			Tran, Hoa
			Tran, Hue T
			Tran, Huey
			Tran, Hung
			Tran, Hung
			Tran, Hung
			Tran, Hung P
			Tran, Hung Van
			Tran, Hung Van
			Tran, Hung Viet
			Tran, James N
			Tran, John
			Tran, Johnny Dinh
			Tran, Joseph
			Tran, Joseph T
			Tran, Khan Van
			Tran, Khanh
			Tran, Kim
			Tran, Kim Chi Thi
			Tran, Lan Tina
			Tran, Le and Phat Le
			Tran, Leo Van
			Tran, Loan
			Tran, Long
			Tran, Long Van
			Tran, Luu Van
			Tran, Ly
			Tran, Ly Van

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Tran, Mai Thi
			Tran, Mary
			Tran, Miel Van
			Tran, Mien
			Tran, Mike
			Tran, Mike Dai
			Tran, Minh Huu
			Tran, Muoi
			Tran, My T
			Tran, Nam Van
			Tran, Nang Van
			Tran, Nghia and T Le Banh
			Tran, Ngoc
			Tran, Nhanh Van
			Tran, Nhieu T
			Tran, Nhieu Van
			Tran, Nho
			Tran, Peter
			Tran, Phu Van
			Tran, Phuc D
			Tran, Phuc V
			Tran, Phung
			Tran, Quan Van
			Tran, Quang Quang
			Tran, Quang T
			Tran, Quang Van
			Tran, Qui V
			Tran, Quy Van
			Tran, Ran Van
			Tran, Sarah T
			Tran, Sau
			Tran, Scotty
			Tran, Son
			Tran, Son Van
			Tran, Steven Tuan
			Tran, Tam
			Tran, Te Van
			Tran, Than
			Tran, Thang Van
			Tran, Thanh
			Tran, Thanh
			Tran, Thanh Van
			Tran, Theresa
			Tran, Thi
			Tran, Thich Van
			Tran, Thien
			Tran, Thien Van
			Tran, Thiet
			Tran, Tommy
			Tran, Tony
			Tran, Tri

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Tran, Trinh
			Tran, Trung
			Tran, Trung Van
			Tran, Tu
			Tran, Tuan
			Tran, Tuan
			Tran, Tuan Minh
			Tran, Tuong Van
			Tran, Tuyet Thi
			Tran, Van T
			Tran, Victor
			Tran, Vinh
			Tran, Vinh Q
			Tran, Vinh Q
			Tran, Vui Kim
			Trang, Tan
			Trapp, Tommy
			Treadaway, Michael
			Tregle, Curtis
			Treloar, William Paul
			Treuil, Gary J
			Trevino, Manuel
			Treybig, E H "Buddy" Jr
			Triche, Donald G
			Trieu, Hiep and Jackie
			Trieu, Hung Hoa
			Trieu, Jasmine and Ly
			Trieu, Lorie and Tam
			Trieu, Tam
			Trinh, Christopher B
			Trinh, Philip P
			Trosclair, Clark K
			Trosclair, Clark P
			Trosclair, Eugene P
			Trosclair, James J
			Trosclair, Jerome
			Trosclair, Joseph
			Trosclair, Lori
			Trosclair, Louis V
			Trosclair, Patricia
			Trosclair, Randy
			Trosclair, Ricky
			Trosclair, Wallace Sr
			Truong, Andre
			Truong, Andre V
			Truong, Be Van
			Truong, Benjamin
			Truong, Dac
			Truong, Huan
			Truong, Kim
			Truong, Nhut Van

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Truong, Steve
			Truong, Tham T
			Truong, Thanh Minh
			Truong, Them Van
			Truong, Thom
			Truong, Timmy
			Trutt, George W Sr
			Trutt, Wanda
			Turlich, Mervin A
			Turner, Calvin L
			Tyre, John
			Upton, Terry R
			Valentino, J G Jr
			Valentino, James
			Vallot, Christopher A
			Vallot, Nancy H
			Valure, Hugh P
			Van Alsburg, Charles
			Van Gordstnoven, Jean J
			Van Nguyen, Irving
			Van, Than
			Van, Vui
			Vanacor, Kathy D
			Vanacor, Malcolm J Sr
			Vanicor, Bobbie
			VanMeter, Matthew T
			VanMeter, William Earl
			Varney, Randy L
			Vath, Raymond S
			Veasel, William E III
			Vegas, Brien J
			Vegas, Percy J
			Vegas, Terry J
			Vegas, Terry J Jr
			Vegas, Terry Jr
			Vela, Peter
			Verdin, Aaron
			Verdin, Av
			Verdin, Bradley J
			Verdin, Brent A
			Verdin, Charles A
			Verdin, Charles E
			Verdin, Coy P
			Verdin, Curtis A Jr
			Verdin, Delphine
			Verdin, Diana A
			Verdin, Ebro W
			Verdin, Eric P
			Verdin, Ernest Joseph Sr
			Verdin, Jeff C
			Verdin, Jeffrey A

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Verdin, Jessie J
			Verdin, John P
			Verdin, Joseph
			Verdin, Joseph A Jr
			Verdin, Joseph Cleveland
			Verdin, Joseph D Jr
			Verdin, Joseph S
			Verdin, Joseph W Jr
			Verdin, Justilien G
			Verdin, Matthew W Sr
			Verdin, Michel A
			Verdin, Paul E
			Verdin, Perry Anthony
			Verdin, Rodney
			Verdin, Rodney P
			Verdin, Rodney P
			Verdin, Skylar
			Verdin, Timmy J
			Verdin, Toby
			Verdin, Tommy P
			Verdin, Tony J
			Verdin, Troy
			Verdin, Vincent
			Verdin, Viness Jr
			Verdin, Wallace P
			Verdin, Webb A Sr
			Verdin, Wesley D Sr
			Verdine, Jimmy R
			Vermeulen, Joseph Thomas
			Verret, Darren L
			Verret, Donald J
			Verret, Ernest J Sr
			Verret, James A
			Verret, Jean E
			Verret, Jimmy J Sr
			Verret, Johnny R
			Verret, Joseph L
			Verret, Paul L
			Verret, Preston
			Verret, Quincy
			Verret, Ronald Paul Sr
			Versaggi, Joseph A
			Versaggi, Salvatore J
			Vicknair, Brent J Sr
			Vicknair, Duane P
			Vicknair, Henry Dale
			Vicknair, Ricky A
			Vidrine, Bill and Kathi
			Vidrine, Corey
			Vidrine, Richard
			Vila, William F

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Villers, Joseph A
			Vincent, Gage Tyler
			Vincent, Gene
			Vincent, Gene B
			Vincent, Robert N
			Vise, Charles E III
			Vizier, Barry A
			Vizier, Christopher
			Vizier, Clovis J III
			Vizier, Douglas M
			Vizier, Tommie Jr
			Vo, Anh M
			Vo, Chin Van
			Vo, Dam
			Vo, Dan M
			Vo, Dany
			Vo, Day V
			Vo, Duong V
			Vo, Dustin
			Vo, Hai Van
			Vo, Hanh Xuan
			Vo, Hien Van
			Vo, Hoang The
			Vo, Hong
			Vo, Hung Thanh
			Vo, Huy K
			Vo, Johnny
			Vo, Kent
			Vo, Lien Van
			Vo, Man
			Vo, Mark Van
			Vo, Minh Hung
			Vo, Minh Ngoc
			Vo, Minh Ray
			Vo, Mong V
			Vo, My Dung Thi
			Vo, My Lynn
			Vo, Nga
			Vo, Nhon Tai
			Vo, Nhu Thanh
			Vo, Quang Minh
			Vo, Sang M
			Vo, Sanh M
			Vo, Song V
			Vo, Tan Thanh
			Vo, Tan Thanh
			Vo, Thanh Van
			Vo, Thao
			Vo, Thuan Van
			Vo, Tien Van
			Vo, Tom

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Vo, Tong Ba
			Vo, Trao Van
			Vo, Truong
			Vo, Van Van
			Vo, Vi Viet
			Vodopija, Benjamin S
			Vogt, James L
			Voisin, Eddie James
			Voisin, Joyce
			Voison, Jamie
			Von Harten, Harold L
			Vona, Michael A
			Vongrith, Richard
			Vossler, Kirk
			Vu, Hung
			Vu, John H
			Vu, Khanh
			Vu, Khoi Van
			Vu, Quan Quoc
			Vu, Ruyen Viet
			Vu, Sac
			Vu, Sean
			Vu, Tam
			Vu, Thiem Ngoc
			Vu, Thuy
			Vu, Tom
			Vu, Tu Viet
			Vu, Tuyen Jack
			Vu, Tuyen Viet
			Wade, Calvin J Jr
			Wade, Gerard
			Waguespack, David M Sr
			Waguespack, Randy P II
			Wainwright, Vernon
			Walker, Jerry
			Walker, Rogers H
			Wallace, Dennis
			Wallace, Edward
			Wallace, John A
			Wallace, John K
			Wallace, Trevis L
			Waller, Jack Jr
			Waller, John M
			Waller, Mike
			Wallis, Craig A
			Wallis, Keith
			Walters, Samuel G
			Walton, Marion M
			Wannage, Edward Joseph
			Wannage, Fred Jr
			Wannage, Frederick W Sr

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ward, Clarence Jr
			Ward, Olan B
			Ward, Walter M
			Washington, Clifford
			Washington, John Emile III
			Washington, Kevin
			Washington, Louis N
			Wattigney, Cecil K Jr
			Wattigney, Michael
			Watts, Brandon A
			Watts, Warren
			Webb, Bobby
			Webb, Bobby N
			Webb, Josie M
			Webre, Donald
			Webre, Dudley A
			Webster, Harold
			Weeks, Don Franklin
			Weems, Laddie E
			Weinstein, Barry C
			Weiskopf, Rodney
			Weiskopf, Rodney Sr
			Weiskopf, Todd
			Welch, Amos J
			Wells, Douglas E
			Wells, Stephen Ray
			Wendling, Steven W
			Wescovich, Charles W
			Wescovich, Wesley Darryl
			Whatley, William J
			White, Allen Sr
			White, Charles
			White, Charles Fulton
			White, David L
			White, Gary Farrell
			White, James Hugh
			White, Perry J
			White, Raymond
			White, Robert Sr
			Wicher, John
			Wiggins, Chad M Sr
			Wiggins, Ernest
			Wiggins, Harry L
			Wiggins, Kenneth A
			Wiggins, Matthew
			Wilbur, Gerald Anthony
			Wilcox, Robert
			Wiles, Alfred Adam
			Wiles, Glen Gilbert
			Wiles, Sonny Joel Sr
			Wilkerson, Gene Dillard and Judith

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Wilkinson, William Riley
			Williams, Allen Jr
			Williams, Andrew
			Williams, B Dean
			Williams, Clyde L
			Williams, Dale A
			Williams, Emmett J
			Williams, Herman J Jr
			Williams, J T
			Williams, John A
			Williams, Johnny Paul
			Williams, Joseph H
			Williams, Kirk
			Williams, Leopold A
			Williams, Mark A
			Williams, Mary Ann C
			Williams, Melissa A
			Williams, Nina
			Williams, Oliver Kent
			Williams, Parish
			Williams, Roberto
			Williams, Ronnie
			Williams, Scott A
			Williams, Steven
			Williams, Thomas D
			Williamson, Richard L Sr
			Willyard, Derek C
			Willyard, Donald R
			Wilson, Alward
			Wilson, Hosea
			Wilson, Joe R
			Wilson, Jonathan
			Wilson, Katherine
			Wiltz, Allen
			Wing, Melvin
			Wiseman, Allen
			Wiseman, Clarence J Jr
			Wiseman, Jean P
			Wiseman, Joseph A
			Wiseman, Michael T Jr
			Wiseman, Michael T Sr
			Wolfe, Charles
			Woods, John T III
			Wright, Curtis
			Wright, Leonard
			Wright, Randy D
			Yeamans, Douglas
			Yeamans, Neil
			Yeamans, Ronnie
			Yoeuth, Peon
			Yopp, Harold

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Yopp, Jonathon Yopp, Milton Thomas Young, James Young, Taing Young, Willie Yow, Patricia D Yow, Richard C Zanca, Anthony V Sr Zar, Ashley A Zar, Carl J Zar, John III Zar, Steve Zar, Steven Zar, Troy A Zerinque, John S Jr Zirlott, Curtis Zirlott, Jason D Zirlott, Jeremy Zirlott, Kimberly Zirlott, Milton Zirlott, Perry Zirlott, Rosa H Zito, Brian C Zuvich, Michael A Jr Ad Hoc Shrimp Trade Action Committee Bryan Fishermens' Co-Op Inc Louisiana Shrimp Association South Carolina Shrimpers Association Vietnamese-American Commerical Fisherman's Union 3-G Enterprize dba Griffin's Seafood A & G Trawlers Inc A & T Shrimping A Ford Able Seafood A J Horizon Inc A&M Inc A&R Shrimp Co A&T Shrimping AAH Inc AC Christopher Sea Food Inc Ace of Trade LLC Adriana Corp AJ Boats Inc AJ Horizon Inc AJ's Seafood Alario Inc Alcide J Adams Jr Aldebaran Inc Aldebran Inc Alexander and Dola

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Alfred Englade Inc
			Alfred Trawlers Inc
			Allen Hai Tran dba Kien Giang
			Al's Shrimp Co
			Al's Shrimp Co LLC
			Al's Shrimp Co LLC
			Al's Whosale & Retail
			Alton Cheeks
			Amada Inc
			Amber Waves
			Amelia Isle
			American Beauty
			American Beauty Inc
			American Eagle Enterprise Inc
			American Girl
			American Seafood
			Americana Shrimp
			Amvina II
			Amvina II
			Amy D Inc
			Amy's Seafood Mart
			An Kit
			Andy Boy
			Andy's SFD
			Angel Annie Inc
			Angel Leigh
			Angel Seafood Inc
			Angela Marie Inc
			Angela Marie Inc
			Angelina Inc
			Anna Grace LLC
			Anna Grace LLC
			Annie Thornton Inc
			Annie Thornton Inc
			Anthony Boy I
			Anthony Boy I
			Anthony Fillinich Sr
			Apalachee Girl Inc
			Aparicio Trawlers Inc dba Marcosa
			Apple Jack Inc
			Aquila Seafood Inc
			Aquillard Seafood
			Argo Marine
			Arnold's Seafood
			Arroya Cruz Inc
			Art & Red Inc
			Arthur Chisholm
			A-Seafood Express
			Ashley Deeb Inc
			Ashley W 648675
			Asian Gulf Corp

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Atlantic
			Atocha Troy A LeCompte Sr
			Atwood Enterprises
			B & B Boats Inc
			B & B Seafood
			B&J Seafood
			BaBe Inc
			Baby Ruth
			Bailey, David B Sr - Bailey's Seafood
			Bailey's Seafood of Cameron Inc
			Bait Inc
			Bait Inc
			Baker Shrimp
			Bama Love Inc
			Bama Sea Products Inc
			Bao Hung Inc
			Bao Hung Inc
			Bar Shrimp
			Barbara Brooks Inc
			Barbara Brooks Inc
			Barisich Inc
			Barisich Inc
			Barnacle-Bill Inc
			Barney's Bait & Seafood
			Barrios Seafood
			Bay Boy
			Bay Islander Inc
			Bay Sweeper Nets
			Baye's Seafood 335654
			Bayou Bounty Seafood LLC
			Bayou Caddy Fisheries Inc
			Bayou Carlin Fisheries
			Bayou Carlin Fisheries Inc
			Bayou Shrimp Processors Inc
			BBC Trawlers Inc
			BBS Inc
			Beachcomber Inc
			Beachcomber Inc
			Bea's Corp
			Beecher's Seafood
			Believer Inc
			Bennett's Seafood
			Benny Alexie
			Bergeron's Seafood
			Bertileana Corp
			Best Sea-Pack of Texas Inc
			Beth Lomonte Inc
			Beth Lomonte Inc
			Betty B
			Betty H Inc
			Bety Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			BF Millis & Sons Seafood
			Big Daddy Seafood Inc
			Big Grapes Inc
			Big Kev
			Big Oak Seafood
			Big Oak Seafood
			Big Oaks Seafood
			Big Shrimp Inc
			Billy J Foret - BJF Inc
			Billy Sue Inc
			Billy Sue Inc
			Biloxi Freezing & Processing
			Binh Duong
			BJB LLC
			Blain & Melissa Inc
			Blanca Cruz Inc
			Blanchard & Cheramie Inc
			Blanchard Seafood
			Blazing Sun Inc
			Blazing Sun Inc
			Blue Water Seafood
			Bluewater Shrimp Co
			Bluffton Oyster Co
			Boat Josey Wales
			Boat Josey Wales LLC
			Boat Monica Kiff
			Boat Warrior
			Bob-Rey Fisheries Inc
			Bodden Trawlers Inc
			Bolillo Prieto Inc
			Bon Secour Boats Inc
			Bon Secour Fisheries Inc
			Bon Secur Boats Inc
			Bonnie Lass Inc
			Boone Seafood
			Bosarge Boats
			Bosarge Boats
			Bosarge Boats Inc
			Bottom Verification LLC
			Bowers Shrimp
			Bowers Shrimp Farm
			Bowers Valley Shrimp Inc
			Brad Friloux
			Brad Nicole Seafood
			Bradley John Inc
			Bradley's Seafood Mkt
			Brava Cruz Inc
			Brenda Darlene Inc
			Brett Anthony
			Bridgeside Marina
			Bridgeside Seafood

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Bridget's Seafood Service Inc
			Bridget's Seafood Service Inc
			BRS Seafood
			BRS Seafood
			Bruce W Johnson Inc
			Bubba Daniels Inc
			Bubba Tower Shrimp Co
			Buccaneer Shrimp Co
			Buchmer Inc
			Buck & Peed Inc
			Buddy Boy Inc
			Buddy's Seafood
			Bumble Bee Seafoods LLC
			Bumble Bee Seafoods LLC
			Bundy Seafood
			Bundy's Seafood
			Bunny's Shrimp
			Burgbe Gump Seafood
			Burnell Trawlers Inc
			Burnell Trawlers Inc/Mamacita/Swamp Irish
			Buster Brown Inc
			By You Seafood
			C & R Trawlers Inc
			CA Magwood Enterprises Inc
			Cajun Queen of LA LLC
			Calcasien Point Bait N More Inc
			Cam Ranh Bay
			Camardelle's Seafood
			Candy Inc
			Cao Family Inc
			Cap Robear
			Cap'n Bozo Inc
			Capn Jasper's Seafood Inc
			Capt Aaron
			Capt Adam
			Capt Anthony Inc
			Capt Bean (Richard A Ragas)
			Capt Beb Inc
			Capt Bill Jr Inc
			Capt Brother Inc
			Capt Bubba
			Capt Buck
			Capt Carl
			Capt Carlos Trawlers Inc
			Capt Chance Inc
			Capt Christopher Inc
			Capt Chuckie
			Capt Craig
			Capt Craig Inc
			Capt Crockett Inc
			Capt Darren Hill Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Capt Dennis Inc
			Capt Dickie Inc
			Capt Dickie V Inc
			Capt Doug
			Capt Eddie Inc
			Capt Edward Inc
			Capt Eli's
			Capt Elroy Inc
			Capt Ernest LLC
			Capt Ernest LLC
			Capt GDA Inc
			Capt George
			Capt H & P Corp
			Capt Havey Seafood
			Capt Henry Seafood Dock
			Capt Huy
			Capt JDL Inc
			Capt Jimmy Inc
			Capt Joe
			Capt Johnny II
			Capt Jonathan
			Capt Jonathan Inc
			Capt Joshua Inc
			Capt Jude 520556 13026
			Capt Ken
			Capt Kevin Inc
			Capt Ko Inc
			Capt Koung Lim
			Capt Larry Seafood Market
			Capt Larry's Inc
			Capt LC Corp
			Capt LD Seafood Inc
			Capt Linton Inc
			Capt Mack Inc
			Capt Marcus Inc
			Capt Morris
			Capt Opie
			Capt P Inc
			Capt Pappie Inc
			Capt Pat
			Capt Paw Paw
			Capt Pete Inc
			Capt Peter Long Inc
			Capt Pool Bear II's Seafood
			Capt Quang
			Capt Quina Inc
			Capt Richard
			Capt Ross Inc
			Capt Roy
			Capt Russell Jr Inc
			Capt Ryan Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Capt Ryan's
			Capt Sam
			Capt Sang
			Capt Scar Inc
			Capt Scott
			Capt Scott 5
			Capt Scott Seafood
			Capt Sparkers Shrimp
			Capt St Peter
			Capt T&T Corp
			Capt Thien
			Capt Tommy Inc
			Capt Two Inc
			Capt Van's Seafood
			Capt Walley Inc
			Capt Zoe Inc
			Captain Allen's Bait & Tackle
			Captain Arnulfo Inc
			Captain Blair Seafood
			Captain Dexter Inc
			Captain D's
			Captain Homer Inc
			Captain Jeff
			Captain JH III Inc
			Captain Joshua
			Captain Larry'O
			Captain Miss Cammy Nhung
			Captain Regis
			Captain Rick
			Captain T/Thiet Nguyen
			Captain Tony
			Captain Truong Phi Corp
			Captain Vinh
			Cap't-Brandon
			Captian Thomas Trawler Inc
			Carlino Seafood
			Carly Sue Inc
			Carmelita Inc
			Carolina Lady Inc
			Carolina Sea Foods Inc
			Caroline and Calandra Inc
			Carson & Co
			Carson & Co Inc
			Cary Encalade Trawling
			Castellano's Corp
			Cathy Cheramie Inc
			CBS Seafood & Catering LLC
			CBS Seafood & Catering LLC
			Cecilia Enterprise Inc
			CF Gollot & Son Sfd Inc
			CF Gollott and Son Seafood Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Chackbay Lady
			Chad & Chaz LLC
			Challenger Shrimp Co Inc
			Chalmette Marine Supply Co Inc
			Chalmette Net & Trawl
			Chapa Shrimp Trawlers
			Chaplin Seafood
			Charlee Girl
			Charles Guidry Inc
			Charles Sellers
			Charles White
			Charlotte Maier Inc
			Charlotte Maier Inc
			Chef Seafood Ent LLC
			Cheramies Landing
			Cherry Pt Seafood
			Cheryl Lynn Inc
			Chez Francois Seafood
			Chilling Pride Inc
			Chin Nguyen Co
			Chin Nguyen Co
			Chinatown Seafood Co Inc
			Chines Cajun Net Shop
			Chris Hansen Seafood
			Christian G Inc
			Christina Leigh Shrimp Co
			Christina Leigh Shrimp Company Inc
			Christina Leigh Shrimp Company Inc
			Cieutat Trawlers
			Cinco de Mayo Inc
			Cindy Lynn Inc
			Cindy Mae Inc
			City Market Inc
			CJ Seafood
			CJs Seafood
			Clifford Washington
			Clinton Hayes - C&S Enterprises of Brandon Inc
			Cochran's Boat Yard
			Colorado River Seafood
			Colson Marine
			Comm Fishing
			Commercial Fishing Service CFS Seafoods
			Cong Son
			Cong-An Inc
			Country Girl Inc
			Country Inc
			Courtney & Ory Inc
			Cowdrey Fish
			Cptn David
			Crab-Man Bait Shop
			Craig A Wallis, Keith Wallis dba W&W Dock & 10 boats

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Cristina Seafood
			CRJ Inc
			Cruillas Inc
			Crusader Inc
			Crustacean Frustration
			Crystal Gayle Inc
			Crystal Light Inc
			Crystal Light Inc
			Curtis Henderson
			Custom Pack Inc
			Custom Pack Inc
			Cyril's Ice House & Supplies
			D & A Seafood
			D & C Seafood Inc
			D & J Shrimping LLC
			D & M Seafood & Rental LLC
			D Ditcharo Jr Seafoods
			D G & R C Inc
			D S L & R Inc
			D&T Marine Inc
			Daddys Boys
			DaHa Inc/Cat'Sass
			DAHAPA Inc
			Dale's Seafood Inc
			Dang Nguyen
			Daniel E Lane
			Danny Boy Inc
			Danny Max
			David & Danny Inc
			David C Donnelly
			David Daniels
			David Ellison Jr
			David Gollott Sfd Inc
			David W Casanova's Seafood
			David White
			David's Shrimping Co
			Davis Seafood
			Davis Seafood
			Davis Seafood Inc
			Dawn Marie
			Deana Cheramie Inc
			Deanna Lea
			Dean's Seafood
			Deau Nook
			Debbe Anne Inc
			Deep Sea Foods Inc/Jubilee Foods Inc
			Delcambre Seafood
			Dell Marine Inc
			Dennis Menesses Seafood
			Dennis' Seafood Inc
			Dennis Shrimp Co Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Desperado
			DFS Inc
			Diamond Reef Seafood
			Diem Inc
			Dinh Nguyen
			Dixie General Store LLC
			Dixie Twister
			Dominick's Seafood Inc
			Don Paco Inc
			Donald F Boone II
			Dong Nguyen
			Donini Seafoods Inc
			Donna Marie
			Donovan Tien I & II
			Dopson Seafood
			Dorada Cruz Inc
			Double Do Inc
			Double Do Inc
			Doug and Neil Inc
			Douglas Landing
			Doxey's Oyster & Shrimp
			Dragnet II
			Dragnet Inc
			Dragnet Seafood LLC
			Dubberly's Mobile Seafood
			Dudenhefer Seafood
			Dugas Shrimp Co LLC
			Dunamis Towing Inc
			Dupree's Seafood
			Duval & Duval Inc
			Dwayne's Dream Inc
			E & M Seafood
			E & T Boating
			E Gardner McClellan
			E&E Shrimp Co Inc
			East Coast Seafood
			East Coast Seafood
			East Coast Seafood
			East Coast Seafood
			Edisto Queen LLC
			Edward Garcia Trawlers
			EKV Inc
			El Pedro Fishing & Trading Co Inc
			Eliminator Inc
			Elizabeth Nguyen
			Ellerbee Seafoods
			Ellie May
			Elmira Pflueckhahn Inc
			Elmira Pflueckhahn Inc
			Elvira G Inc
			Emily's SFD

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Emmanuel Inc
			Ensenada Cruz Inc
			Enterprise
			Enterprise Inc
			Equalizer Shrimp Co Inc
			Eric F Dufrene Jr LLC
			Erica Lynn Inc
			Erickson & Jensen Seafood Packers
			Ethan G Inc
			Excalibur LLC
			F/V Apalachee Warrior
			F/V Atlantis I
			F/V Capt Walter B
			F/V Captain Andy
			F/V Eight Flags
			F/V Mary Ann
			F/V Miss Betty
			F/V Morning Star
			F/V Nam Linh
			F/V Olivia B
			F/V Phuoc Thanh Mai II
			F/V Sea Dolphin
			F/V Southern Grace
			F/V Steven Mai
			F/V Steven Mai II
			Famer Boys Catfish Kitchens
			Family Thing
			Father Casimir Inc
			Father Dan Inc
			Father Mike Inc
			Fiesta Cruz Inc
			Fine Shrimp Co
			Fire Fox Inc
			Fisherman's Reef Shrimp Co
			Fishermen IX Inc
			Fishing Vessel Enterprise Inc
			Five Princesses Inc
			FKM Inc
			Fleet Products Inc
			Flower Shrimp House
			Flowers Seafood Co
			Floyd's Wholesale Seafood Inc
			Fly By Night Inc
			Forest Billiot Jr
			Fortune Shrimp Co Inc
			FP Oubre
			Francis Brothers Inc
			Francis Brothers Inc
			Francis III
			Frank Toomer Jr
			Fran-Tastic Too

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Frederick-Dan
			Freedom Fishing Inc
			Freeman Seafood
			Frelich Seafood Inc
			Frenchie D-282226
			Fripp Point Seafood
			G & L Trawling Inc
			G & O Shrimp Co Inc
			G & O Trawlers Inc
			G & S Trawlers Inc
			G D Ventures II Inc
			G G Seafood
			G R LeBlanc Trawlers Inc
			Gail's Bait Shop
			Gale Force Inc
			Gambler Inc
			Gambler Inc
			Garijak Inc
			Gary F White
			Gator's Seafood
			Gay Fish Co
			Gay Fish Co
			GeeChee Fresh Seafood
			Gemita Inc
			Gene P Callahan Inc
			George J Price Sr Ent Inc
			Georgia Shrimp Co LLC
			Gerica Marine
			Gilden Enterprises
			Gillikin Marine Railways Inc
			Gina K Inc
			Gisco Inc
			Gisco Inc
			Glenda Guidry Inc
			Gloria Cruz Inc
			Go Fish Inc
			God's Gift
			God's Gift Shrimp Vessel
			Gogie
			Gold Coast Seafood Inc
			Golden Gulf Coast Pkg Co Inc
			Golden Phase Inc
			Golden Text Inc
			Golden Text Inc
			Golden Text Inc
			Goldenstar
			Gollott Brothers Sfd Co Inc
			Gollott's Oil Dock & Ice House Inc
			Gonzalez Trawlers Inc
			Gore Enterprises Inc
			Gore Enterprizes Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Gore Seafood Co
			Gore Seafood Inc
			Gove Lopez
			Graham Fisheries Inc
			Graham Shrimp Co Inc
			Graham Shrimp Co Inc
			Gramps Shrimp Co
			Grandma Inc
			Grandpa's Dream
			Grandpa's Dream
			Granny's Garden and Seafood
			Green Flash LLC
			Greg Inc
			Gregory Mark Gaubert
			Gregory Mark Gaubert
			Gregory T Boone
			Gros Tete Trucking Inc
			Guidry's Bait Shop
			Guidry's Net Shop
			Gulf Central Seaood Inc
			Gulf Crown Seafood Co Inc
			Gulf Fish Inc
			Gulf Fisheries Inc
			Gulf Island Shrimp & Seafood II LLC
			Gulf King Services Inc
			Gulf Pride Enterprises Inc
			Gulf Seaway Seafood Inc
			Gulf Shrimp
			Gulf South Inc
			Gulf Stream Marina LLC
			Gulf Sweeper Inc (Trawler Gulf Sweeper)
			Gypsy Girl Inc
			H & L Seafood
			Hack Berry Seafood
			Hagen & Miley Inc
			Hailey Marie Inc
			Hanh Lai Inc
			Hannah Joyce Inc
			Hardy Trawlers
			Hardy Trawlers
			Harrington Fish Co Inc
			Harrington Seafood & Supply Inc
			Harrington Shrimp Co Inc
			Harrington Trawlers Inc
			Harris Fisheries Inc
			Hazel's Hustler
			HCP LLC
			Heather Lynn Inc
			Heavy Metal Inc
			Hebert Investments Inc
			Hebert's Mini Mart LLC

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Helen E Inc
			Helen Kay Inc
			Helen Kay Inc
			Helen W Smith Inc
			Henderson Seafood
			Henry Daniels Inc
			Hermosa Cruz Inc
			Hi Seas of Dulac Inc
			Hien Le Van Inc
			High Hope Inc
			Hoang Anh
			Hoang Long I, II
			Holland Enterprises
			Holly Beach Seafood
			Holly Marie's Seafood Market
			Hombre Inc
			Home Loving Care Co
			Hondumex Ent Inc
			Hong Nga Inc
			Hongri Inc
			Houston Foret Seafood
			Howerin Trawlers Inc
			HTH Marine Inc
			Hubbard Seafood
			Hurricane Emily Seafood Inc
			Hutcherson Christian Shrimp Inc
			Huyen Inc
			Icy Seafood II Inc
			ICY Seafood Inc
			Icy Seafood Inc
			Ida's Seafood Rest & Market
			Ike & Zack Inc
			Independent Fish Company Inc
			Inflation Inc
			Integrity Fisheries Inc
			Integrity Fishing Inc
			International Oceanic Ent
			Interstate Vo LLC
			Intracoastal Seafood Inc
			Iorn Will Inc
			Irma Trawlers Inc
			Iron Horse Inc
			Isabel Maier Inc
			Isabel Maier Inc
			Isla Cruz Inc
			J & J Rentals Inc
			J & J Trawler's Inc
			J & R Seafood
			J Collins Trawlers
			J D Land Co
			Jackie & Hiep Trieu

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Jacob A Inc
			Jacquelin Marie Inc
			Jacquelin Marie Inc
			James D Quach Inc
			James E Scott III
			James F Dubberly
			James Gadson
			James J Matherne Jr
			James J Matherne Sr
			James Kenneth Lewis Sr
			James LaRive Jr
			James W Green Jr dba Miss Emilie Ann
			James W Hicks
			Janet Louise Inc
			Jani Marie
			JAS Inc
			JBS Packing Co Inc
			JBS Packing Inc
			JCM
			Jean's Bait
			Jeff Chancey
			Jemison Trawler's Inc
			Jenna Dawn LLC
			Jennifer Nguyen - Capt T
			Jensen Seafood Pkg Co Inc
			Jesse LeCompte Jr
			Jesse LeCompte Sr
			Jesse Shantelle Inc
			Jessica Ann Inc
			Jessica Inc
			Jesus G Inc
			Jimmy and Valerie Bonvillain
			Jimmy Le Inc
			Jim's Cajen Shrimp
			Joan of Arc Inc
			JoAnn and Michael W Daigle
			Jody Martin
			Joe Quach
			Joel's Wild Oak Bait Shop & Fresh Seafood
			John A Norris
			John J Alexie
			John Michael E Inc
			John V Alexie
			Johnny & Joyce's Seafood
			Johnny O Co
			Johnny's Seafood
			John's Seafood
			Joker's Wild
			Jones - Kain Inc
			Joni John Inc (Leon J Champagne)
			Jon's C Seafood Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Joseph Anthony
			Joseph Anthony Inc
			Joseph Garcia
			Joseph Martino
			Joseph Martino Corp
			Joseph T Vermeulen
			Josh & Jake Inc
			Joya Cruz Inc
			JP Fisheries
			Julie Ann LLC
			Julie Hoang
			Julie Shrimp Co Inc (Trawler Julie)
			Julio Gonzalez Boat Builders Inc
			Justin Dang
			JW Enterprise
			K & J Trawlers
			K&D Boat Company
			K&S Enterprises Inc
			Kalliainen Seafoods Inc
			KAM Fishing
			Kandi Sue Inc
			Karl M Belsome LLC
			KBL Corp
			KDH Inc
			Keith M Swindell
			Kellum's Seafood
			Kellum's Seafood
			Kelly Marie Inc
			Ken Lee's Dock LLC
			Kenneth Guidry
			Kenny-Nancy Inc
			Kentucky Fisheries Inc
			Kentucky Trawlers Inc
			Kevin & Bryan (M/V)
			Kevin Dang
			Khang Dang
			Khanh Huu Vu
			Kheng Sok Shrimping
			Kim & James Inc
			Kim Hai II Inc
			Kim Hai Inc
			Kim's Seafood
			Kingdom World Inc
			Kirby Seafood
			Klein Express
			KMB Inc
			Knight's Seafood Inc
			Knight's Seafood Inc
			Knowles Noel Camardelle
			Kramer's Bait Co
			Kris & Cody Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			KTC Fishery LLC
			L & M
			L & N Friendship Corp
			L & O Trawlers Inc
			L & T Inc
			L&M
			LA - 3184 CA
			La Belle Idee
			La Macarela Inc
			La Pachita Inc
			LA-6327-CA
			LaBauve Inc
			LaBauve Inc
			Lade Melissa Inc
			Lady Agnes II
			Lady Agnes III
			Lady Amelia Inc
			Lady Anna I
			Lady Anna II
			Lady Barbara Inc
			Lady Carolyn Inc
			Lady Catherine
			Lady Chancery Inc
			Lady Chelsea Inc
			Lady Danielle
			Lady Debra Inc
			Lady Dolcina Inc
			Lady Gail Inc
			Lady Katherine Inc
			Lady Kelly Inc
			Lady Kelly Inc
			Lady Kristie
			Lady Lavang LLC
			Lady Liberty Seafood Co
			Lady Lynn Ltd
			Lady Marie Inc
			Lady Melissa Inc
			Lady Shelly
			Lady Shelly
			Lady Snow Inc
			Lady Stephanie
			Lady Susie Inc
			Lady Kim T Inc
			Lady TheLna
			Lady Toni Inc
			Lady Veronica
			Lafitte Frozen Foods Corp
			Lafont Inc
			Lafourche Clipper Inc
			Lafourche Clipper Inc
			Lamarah Sue Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Lan Chi Inc
			Lan Chi Inc
			Lancero Inc
			Lanny Renard and Daniel Bourque
			Lapeyrouse Seafood Bar Groc Inc
			Larry G Kellum Sr
			Larry Scott Freeman
			Larry W Hicks
			Lasseigne & Sons Inc
			Laura Lee
			Lauren O
			Lawrence Jacobs Sfd
			Lazaretta Packing Inc
			Le & Le Inc
			Le Family Inc
			Le Family Inc
			Le Tra Inc
			Leek & Millington Trawler Privateeer
			Lee's Sales & Distribution
			Leonard Shrimp Producers Inc
			Leoncea B Regnier
			Lerin Lane
			Li Johnson
			Liar Liar
			Libertad Fisheries Inc
			Liberty I
			Lighthouse Fisheries Inc
			Lil Aly
			Lil Arthur Inc
			Lil BJ LLC
			Lil Robbie Inc
			Lil Robbie Inc
			Lil Robin
			Lil Robin
			Lilla
			Lincoln
			Linda & Tot Inc
			Linda Cruz Inc
			Linda Hoang Shrimp
			Linda Lou Boat Corp
			Linda Lou Boat Corp
			Lisa Lynn Inc
			Lisa Lynn Inc
			Little Andrew Inc
			Little Andy Inc
			Little Arthur
			Little David Gulf Trawler Inc
			Little Ernie Gulf Trawler Inc
			Little Ken Inc
			Little Mark
			Little William Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Little World
			LJL Inc
			Long Viet Nguyen
			Longwater Seafood dba Ryan H Longwater
			Louisiana Gulf Shrimp LLC
			Louisiana Lady Inc
			Louisiana Man
			Louisiana Newpack Shrimp Co Inc
			Louisiana Pride Seafood Inc
			Louisiana Pride Seafood Inc
			Louisiana Seafood Dist LLC
			Louisiana Shrimp & Packing Inc
			Louisiana Shrimp and Packing Co Inc
			Lovely Daddy II & III
			Lovely Jennie
			Low Country Lady (Randolph N Rhodes)
			Low County Lady
			Luchador Inc
			Lucky
			Lucky I
			Lucky Jack Inc
			Lucky Lady
			Lucky Lady II
			Lucky Leven Inc
			Lucky MV
			Lucky Ocean
			Lucky Sea Star Inc
			Lucky Star
			Lucky World
			Lucky's Seafood Market & Poboys LLC
			Luco Drew's
			Luisa Inc
			Lupe Martinez Inc
			LV Marine Inc
			LW Graham Inc
			Lyle LeCompte
			Lynda Riley Inc
			Lynda Riley Inc
			M & M Seafood
			M V Sherry D
			M V Tony Inc
			M&C Fisheries
			M/V Baby Doll
			M/V Chevo's Bitch
			M/V Lil Vicki
			M/V Loco-N Motion
			M/V Patsy K #556871
			M/V X L
			Mabry Allen Miller Jr
			Mad Max Seafood
			Madera Cruz Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Madison Seafood
			Madlin Shrimp Co Inc
			Malibu
			Malolo LLC
			Mamacita Inc
			Man Van Nguyen
			Manteo Shrimp Co
			Marco Corp
			Marcos A
			Maria Elena Inc
			Maria Sandi
			Mariachi Trawlers Inc
			Mariah Jade Shrimp Company
			Marie Teresa Inc
			Marine Fisheries
			Marisa Elida Inc
			Mark and Jace
			Marleann
			Martin's Fresh Shrimp
			Mary Bea Inc
			Master Brandon Inc
			Master Brock
			Master Brock
			Master Dylan
			Master Gerald Trawlers Inc
			Master Hai
			Master Hai II
			Master Henry
			Master Jared Inc
			Master Jhy Inc
			Master John Inc
			Master Justin Inc
			Master Justin Inc
			Master Ken Inc
			Master Kevin Inc
			Master Martin Inc
			Master Mike Inc
			Master NT Inc
			Master Pee-Wee
			Master Ronald Inc
			Master Scott
			Master Scott II
			Master Seelos Inc
			Master T
			Master Tai LLC
			Master Tai LLC
			Mat Roland Seafood Co
			Maw Doo
			Mayflower
			McQuaig Shrimp Co Inc
			Me Kong

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Melerine Seafood
			Melody Shrimp Co
			Mer Shrimp Inc
			Michael Lynn
			Michael Nguyen
			Michael Saturday's Fresh Every Day South Carolina Shrimp
			Mickey Nelson Net Shop
			Mickey's Net
			Midnight Prowler
			Mike's Seafood Inc
			Miley's Seafood Inc
			Militello and Son Inc
			Miller & Son Seafood Inc
			Miller Fishing
			Milliken & Son's
			Milton J Dufrene and Son Inc
			Milton Yopp - Capt'n Nathan & Thomas Winfield
			Minh & Liem Doan
			Mis Quynh Chi II
			Miss Adrianna Inc
			Miss Alice Inc
			Miss Ann Inc
			Miss Ann Inc
			Miss Ashleigh
			Miss Ashleigh Inc
			Miss Barbara
			Miss Barbara Inc
			Miss Bernadette A Inc
			Miss Bertha (M/V)
			Miss Beverly Kay
			Miss Brenda
			Miss Candace
			Miss Candace Nicole Inc
			Miss Carla Jean Inc
			Miss Caroline Inc
			Miss Carolyn Louise Inc
			Miss Caylee
			Miss Charlotte Inc
			Miss Christine III
			Miss Cleda Jo Inc
			Miss Courtney Inc
			Miss Courtney Inc
			Miss Cynthia
			Miss Danielle Gulf Trawler Inc
			Miss Danielle LLC
			Miss Dawn
			Miss Ellie Inc
			Miss Faye LLC
			Miss Fina Inc
			Miss Georgia Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Miss Hannah
			Miss Hannah Inc
			Miss Hazel Inc
			Miss Hilary Inc
			Miss Jennifer Inc
			Miss Joanna Inc
			Miss Julia
			Miss Kandy Tran LLC
			Miss Kandy Tran LLC
			Miss Karen
			Miss Kathi Inc
			Miss Kathy
			Miss Kaylyn LLC
			Miss Khayla
			Miss Lil
			Miss Lillie Inc
			Miss Liz Inc
			Miss Loraine
			Miss Loraine Inc
			Miss Lori Dawn IV Inc
			Miss Lori Dawn V Inc
			Miss Lori Dawn VI Inc
			Miss Lori Dawn VII Inc
			Miss Lorie Inc
			Miss Luana D Shrimp Co
			Miss Luana D Shrimp Co
			Miss Madeline Inc
			Miss Madison
			Miss Marie
			Miss Marie Inc
			Miss Marilyn Louis Inc
			Miss Marilyn Louise
			Miss Marilyn Louise Inc
			Miss Marissa Inc
			Miss Martha Inc
			Miss Martha Inc
			Miss Mary T
			Miss Myle
			Miss Narla
			Miss Nicole
			Miss Nicole Inc
			Miss Plum Inc
			Miss Quynh Anh I
			Miss Quynh Anh I LLC
			Miss Quynh Anh II LLC
			Miss Redemption LLC
			Miss Rhianna Inc
			Miss Sambath
			Miss Sandra II
			Miss Sara Ann
			Miss Savannah

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Miss Savannah II
			Miss Soriya
			Miss Suzanne
			Miss Sylvia
			Miss Than
			Miss Thom
			Miss Thom Inc
			Miss Tina Inc
			Miss Trinh Trinh
			Miss Trisha Inc
			Miss Trisha Inc
			Miss Verna Inc
			Miss Vicki
			Miss Victoria Inc
			Miss Vivian Inc
			Miss WillaDean
			Miss Winnie Inc
			Miss Yvette Inc
			Miss Yvonne
			Misty Morn Eat
			Misty Star
			MJM Seafood Inc
			M'M Shrimp Co Inc
			Mom & Dad Inc
			Mona-Dianne Seafood
			Montha Sok and Tan No Le
			Moon River Inc
			Moon Tillett Fish Co Inc
			Moonlight
			Moonlight Mfg
			Moore Trawlers Inc
			Morgan Creek Seafood
			Morgan Rae Inc
			Morning Star
			Morrison Seafood
			Mother Cabrini
			Mother Teresa Inc
			Mr & Mrs Inc
			Mr & Mrs Inc
			Mr Coolly
			Mr Fox
			Mr Fox
			Mr G
			Mr Gaget LLC
			Mr Henry
			Mr Natural Inc
			Mr Neil
			Mr Phil T Inc
			Mr Sea Inc
			Mr Verdin Inc
			Mr Williams

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Mrs Judy Too
			Mrs Tina Lan Inc
			Ms Alva Inc
			Ms An
			My Angel II
			My Blues
			My Dad Whitney Inc
			My Girls LLC
			My Thi Tran Inc
			My Three Sons Inc
			My V Le Inc
			My-Le Thi Nguyen
			Myron A Smith Inc
			Nancy Joy
			Nancy Joy Inc
			Nancy Joy Inc
			Nanny Granny Inc
			Nanny Kat Seafood LLC
			Napolean Seafoods
			Napoleon II
			Napoleon Seafood
			Napoleon SF
			Naquin's Seafood
			Nautilus LLC
			Nelma Y Lane
			Nelson and Son
			Nelson Trawlers Inc
			Nelson's Quality Shrimp Company
			Nevgulmarco Co Inc
			New Deal Comm Fishing
			New Way Inc
			Nguyen Day Van
			Nguyen Express
			Nguyen Int'l Enterprises Inc
			Nguyen Shipping Inc
			NHU UYEN
			Night Moves of Cut Off Inc
			Night Shift LLC
			Night Star
			North Point Trawlers Inc
			North Point Trawlers Inc
			Nuestra Cruz Inc
			Nunez Seafood
			Oasis
			Ocean Bird Inc
			Ocean Breeze Inc
			Ocean Breeze Inc
			Ocean City Corp
			Ocean Emperor Inc
			Ocean Harvest Wholesale Inc
			Ocean Pride Seafood Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Ocean Seafood
			Ocean Select Seafood LLC
			Ocean Springs Seafood Market Inc
			Ocean Wind Inc
			Oceanica Cruz Inc
			Odin LLC
			Old Maw Inc
			Ole Holbrook's Fresh Fish Market LLC
			Ole Nelle
			One Stop Bait & Ice
			Open Sea Inc
			Orage Enterprises Inc
			Orn Roeum Shrimping
			Otis Cantrelle Jr
			Otis M Lee Jr
			Owens Shrimping
			Palmetto Seafood Inc
			Papa Rod Inc
			Papa T
			Pappy Inc
			Pappy's Gold
			Parfait Enterprises Inc
			Paris/Asia
			Parramore Inc
			Parrish Shrimping Inc
			Pascagoula Ice & Freezer Co Inc
			Pat-Lin Enterprises Inc
			Patricia Foret
			Patrick Sutton Inc
			Patty Trish Inc
			Paul Piazza and Son Inc
			Paw Paw Allen
			Paw Paw Pride Inc
			Pearl Inc dba Indian Ridge Shrimp Co
			Pei Gratia Inc
			Pelican Point Seafood Inc
			Penny V LLC
			Perlita Inc
			Perseverance I LLC
			Pete & Queenie Inc
			Phat Le and Le Tran
			Phi Long Inc
			Phi-Ho LLC
			Pip's Place Marina Inc
			Plaisance Trawlers Inc
			Plata Cruz Inc
			Poc-Tal Trawlers Inc
			Pointe-Aux-Chene Marina
			Pontchautrain Blue Crab
			Pony Express
			Poppee

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Poppy's Pride Seafood
			Port Bolivar Fisheries Inc
			Port Marine Supplies
			Port Royal Seafood Inc
			Poteet Seafood Co Inc
			Potter Boats Inc
			Price Seafood Inc
			Prince of Tides
			Princess Ashley Inc
			Princess Celine Inc
			Princess Cindy Inc
			Princess Lorie LLC
			Princess Mary Inc
			Prosperity
			PT Fisheries Inc
			Punch's Seafood Mkt
			Purata Trawlers Inc
			Pursuer Inc
			Quality Seafood
			Quang Minh II Inc
			Queen Lily Inc
			Queen Mary
			Queen Mary Inc
			Quinta Cruz Inc
			Quoc Bao Inc
			Quynh NHU Inc
			Quynh Nhu Inc
			R & J Inc
			R & K Fisheries LLC
			R & L Shrimp Inc
			R & P Fisheries
			R & R Bait/Seafood
			R & S Shrimping
			R & T Atocha LLC
			R&D Seafood
			R&K Fisheries LLC
			R&R Seafood
			RA Lesso Brokerage Co Inc
			RA Lesso Seafood Co Inc
			Rachel-Jade
			Ralph Lee Thomas Jr
			Ralph W Jones
			Ramblin Man Inc
			Ranchero Trawlers Inc
			Randall J Pinell Inc
			Randall J Pinell Inc
			Randall K and Melissa B Richard
			Randall Pinell
			Randy Boy Inc
			Randy Boy Inc
			Rang Dong

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Raul L Castellanos
			Raul's Seafood
			Raul's Seafood
			Rayda Cheramie Inc
			Raymond LeBouef
			RCP Seafood I II III
			RDR Shrimp Inc
			Reagan's Seafood
			Rebecca Shrimp Co Inc
			Rebel Seafood
			Regulus
			Rejimi Inc
			Reno's Sea Food
			Res Vessel
			Reyes Trawlers Inc
			Rick's Seafood Inc
			Ricky B LLC
			Ricky G Inc
			Riffle Seafood
			Rigolets Bait & Seafood LLC
			Riverside Bait & Tackle
			RJ's
			Roatex Ent Inc
			Robanie C Inc
			Robanie C Inc
			Robanie C Inc
			Robert E Landry
			Robert H Schrimpf
			Robert Johnson
			Robert Keenan Seafood
			Robert Upton or Terry Upton
			Robert White Seafood
			Rockin Robbin Fishing Boat Inc
			Rodney Hereford Jr
			Rodney Hereford Sr
			Rodney Hereford Sr
			Roger Blanchard Inc
			Rolling On Inc
			Romo Inc
			Ronald Louis Anderson Jr
			Rosa Marie Inc
			Rose Island Seafood
			RPM Enterprises LLC
			Rubi Cruz Inc
			Ruf-N-Redy Inc
			Ruttley Boys Inc
			Sadie D Seafood
			Safe Harbour Seafood Inc
			Salina Cruz Inc
			Sally Kim III
			Sally Kim IV

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Sam Snodgrass & Co
			Samaira Inc
			San Dia
			Sand Dollar Inc
			Sandy N
			Sandy O Inc
			Santa Fe Cruz Inc
			Santa Maria I Inc
			Santa Maria II
			Santa Monica Inc
			Scavanger
			Scooby Inc
			Scooby Inc
			Scottie and Juliette Dufrene
			Scottie and Juliette Dufrene
			Sea Angel
			Sea Angel Inc
			Sea Bastion Inc
			Sea Drifter Inc
			Sea Durbin Inc
			Sea Eagle
			Sea Eagle Fisheries Inc
			Sea Frontier Inc
			Sea Gold Inc
			Sea Gulf Fisheries Inc
			Sea Gypsy Inc
			Sea Hawk I Inc
			Sea Horse Fisheries
			Sea Horse Fisheries Inc
			Sea King Inc
			Sea Pearl Seafood Company Inc
			Sea Queen IV
			Sea Trawlers Inc
			Sea World
			Seabrook Seafood Inc
			Seabrook Seafood Inc
			Seafood & Us Inc
			Seaman's Magic Inc
			Seaman's Magic Inc
			Seaside Seafood Inc
			Seaweed 2000
			Seawolf Seafood
			Second Generation Seafood
			Shark Co Seafood Inter Inc
			Sharon - Ali Michelle Inc
			Shelby & Barbara Seafood
			Shelby & Barbara Seafood
			Shelia Marie LLC
			Shell Creek Seafood Inc
			Shirley Elaine
			Shirley Girl LLC

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Shrimp Boat Patrice
			Shrimp Boating Inc
			Shrimp Express
			Shrimp Man
			Shrimp Networks Inc
			Shrimp Trawler
			Shrimper
			Shrimper
			Shrimpy's
			Si Ky Lan Inc
			Si Ky Lan Inc
			Si Ky Lan Inc
			Sidney Fisheries Inc
			Silver Fox
			Silver Fox LLC
			Simon
			Sims Shrimping
			Skip Toomer Inc
			Skip Toomer Inc
			Skyla Marie Inc
			Smith & Sons Seafood Inc
			Snowdrift
			Snowdrift
			Sochenda
			Soeung Phat
			Son T Le Inc
			Son's Pride Inc
			Sophie Marie Inc
			Soul Mama Inc
			Souther Obsession Inc
			Southern Lady
			Southern Nightmare Inc
			Southern Star
			Southshore Seafood
			Spencers Seafood
			Sprig Co Inc
			St Anthony Inc
			St Daniel Phillip Inc
			St Dominic
			St Joseph
			St Joseph
			St Joseph II Inc
			St Joseph III Inc
			St Joseph IV Inc
			St Martin
			St Martyrs VN
			St Mary Seafood
			St Mary Seven
			St Mary Tai
			St Michael Fuel & Ice Inc
			St Michael's Ice & Fuel

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			St Peter
			St Peter 550775
			St Teresa Inc
			St Vincent Andrew Inc
			St Vincent Gulf Shrimp Inc
			St Vincent One B
			St Vincent One B Inc
			St Vincent SF
			St Vincent Sfd Inc
			Start Young Inc
			Steamboat Bills Seafood
			Stella Mestre Inc
			Stephen Dantin Jr
			Stephney's Seafood
			Stipelcovich Marine Wks
			Stone-Co Farms LP
			Stone-Co Farms LP
			Stormy Sean Inc
			Stormy Seas Inc
			Sun Star Inc
			Sun Swift Inc
			Sunshine
			Super Coon Inc
			Super Cooper Inc
			Swamp Irish Inc
			Sylvan P Racine Jr - Capt Romain
			T & T Seafood
			T Brothers
			T Cvitanovich Seafood LLC
			Ta Do
			Ta T Vo Inc
			Ta T Vo Inc
			Tana Inc
			Tanya Lea Inc
			Tanya Lea Inc
			Tanya Lea Inc
			Tasha Lou
			T-Brown Inc
			Tee Frank Inc
			Tee Tigre Inc
			Tercera Cruz Inc
			Terrebonne Seafood Inc
			Terri Monica
			Terry Luke Corp
			Terry Luke Corp
			Terry Luke Corp
			Terry Lynn Inc
			Te-Sam Inc
			Texas 1 Inc
			Texas 18 Inc
			Texas Lady Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Texas Pack Inc
			Tex-Mex Cold Storage Inc
			Tex-Mex Cold Storage Inc
			Thai & Tran Inc
			Thai Bao Inc
			Thanh Phong
			The Boat Phat Tai
			The Fishermans Dock
			The Last One
			The Light House Bait & Seafood Shack LLC
			The Mayporter Inc
			The NGO
			The Seafood Shed
			Thelma J Inc
			Theresa Seafood Inc
			Third Tower Inc
			Thomas Winfield - Capt Nathan
			Thompson Bros
			Three C's
			Three Dads
			Three Sons
			Three Sons Inc
			Three Sons Inc
			Thunder Roll
			Thunderbolt Fisherman's Seafood Inc
			Thy Tra Inc
			Thy Tra Inc
			Tidelands Seafood Co Inc
			Tiffani Claire Inc
			Tiffani Claire Inc
			Tiger Seafood
			Tikede Inc
			Timmy Boy Corp
			Tina Chow
			Tina T LLC
			Tino Mones Seafood
			TJ's Seafood
			Toan Inc
			Todd Co
			Todd's Fisheries
			Tom LE LLC
			Tom Le LLC
			Tom N & Bill N Inc
			Tommy Bui dba Mana II
			Tommy Cheramie Inc
			Tommy Gulf Sea Food Inc
			Tommy's Seafood Inc
			Tonya Jane Inc
			Tony-N
			Tookie Inc
			Tot & Linda Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			T-Pops Inc
			Tran Phu Van
			Tran's Express Inc
			Travis - Shawn
			Travis - Shawn
			Trawler Azteca
			Trawler Becky Lyn Inc
			Trawler Capt GC
			Trawler Capt GC II
			Trawler Dalia
			Trawler Doctor Bill
			Trawler Gulf Runner
			Trawler HT Seaman
			Trawler Joyce
			Trawler Kristi Nicole
			Trawler Kyle & Courtney
			Trawler Lady Catherine
			Trawler Lady Gwen Doe
			Trawler Linda B Inc
			Trawler Linda June
			Trawler Little Brothers
			Trawler Little Gavino
			Trawler Little Rookie Inc
			Trawler Mary Bea
			Trawler Master Alston
			Trawler Master Jeffrey Inc
			Trawler Michael Anthony Inc
			Trawler Mildred Barr
			Trawler Miss Alice Inc
			Trawler Miss Jamie
			Trawler Miss Kelsey
			Trawler Miss Sylvia Inc
			Trawler Mrs Viola
			Trawler Nichols Dream
			Trawler Raindear Partnership
			Trawler Rhonda Kathleen
			Trawler Rhonda Lynn
			Trawler Sandra Kay
			Trawler Sarah Jane
			Trawler Sea Wolf
			Trawler Sea Wolf
			Trawler SS Chaplin
			Trawler The Mexican
			Trawler Wallace B
			Trawler Wylie Milam
			Triple C Seafood
			Triple T Enterprises Inc
			Triplets Production
			Tropical SFD
			Troy A LeCompte Sr
			True World Foods Inc

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			T's Seafood
			Tu Viet Vu
			TVN Marine Inc
			TVN Marine Inc
			Two Flags Inc
			Tyler James
			Ultima Cruz Inc
			UTK Enterprises Inc
			V & B Shrimping LLC
			Valona Sea Food
			Valona Seafood Inc
			Van Burren Shrimp Co
			Vaquero Inc
			Varon Inc
			Venetian Isles Marina
			Venice Seafood Exchange Inc
			Venice Seafood LLC
			Vera Cruz Inc
			Veronica Inc
			Versaggi Shrimp Corp
			Victoria Rose Inc
			Viet Giang Corp
			Vigilante Trawlers Inc
			Village Creek Seafood
			Villers Seafood Co Inc
			Vina Enterprises Inc
			Vincent L Alexie Jr
			Vincent Piazza Jr & Sons Seafood Inc
			Vin-Penny
			Vivian Lee Inc
			Von Harten Shrimp Co Inc
			VT & L Inc
			Vu NGO
			Vu-Nguyen Partners
			W L & O Inc
			Waccamaw Producers
			Wait-N-Sea Inc
			Waller Boat Corp
			Walter R Hicks
			Ward Seafood Inc
			Washington Seafood
			Watermen Industries Inc
			Watermen Industries Inc
			Waymaker Inc
			Wayne Estay Shrimp Co Inc
			WC Trawlers Inc
			We Three Inc
			We Three Inc
			Webster's Inc
			Weems Bros
			Weems Bros

Commerce Case Number	Commission Case Number	Product/Country	Petitioners/Supporters
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros
			Weems Bros Seafood
			Weems Bros Seafood Co
			Weiskopf Fisheries LLC
			Wendy & Eric Inc
			Wescovich Inc
			West Point Trawlers Inc
			Westley J Domangue
			WH Blanchard Inc
			Whiskey Joe Inc
			White and Black
			White Bird
			White Foam
			White Gold
			Wilcox Shrimping Inc
			Wild Bill
			Wild Eagle Inc
			William E Smith Jr Inc
			William Lee Inc
			William O Nelson Jr
			William Patrick Inc
			William Smith Jr Inc
			Willie Joe Inc
			Wind Song Inc
			Wonder Woman
			Woods Fisheries Inc
			Woody Shrimp Co Inc
			Yeaman's Inc
			Yen Ta
			Yogi's Shrimp
			You & Me Shrimp
			Ysclaskey Seafood
			Zirlott Trawlers Inc
			Zirlott Trawlers Inc

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Part III

Department of Energy

10 CFR Part 460
Energy Conservation Program: Energy Conservation Standards for Manufactured Housing; Final Rule

DEPARTMENT OF ENERGY

10 CFR Part 460

[EERE–2009–BT–BC–0021]

RIN 1904–AC11

Energy Conservation Program: Energy Conservation Standards for Manufactured Housing

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

ACTION: Final rule.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') is publishing a final rule to establish energy conservation standards for manufactured housing pursuant to the Energy Independence and Security Act of 2007. This document presents standards based on the 2021 version of the International Energy Conservation Code (''IECC'') and comments received during interagency consultation with the U.S. Department of Housing and Urban Development, as well as from stakeholders. The adopted standards would provide a set of ''tiered'' standards based on size that would apply the 2021 IECC-based standards to manufactured homes, except that single-section manufactured homes would be subject to less stringent building thermal envelope requirements compared to multi-section manufactured homes.

DATES: The effective date of this rule is August 1, 2022. Compliance with the adopted standards established for manufactured housing in this final rule is required on and after May 31, 2023.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register on August 1, 2022.

FOR FURTHER INFORMATION CONTACT: Mr. John Cymbalsky, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program (EE–2J), 1000 Independence Avenue SW, Washington, DC 20585; Telephone: 202–287–1692; Email: *appliancestandardsquestions@ee.doe.gov*.

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

SUPPLEMENTARY INFORMATION: This final rule incorporates by reference into 10 CFR part 460 the following industry standards:

ANSI/ACCA 2 Manual J–2016 (ver 2.50) (''ACCA Manual J''), Manual J—Residential Load Calculations, Eight Edition, Version 2.50, Copyright 2016.

ANSI/ACCA 3 Manual S–2014 (''ACCA Manual S''), Manual S—Residential Equipment Selection, Second Edition, Version 1.00, Copyright 2014.

Copies of Manual J and Manual S may be purchased from Air Conditioning Contractors of America Inc., (ACCA), 2800 S. Shirlington Road, Suite 300, Arlington, VA 22206, Telephone: 703–575–4477. *www.acca.org/*.

HUD User No. 0005945, Overall U-Values and Heating/Cooling Loads–Manufactured Homes, February 1992.

A copy of Overall *U*-Values and Heating/Cooling Loads–Manufactured Homes may be purchased from HUD User, 11491 Sunset Hills Road, Reston, VA 20190–5254 or *www.huduser.org/portal/publications/manufhsg/uvalue.html.* Telephone: 800–245–2691.

See section V.M of this document for further discussion of these standards.

Table of Contents

I. Summary of the Final Rule

The Energy Independence and Security Act of 2007 (''EISA,'' Pub. L. 110–140) directs the U.S. Department of Energy (''DOE'' or in context, ''the Department'') to establish energy conservation standards for manufactured housing (''MH'').[1] (42

[1] The National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, defines ''manufactured home'' as ''a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure that meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary [pursuant to 24 CFR 3282.13] and complies with the standards established under this title [24 CFR part 3280]; and

U.S.C. 17071) Manufactured homes are constructed according to a code administered by the U.S. Department of Housing and Urban Development (''HUD Code''). 24 CFR part 3280. See also generally 42 U.S.C. 5401–5426. Structures, such as site-built and modular homes that are constructed to the state, local or regional building codes are excluded from the coverage of the HUD Code.[2]

EISA directs DOE to base the standards on the most recent version of the International Energy Conservation Code (''IECC'') and any supplements to that document, except in cases where DOE finds that the IECC is not cost-effective or where a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. (See 42 U.S.C. 17071(b)(1)) Standards shall be established after notice and an opportunity to comment by manufacturers of manufactured housing and other interested parties, and consultation with the Secretary of Housing and Urban Development (''HUD''), who may seek further counsel from the Manufactured Housing Consensus Committee. (42 U.S.C. 17071(a)(2)) The energy conservation standards established by DOE may: (1) Take into consideration the design and factory construction techniques of manufactured homes, (2) be based on the climate zones established by HUD rather than the climate zones of the IECC, and (3) provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards. (42 U.S.C. 17071(b)(2)).

On June 17, 2016, DOE published in the **Federal Register** a notice of proposed rulemaking (''NOPR''), including proposals recommended by the negotiated rulemaking working group for manufactured housing. 81 FR 39756 (''June 2016 NOPR''). DOE also issued a comprehensive technical support document. *See* Document ID EERE–2009–BT–BC–0021–0136.[3] The agency also issued for public review and comment a draft Environmental Assessment (''EA'') pursuant to the National Environmental Policy Act. In conjunction with the draft EA, DOE issued a request for information that would help it analyze potential impacts of the proposed standards on the indoor air quality of manufactured homes. *See* Draft Environmental Assessment for Notice of Proposed Rulemaking, ''Energy Conservation Standards for Manufactured Housing'' With Request for Information on Impacts to Indoor Air Quality, 81 FR 42576 (June 30, 2016) (''2016 EA–RFI''). DOE received nearly 50 comments on the proposed rule during the comment period. In addition, DOE also received over 700 substantively similar form letters from individuals. DOE also received 7 comments to the 2016 EA–RFI during its comment period.

During DOE's interagency consultation with HUD, HUD expressed concerns about the adverse impacts on manufactured housing affordability that would likely follow if DOE were to adopt the approach laid out in its June 2016 NOPR. A variety of commenters also expressed concerns over the potentially negative impacts on the affordability of manufactured housing flowing from increased consumer costs resulting from DOE's approach in the June 2016 NOPR. In December 2017, the Sierra Club filed a suit against DOE in the U.S. District Court for the District of Columbia, alleging that DOE had failed to meet its statutory deadlines for establishing energy efficiency standards for manufactured housing. On August 3, 2018, DOE published a Notice of Data Availability (''NODA''). 83 FR 38073 (''August 2018 NODA''). In the August 2018 NODA, DOE stated it was examining a number of possible alternatives to those proposed in the June 2016 NOPR on which it sought further input from the public, including the first-time costs related to the purchase of these homes. In November 2019, the court in the above-referenced litigation entered a consent decree in which DOE agreed to complete the rulemaking by stipulated dates.

After evaluating the comments received in response to the June 2016 NOPR and the August 2018 NODA, DOE published a supplemental NOPR (''SNOPR'') on August 26, 2021, in which DOE proposed energy conservation standards for manufactured homes based on the 2021 IECC. 86 FR 47744 (''August 2021 SNOPR''). In the August 2021 SNOPR, DOE also proposed that the standards would be based on the current HUD zones. DOE's primary proposal in the August 2021 SNOPR was a ''tiered'' approach, based on the 2021 IECC, wherein a subset of the energy conservation standards (based on retail list price) would be less stringent for certain manufactured homes in light of the cost-effectiveness considerations required by statute. DOE's alternate proposal was an ''untiered'' approach, wherein energy conservation standards for all manufactured homes would be based on certain thermal envelope components and specifications of the 2021 IECC. Both proposals replaced the June 2016 NOPR proposal. *Id.* DOE sought comment on these proposals, as well as alternate thresholds, including a size-based threshold (*e.g.,* square footage, number of sections) and a region-based threshold, and alternative exterior wall insulation requirements (R–21) for certain HUD zones. *Id.*

On October 26, 2021, DOE published a NODA regarding updated inputs and results of corresponding analyses presented in the August 2021 SNOPR (both tiered and untiered approaches), including a sensitivity analysis regarding an alternate sized based tier threshold and an alternate exterior wall insulation requirement (R–21) for certain HUD zones. 86 FR 59042 (''October 2021 NODA'') In addition, DOE reopened the public comment period on the August 2021 SNOPR through November 26, 2021. DOE explained that it would consider the updated inputs and corresponding analyses, as well as comments on the inputs and analyses, as part of the rulemaking. In addition, DOE stated it may further revise the analysis presented in this rulemaking based on any new or updated information or data it obtains and encouraged stakeholders to provide any additional data or information that may inform the analysis. *Id*

On January 14, 2022, DOE published a draft environmental impact statement (''DEIS'') for proposed energy conservation standards for manufactured housing (DOE/EIS–0550D). (87 FR 2359) (''January 2022 DEIS'') DOE prepared the January 2022 DEIS in support of the August 2021 SNOPR and October 2021 NODA.

DOE invited input on the January 2022 DEIS for 45 days (through February 28, 2022). In January 2022, DOE held two public meetings for the DEIS and invited oral comments. Upon issuance of the January 2022 DEIS, DOE reopened the public comment period on the SNOPR through February 28, 2022, to invite public comments under the rulemaking process on how the January 2022 DEIS should inform the final energy conservation standards. January 14, 2022 (87 FR 2359) Relevant comments on the January 2022 DEIS and those submitted in the concurrent comment period for the SNOPR were considered by DOE in preparing the final Environmental Impact Statement (''FEIS''), to help inform DOE's decision-making process for establishing

except that such term shall not include any self-propelled recreational vehicle.'' 42 U.S.C. 5402(6).

[2] *See* 42 U.S.C. 5403(f). See also 24 CFR 3282.12.

[3] Available at: *www.regulations.gov/document?D=EERE-2009-BT-BC-0021-0136.*

energy conservation standards for manufactured housing. The Notice of Availability for the FEIS (DOE/EIS–0550) was published on April 8, 2022.[4] (87 FR 20852).

In this final rule, DOE codifies the energy conservation standards in a new part of the Code of Federal Regulations (''CFR'') under 10 CFR part 460, subparts A, B, and C. Subpart A presents generally the scope of the rule and provides definitions of key terms. Subpart B would establish new requirements for manufactured homes that relate to climate zones, the building thermal envelope, air sealing, and installation of insulation, based on certain provisions of the 2021 IECC. Subpart C would establish new requirements based on the 2021 IECC related to duct sealing, heating, ventilation, and air conditioning (''HVAC''); service hot water systems; mechanical ventilation fan efficacy; and heating and cooling equipment sizing.

Under the energy conservation standards, the stringency of the requirements under subpart B would depend on the size of the manufactured home for the tiered approach. Accordingly, two sets of standards would be established in subpart B (*i.e.,* Tier 1 and Tier 2). Both Tier 1 and Tier 2 incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC that DOE, over the course of this rulemaking, determined applicable and appropriate for manufactured homes. Tier 1 applies these building thermal envelope provisions to single-section manufactured homes, but, for the reasons discussed in section III of this document, only includes components at stringencies that would increase the incremental purchase price by less than $750. Tier 2 applies these same building thermal envelope provisions to multi-section manufactured homes but at higher stringencies specified for site built homes in the 2021 IECC, with alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3 based on consideration of the design and factory construction techniques of manufactured homes, as presented in the August 2021 SNOPR and October 2021 NODA. Further, the energy conservation standards for both tiers also include duct and air sealing, insulation installation, HVAC and service hot water system specifications, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions, based on the 2021 IECC.

DOE is adopting a compliance date such that the standards would apply to manufactured homes starting one year after the publication date of the final rule in the **Federal Register**. As discussed in sections I.F and III.A of this document, DOE has concluded that this approach is cost-effective based on the expected total life-cycle cost (''LCC'') savings for the lifetime of the home associated with implementation of the energy conservation standards.

A. Benefits and Costs to Purchasers of Manufactured Housing

As explained in greater detail in section IV.A of this document and in chapter 9 of the final rule technical support document (''TSD''), DOE estimates that benefits to manufactured home homeowners—in terms of LCC savings—of the requirements outweighs the potential increase in purchase price for manufactured homes.

Table I.1 and Table I.2 present the average purchase price increase of a manufactured home as a result of the energy conservation standards. This does not include any potential testing or compliance costs.

TABLE I.1—NATIONAL AVERAGE MANUFACTURED HOUSING PURCHASE PRICE (AND PERCENTAGE) INCREASES UNDER TIER 1 STANDARD

[2020$]

	Single-section	
	$	%
Climate Zone 1 ...	627	1.1
Climate Zone 2 ...	627	1.1
Climate Zone 3 ...	719	1.3
National Average	660	1.2

TABLE I.2—NATIONAL AVERAGE MANUFACTURED HOUSING PURCHASE PRICE (AND PERCENTAGE) INCREASES UNDER TIER 2 STANDARD

[2020$]

	Multi-section	
	$	%
Climate Zone 1 ...	4,131	3.8
Climate Zone 2 ...	4,438	4.1
Climate Zone 3 ...	4,111	3.8
National Average	4,222	3.9

Table I.3 presents the estimated national average LCC savings and energy savings for the compliance year that a manufactured homeowner would experience under the standards compared to a manufactured home constructed in accordance with the minimum requirements of existing HUD Manufactured Home Construction and Safety Standards (''HUD Code'') at 24 CFR part 3280 *et. seq.* Table I.3 and Figure I.1 present the nationwide average simple payback periods (purchase price increase divided by first year energy cost savings). The methods and information used for these analyses are discussed more in section IV.A. of this document.

TABLE I.3—NATIONAL AVERAGE PER-HOME COST SAVINGS *

	Tier 1 standard	Tier 2 standard
Lifecycle Cost Savings (30-Year Lifetime)	$1,594	$3,573
Lifecycle Cost Savings (10-Year Lifetime)	$720	$743
Annual Energy Cost Savings in 2020$	$177	$475
Simple Payback Period (Years)	3.7	8.9

* negative values in parenthesis.

[4] The draft and final EIS documents are available at *www.ecs-mh.evs.anl.gov/*.

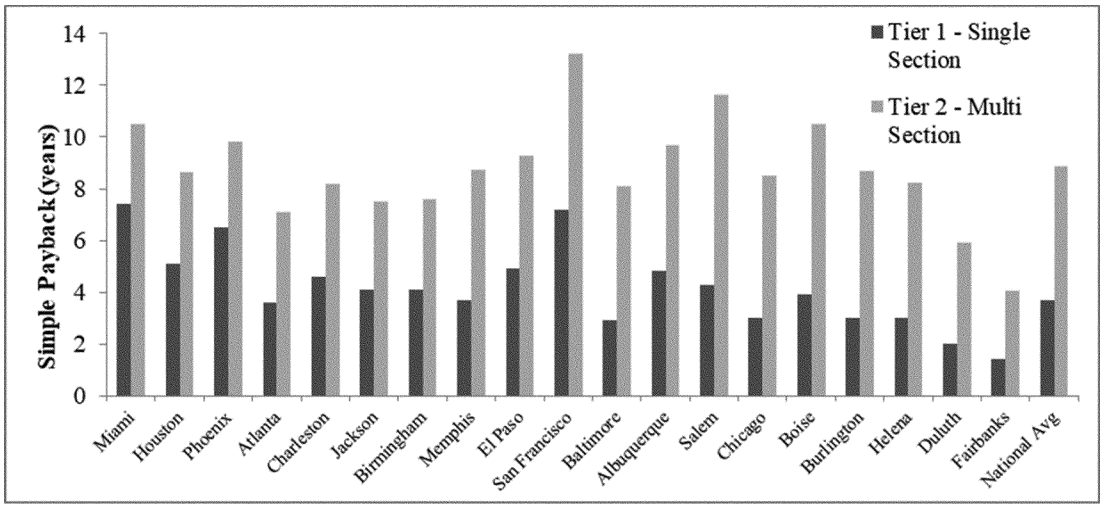

Figure I.1: Simple Payback Period of the Standard

B. Impact on Manufacturers

As discussed in more detail in section IV.B of this document and chapter 12 of the final rule TSD, the industry net present value (''INPV'') is the sum of the discounted cash flows to the industry from the reference year (2022) through the end of the analysis period (2052). Using a real discount rate of 9.2 percent, as discussed in section IV.B.2 of this document, DOE estimates the INPV under a no-regulatory-action alternative, which would maintain energy conservation requirements at the levels established in the existing HUD Code, to be $15.0 billion. Under the updated standard, the change in INPV would range from −1.4 percent to 1.3 percent. Industry would incur total conversion costs of $29.5 million. Conversion costs are one-time investments, as described in section IV.B.1 of this section.

C. Nationwide Impacts

As described in more detail in section IV.C of this document and chapter 11 of the final rule TSD, DOE's national impact analysis (''NIA'') projects a net benefit to the nation as a whole under the standard, in terms of national energy savings (''NES'') and the net present value (''NPV'') of expected total manufactured homeowner costs and savings compared with the baseline. In this case, the baseline is manufactured homes built to the minimum standards established in the HUD Code. As part of its NIA, DOE has projected the energy savings, operating cost savings, incremental costs, and NPV of manufactured homeowner benefits for manufactured homes sold in a 30-year period from the compliance year of 2023 through 2052. The NIA builds off the LCC analysis by aggregating results for all affected shipments over a 30-year period. All NES and percentage energy savings calculations are relative to a no-regulatory-action alternative, which would maintain energy conservation requirements at the levels established in the existing HUD Code.

Table I.4 illustrates the cumulative NES over the 30-year analysis period under the standards on a full-fuel-cycle (''FFC'') energy savings basis. FFC energy savings apply a factor to account for losses associated with generation, transmission, and distribution of electricity, and the energy consumed in extracting, processing, and transporting or distributing primary fuels. NES differ among the different climate zones because of varying energy conservation requirements and varying shipment projections in each climate zone. All NES and percentage energy savings calculations are relative to a no-regulatory-action alternative, which as discussed would maintain energy conservation requirements at the levels established in the existing HUD Code. DOE estimates that under the updated standards, 1.88 quads of FFC energy would be saved relative to the baseline over the 30-year analysis period.

TABLE I.4—CUMULATIVE FULL-FUEL-CYCLE NATIONAL ENERGY SAVINGS OF MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	Single-section quadrillion Btu (quads)	Multi-section (quads)	Total (quads)
Climate Zone 1	0.123	0.542	0.665
Climate Zone 2	0.100	0.463	0.563
Climate Zone 3	0.239	0.408	0.648
Total	0.462	1.414	1.876

Table I.5 and Table I.6 illustrate the NPV of consumer benefits over the 30-year analysis period for a discount rate of 7 percent and 3 percent, respectively, the percentages are used in accordance with Office of Management and Budget guidance, as discussed in section IV.A.1.d of this document. The NPV of consumer benefits differ among the three climate zones because of differing initial costs and corresponding operating cost savings, as well as differing shipment projections in each climate zone.

TABLE I.5—NET PRESENT VALUE OF CONSUMER BENEFITS FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME AT A 7% DISCOUNT RATE

	Single-section (billion 2020$)	Multi-section (billion 2020$)	Total (billion 2020$)
Climate Zone 1	$0.15	$0.31	$0.46
Climate Zone 2	$0.13	$0.20	$0.33
Climate Zone 3	$0.40	$0.32	$0.73
Total	$0.68	$0.84	$1.52

TABLE I.6—NET PRESENT VALUE OF CONSUMER BENEFITS FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME AT A 3% DISCOUNT RATE

	Single-section (billion 2020$)	Multi-section (billion 2020$)	Total (billion 2020$)
Climate Zone 1	$0.40	$1.17	$1.58
Climate Zone 2	$0.35	$0.89	$1.24
Climate Zone 3	$1.10	$1.15	$2.25
Total	$1.85	$3.21	$5.06

D. Nationwide Energy Savings and Emissions Benefits

As discussed in section IV.C of this document and in the NIA included in chapter 11 of the final rule TSD, DOE's analyses indicate that the standards would reduce overall demand for energy in manufactured homes and other unquantified energy security benefits. Further, the standards would produce environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production.

DOE estimates reductions in emissions of six pollutants associated with energy savings: Carbon dioxide (CO_2), mercury (Hg), nitric oxide and nitrogen dioxide (NO_X), sulfur dioxide (SO_2), methane (CH_4), and nitrous oxide (N_2O). These emissions reductions are referred to as ''site'' emissions reductions. Furthermore, DOE estimates reductions in emissions associated with the production of these fuels (including extracting, processing, and transporting these fuels to power plants or manufactured homes). These emissions reductions are referred to as ''upstream'' emissions reductions. Together, site emissions reductions and upstream emissions reductions account for the FFC.

Table I.7 lists the emissions reductions under the rule for both single-section and multi-section manufactured homes. (In this table and elsewhere in this document, the ''E'' format notes a multiplier of a power of ten, *e.g.,* ''2.92E–02'' means 2.9×10^{-02}, which is 0.029.)

TABLE I.7—EMISSIONS REDUCTIONS ASSOCIATED WITH ELECTRICITY PRODUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

Pollutant	Single-section	Multi-section	Total
Site Emissions Reductions			
CO_2 (million metric tons)	19.5	53.8	73.3
Hg (metric tons)	2.92E–02	9.60E–02	1.25E–01
NO_X (thousand metric tons)	10.9	26.6	37.5
SO_2 (thousand metric tons)	7.2	20.4	27.6
CH_4 (thousand metric tons)	1.03	3.11	4.14
N_2O (thousand metric tons)	0.21	0.57	0.78
Upstream Emissions Reductions			
CO_2 (million metric tons)	2.01	5.05	7.06
Hg (metric tons)	1.48E–04	4.45E–04	5.93E–04
NO_X (thousand metric tons)	25.4	64.8	90.2
SO_2 (thousand metric tons)	0.21	0.47	0.67
CH_4 (thousand metric tons)	127	354	481
N_2O (thousand metric tons)	0.011	0.026	0.037
Total Emissions Reductions			
CO_2 (million metric tons)	21.5	58.9	80.4
Hg (metric tons)	2.93E–02	9.64E–02	0.13
NO_X (thousand metric tons)	36.3	91.4	127.7
SO_2 (thousand metric tons)	7.44	20.9	28.3
CH_4 (thousand metric tons)	128	357	485
N_2O (thousand metric tons)	0.23	0.59	0.82

DOE estimates the value of climate benefits from a reduction in greenhouse gases using four different estimates of the social cost of CO_2 (SC-CO_2), the social cost of methane (SC-CH_4), and the social cost of nitrous oxide (SC-N_2O). Together these represent the social cost of greenhouse gases (SC-GHG). DOE used interim SC-GHG values developed by an Interagency Working Group on the Social Cost of Greenhouse Gases (IWG).[5] The derivation of these values is discussed in section IV.D of this document. For presentational purposes, the climate benefits associated with the average SC-GHG at a 3-percent discount rate are estimated to be $3.3 billion. DOE does not have a single central SC-GHG point estimate and it emphasizes the importance and value of considering the benefits calculated using all four SC-GHG estimates.[6] DOE estimated the monetary health benefits of NO_X and SO_2 emission reduction, also discussed in section IV.D of this document. Table I.8 provides the NPV of monetized climate and health benefits from reduction in emissions.

TABLE I.8—NET PRESENT VALUE OF MONETIZED CLIMATE AND HEALTH BENEFITS FROM EMISSIONS REDUCTIONS

Monetary benefits *	Discount rate (%)	Net present value (million 2020$)	
		Single-section	Multi-section
Climate Benefits **	3	881.3	2,425.9
Health Benefits †	3	1,503.5	4,088.2
	7	508.1	1,386.3

* Monetized values do not include other important unquantified effects, including certain climate benefits and certain air quality benefits from the reduction of toxic air pollutants and other emissions

** Climate benefits are calculated using four different estimates of the social cost of carbon (SC-CO_2), methane (SC-CH_4), and nitrous oxide (SC-N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate), as in Table IV.22 through Table IV.24. Together these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC-GHG point estimate. See section IV.D of this document for more details. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

† Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. See section IV.D.2 of this document for more details.

E. Total Benefits and Costs

Table I.9 summarizes the monetized benefits and costs expected to result from the amended standards for manufactured homes. There are other important unquantified effects, including certain unquantified climate benefits, unquantified public health benefits from the reduction of toxic air pollutants and other emissions, unquantified energy security benefits, and distributional effects, among others.

TABLE I.9—SUMMARY OF MONETIZED BENEFITS AND COSTS TO THE NATION UNDER THE ADOPTED STANDARDS

	Net present value (billion $2020)
3% discount rate	
Consumer Operating Cost Savings	10.2
Climate Benefits *	3.3
Health Benefits **	5.6
Total Benefits	19.1
Consumer Incremental Product Costs †	5.1
Net Benefits	14.0
7% discount rate	
Consumer Operating Cost Savings	3.9
Climate Benefits *	3.3
Health Benefits **	1.9
Total Benefits †	9.1

[5] See Interagency Working Group on Social Cost of Greenhouse Gases, Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide. Interim Estimates Under Executive Order 13990, Washington, DC, February 2021. Available at: *www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf* (last accessed March 17, 2022).

[6] On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

TABLE I.9—SUMMARY OF MONETIZED BENEFITS AND COSTS TO THE NATION UNDER THE ADOPTED STANDARDS—Continued

	Net present value (billion $2020)
Consumer Incremental Product Costs ††	2.4
Net Benefits	6.7

Note: This table presents the costs and benefits associated with manufactured housing shipped in 2023–2052. These results include benefits to consumers which accrue after 2052 from the products shipped in 2023–2052.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC-CO_2), methane (SC-CH_4), and nitrous oxide (SC-N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate), as shown in Table IV.22 through Table IV.24. Together these represent the global SC-GHG. For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC-GHG point estimate. See section. IV.D of this document for more details. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. See section IV.D.2 of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with 3-percent discount rate, but the Department does not have a single central SC-GHG point estimate. DOE emphasizes the importance and value of considering the benefits calculated using all four SC-GHG estimates.

†† The incremental costs include incremental costs associated with principal and interest, mortgage and property tax for the analyzed loan types. Further discussion can be found in chapter 8 of the TSD.

The benefits and costs of the standards for manufactured housing sold in 2023–2052 can also be expressed in terms of annualized values. The monetary values for the total annualized net benefits are (1) the savings in consumer operating costs, minus (2) the increases in product installed costs, plus (3) the value of the climate and health benefits of emission reductions, all annualized.[7] The national operating cost savings are domestic private U.S. consumer monetary savings that occur as a result of purchasing the covered housing and are measured for the lifetime of manufactured housing shipped in 2023–2052. Total Benefits for both the 3-percent and 7-percent cases are presented using the average social costs with 3-percent discount rate. Estimates of SC-GHG values are presented for all four discount rates in section IV.D of this document. Table I.10 presents the total estimated monetized benefits and costs to manufactured housing homeowners associated with the standard, expressed in terms of annualized values.

TABLE I.10—ANNUALIZED MONETIZED BENEFITS AND COSTS TO THE NATION UNDER THE ADOPTED STANDARD

	Primary estimate	Low-net-benefits estimate	High-net-benefits estimate
(**Million $2020**)			
3% discount rate			
Consumer Operating Cost Savings	551	478	627
Climate Benefits *	169	155	180
Health Benefits **	285	263	303
Total Benefits †	1,005	896	1110
Consumer Incremental Product Costs ††	277	255	294
Net Benefits	728	641	816
7% discount rate			
Consumer Operating Cost Savings	361	322	402
Climate Benefits *	169	155	180
Health Benefits **	153	143	161
Total Benefits †	682	620	742
Consumer Incremental Product Costs ††	221	213	231

[7] To convert the time-series of costs and benefits into annualized values, DOE calculated a present value in 2020, the year used for discounting the NPV of total consumer costs and savings. For the benefits, DOE calculated a present value associated with each year's shipments in the year in which the shipments occur (*e.g.,* 2020 or 2030), and then discounted the present value from each year to 2020. The calculation uses discount rates of 3 and 7 percent for all costs and benefits. Using the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in the compliance year, which yields the same present value.

TABLE I.10—ANNUALIZED MONETIZED BENEFITS AND COSTS TO THE NATION UNDER THE ADOPTED STANDARD—Continued

	Primary estimate	Low-net-benefits estimate	High-net-benefits estimate
	(**Million $2020**)		
Net Benefits	461	407	511

Note: This table presents the costs and benefits associated with manufactured housing shipped in 2023–2052. These results include benefits to consumers which accrue after 2052 from the products shipped in 2023–2052. The Primary, Low Net Benefits, and High Net Benefits Estimates utilize projections of energy prices from the AEO2020 Reference case, Low Economic Growth case, and High Economic Growth case, respectively. In addition, incremental product costs reflect a medium decline rate in the Primary Estimate, a low decline rate in the Low Net Benefits Estimate, and a high decline rate in the High Net Benefits Estimate. The methods used to derive projected price trends are explained in sections IV.A and IV.C of this document. Note that the Benefits and Costs may not sum to the Net Benefits due to rounding.

* Climate benefits are calculated using four different estimates of the SC-GHG (see section IV.D of this document). For presentational purposes of this table, the climate benefits associated with the average SC-GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC-GHG point estimate, and it emphasizes the importance of considering the benefits calculated using all four SC-GHG estimates. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. See section IV.D.2 of this document for more details.

† Total benefits for both the 3-percent and 7-percent cases are presented using the average SC-GHG with 3-percent discount rate, but the Department does not have a single central SC-GHG point estimate.

†† The incremental costs include incremental costs associated with principal and interest, mortgage and property tax for the analyzed loan types. Further discussion can be found in chapter 8 of the TSD.

DOE's analysis of the national impacts of the standards is described in sections IV.C, IV.D, and IV.E of this document.

F. Conclusion

DOE has determined that the conservation standards in this final rule are cost-effective when evaluating the impact of the standards on the purchase price of a manufactured home and on the total life-cycle construction and operating costs. As discussed in section III.A of this document, the tiered standards adopted in this final rule provide positive average LCC savings over the life of the manufactured home (*i.e.,* 30-years) in every city for which the standards are analyzed, as well as nationally. Additionally, DOE has also determined that the benefits to the Nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, energy security, and emission reductions) outweigh the burdens (loss of INPV, LCC increases for some homeowners of manufactured housing. and price-sensitive consumers who do not purchase manufactured homes).

II. Introduction

This section addresses the legal and factual background to date regarding DOE's efforts to establish energy conservation standards for manufactured housing. By statute, DOE is obligated to set standards for manufactured housing in consultation with HUD and to consider certain specific factors when establishing these standards. DOE is also obligated to update these standards within a prescribed period of time.

A. Authority

Section 413 of EISA directs DOE to:

- Establish standards for energy conservation in manufactured housing;
- Provide notice of, and an opportunity for comment on, the proposed standards by manufacturers of manufactured housing and other interested parties;
- Consult with the Secretary of HUD, who may seek further counsel from the Manufactured Housing Consensus Committee (''MHCC''); and
- Base the energy conservation standards on the most recent version of the IECC and any supplements to that document, except in cases where DOE finds that the IECC is not cost-effective or where a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs.

(42 U.S.C. 17071(a) and (b)(1))

Section 413 of EISA also provides that DOE may:

- Consider the design and factory construction techniques of manufactured housing;
- Base the climate zones on the climate zones established by HUD [8] rather than the climate zones under the IECC; and
- Provide for alternative practices that, while not meeting the specific standards established by DOE, result in net estimated energy consumption equal to or less than the specific energy conservation standards.

(42 U.S.C. 17071(b)(2))

DOE is directed to update its standards not later than one year after any revision to the IECC. (42 U.S.C. 17071(b)(3)) Finally, under EISA, a manufacturer of manufactured housing that violates a provision of Part 460 ''is liable to the United States for a civil penalty not exceeding 1 percent of the manufacturer's retail list price of the manufactured housing.'' (42 U.S.C. 17071(c))

B. Background

1. Current Standards

Section 413 of EISA requires DOE to regulate energy conservation in manufactured housing, an area of the building construction industry

[8] The statute uses the term ''climate zones'' in reference to the HUD requirements (42 U.S.C. 17071(b)(2)(B). HUD has not established ''climate zones'' but has established ''insulation zones.'' See, *U/O Value Zone Map for Manufactured Housing* at 24 CFR 3280.506. DOE understands the statutory reference to ''climate zones'' in this context to mean the established insulation zones at 24 CFR 3280.506.

traditionally regulated by HUD. HUD has regulated the manufactured housing industry since 1976, when it first promulgated the HUD Code. (42 U.S.C. 5401 *et seq.*; 24 CFR part 3280 *et seq.*) The purpose of the HUD Code includes protecting the quality, durability, safety, and affordability of manufactured homes; facilitating the availability of affordable manufactured homes and increasing homeownership for all Americans; protecting residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages in manufactured housing; and ensuring that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement. (42 U.S.C. 5401(b))

The HUD Code includes requirements related to the energy conservation of manufactured homes. Specifically, Subpart F of the HUD Code, entitled ''Thermal Protection,'' establishes requirements for U_o of the building thermal envelope. U_o is a measurement of the heat loss or gain rate through the building thermal envelope of a manufactured home; therefore, a lower U_o corresponds with a more insulated building thermal envelope. The HUD Code contains maximum requirements for the combined U_o value of walls, ceilings, floors, fenestration, and external ducts within the building thermal envelope for manufactured homes installed in different zones. 24 CFR 3280.506(a).

The HUD Code also provides an alternate pathway to compliance that allows manufacturers to construct manufactured homes that meet adjusted U_o requirements based on the installation of high-efficiency heating and cooling equipment in the manufactured home. 24 CFR 3280.508(d). Moreover, Subpart F of the HUD Code establishes requirements to reduce air leakage through the building thermal envelope. 24 CFR 3280.505.

Subpart H of the HUD Code, entitled ''Heating, Cooling, and Fuel Burning Systems,'' establishes requirements for sealing air supply ducts and for insulating both air supply and return ducts. 24 CFR 3280.715(a). *R*-value is the measure of a building component's ability to resist heat flow (thermal resistance). A higher *R*-value represents a greater ability to resist heat flow and generally corresponds with a thicker level of insulation. The HUD Code contains no requirements for fenestration solar heat gain coefficient (''SHGC''), mechanical system piping insulation, or installation of insulation.

The statutory authority for DOE's rulemaking effort is different from the statutory authority underlying the HUD Code. EISA directs DOE to establish energy conservation standards for manufactured housing without reference to existing HUD Code requirements that also address energy conservation. However, EISA also requires DOE to consult with HUD. (42 U.S.C. 17071(a)(2)(B)) Such consultations have informed DOE in development of the regulations finalized in this document, and DOE remains cognizant of the HUD Code, as well as HUD's Congressional charge to protect the quality, durability, safety, affordability, and availability of manufactured homes. Compliance with the DOE requirements adopted in this final rule would not prevent a manufacturer from complying with the requirements, including energy conservation requirements, set forth in the HUD Code. Section III.G of this document provides a crosswalk of the energy conservation standards in this rule with the standards in the HUD Code. Moreover, as discussed further in section III, DOE considered the potential impact on manufactured home purchasers resulting from costs associated with additional energy efficiency measures.

2. The International Energy Conservation Code (IECC)

The statutory authority for this rulemaking requires DOE to base its standards on the most recent version of the IECC[9] and any supplements to that document, subject to certain exceptions and considerations. (42 U.S.C. 17071(b)(1)) The IECC is a nationally-recognized model code, developed under the auspices of and published by the International Code Council (''ICC''). Many state and local governments have adopted the IECC[10] in establishing minimum design and construction requirements for the energy efficiency of residential and commercial buildings, including site-built residential and modular homes.[11] The IECC is developed through a consensus process that seeks input from a number of relevant stakeholders and is updated on a rolling basis, with new editions of the IECC published approximately every three years. The IECC was first published in 1998, with the most recent version, the 2021 IECC, being published in January 2021.

The 2021 IECC is divided into two major sections, with provisions for both residential and commercial buildings. The manufactured housing energy conservation standards and test procedure are based on the requirements for residential buildings. The residential building requirements of the 2021 IECC, however, are not specific to manufactured housing.

Chapter 4 of the residential section of the 2021 IECC sets forth specifications for residential energy efficiency, including specifications for building thermal envelope energy conservation, thermostats, duct insulation and sealing, mechanical system piping insulation, heated water circulation system, and mechanical ventilation. To the extent that the HUD Code regulates similar aspects of energy conservation as the 2021 IECC, the 2021 IECC is generally considered more stringent than the corresponding requirements in the HUD Code, given that many areas of the HUD Code have not been updated as frequently as the IECC.

DOE notes that the IECC is designed for building structures that have a permanent foundation. Manufactured housing structures, however, are not built on permanent foundations but are built on a steel chassis to enable them to be moved or towed when needed. As a result, because they present their own set of unique considerations that the IECC was not intended to address, some aspects of the IECC are unable, or highly impractical, to be applied to manufactured housing. Instead, consistent with the considerations required by EISA (*e.g.,* 42 U.S.C. 17071(b)(2)(A)), these adopted standards utilize aspects of the IECC that are appropriate for manufactured housing as the basis for the standards, thereby accounting for the unique physical characteristics of manufactured housing.

3. Development of the Initial Proposal and Responses

Based on the 2019 American Housing Survey (''2019 AHS''), manufactured housing accounts for approximately six percent of all homes in the United States.[12] Because the purchase price of manufactured homes often is lower than similarly-sized site-built homes, manufactured homes serve as affordable housing options, particularly for lower

[9] The website of the IECC is *https://shop.iccsafe.org/international-codes/iecc-references.html.*

[10] The current status of the adoption of the IECC is provided at *www.energycodes.gov/status-state-energy-code-adoption.*

[11] Modular homes are generally excluded from the coverage of the National Manufactured Housing Construction and Safety Standards Act and constructed to the same state, local or regional building codes as site-built homes. *See* 42 U.S.C. 5403(f); 24 CFR 3282.12.

[12] U.S. Census Bureau, American Housing Survey 2019—National Summary Tables. Available at *www.census.gov/programs-surveys/ahs/data.html.*

to median income families. However, using the data from the 2019 AHS, the median energy burden (median cost of electricity, gas, fuel oil and other fuel as a percentage of median household income) is approximately 5 percent for manufactured home residents compared to 3 percent for all homes. Further, the same data suggests the per square foot utility cost for manufactured homes ($0.15 per square foot; median $178 for 1140 square feet) is higher than single-family homes ($0.14 per square foot; median $249 for 1800 square feet). As such, the energy burden as measured on a square foot basis, is significantly higher for residents of manufactured homes.

Establishing improved energy conservation requirements for manufactured homes results in the dual benefit of reducing manufactured home energy use and enabling owners of manufactured homes to experience lower utility expenses over the long-term. Improved energy conservation standards are also expected to provide nationwide benefits of reducing utility energy production levels that would in turn reduce greenhouse gas emissions and other air pollutants.

DOE published an advance notice of proposed rulemaking (''ANOPR'') to initiate the process of developing energy conservation standards for manufactured housing and to solicit information and data from industry and stakeholders.[13] *See* 75 FR 7556 (February 22, 2010). DOE also consulted with HUD in developing the requirements and in obtaining input and suggestions that would increase energy conservation in manufactured housing, while maintaining affordability. In addition to meeting with HUD on multiple occasions, DOE attended three MHCC meetings, where DOE gathered information from MHCC members. DOE also initiated discussions with members of the manufactured housing industry following the issuance of the ANOPR.[14] A summary of each meeting is available at *www.regulations.gov/docket?D=EERE-2009-BT-BC-0021*. The June 2016 NOPR provides more details on the comments received in response to the ANOPR. 81 FR 39755 (June 17, 2016)

On June 25, 2013, DOE published a request for information (''RFI'') seeking information on indoor air quality, financing and related incentives, model systems of enforcement, and other studies and research relevant to DOE's effort to establish energy conservation standards for manufactured housing. 78 FR 37995 (''June 2013 RFI''). The June 2016 NOPR provides more details on the comments received on the RFI. 81 FR 39765 (June 17, 2016).

After reviewing the comments received in response to the ANOPR, the June 2013 RFI, and other stakeholder input, DOE ultimately determined that development of proposed manufactured housing energy conservation standards would benefit from a negotiated rulemaking process. On June 13, 2014, DOE published a notice of intent to establish a negotiated rulemaking manufactured housing working group (''MH working group'') to discuss and, if possible, reach consensus on a proposed rule. 79 FR 33873. On July 16, 2014, the MH working group was established under the Appliance Standards and Rulemaking Federal Advisory Committee (''ASRAC'') in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act. 79 FR 41456; 5 U.S.C. 561–570, App. 2. The MH working group consisted of representatives of interested stakeholders with a directive to consult, as appropriate, with a range of external experts on technical issues in developing a term sheet with recommendations on the proposed rule. The MH working group consisted of 22 members, including one member from ASRAC, and one DOE representative. 79 FR 41456. The MH working group met in person during six sets of public meetings held in 2014 on August 4–5, August 21–22, September 9–10, September 22–23, October 1–2, and October 23–24. 79 FR 48097 (Aug. 15, 2014); 79 FR 59154 (Oct. 1, 2014).

On October 31, 2014, the MH working group reached consensus on energy conservation standards for manufactured housing and assembled its recommendations for DOE into a term sheet that was presented to ASRAC. Public docket EERE–2009–BT–BC–0021–0107 (''Term Sheet''). ASRAC approved the term sheet during an open meeting on December 1, 2014, and sent it to the Secretary of Energy to develop a proposed rule.

On February 11, 2015, DOE published an RFI requesting information that would aid in determining proposed solar heat gain coefficient (''SHGC'') requirements for certain climate zones. 80 FR 7550 (''February 2015 RFI''). Following preparation and submission of the term sheet by the MH working group, DOE also consulted further with HUD regarding DOE's proposed energy conservation standards. In addition to meeting with HUD, DOE prepared two presentations to discuss the proposed rule with MHCC members, which were designed to gather information on development of the proposed standards.[15]

On June 17, 2016, DOE published a NOPR for the manufactured housing energy conservation standards rulemaking. 81 FR 39755. (''June 2016 NOPR'') DOE posted the NOPR analysis as well as the complete NOPR TSD on its website.[16] In response to comments on the 2013 RFI, DOE also published the 2016 EA–RFI to accompany the 2016 NOPR. The draft EA drew no conclusions regarding the potential impacts on the indoor air quality of manufactured homes as a result of implementing any final energy conservation standards for these structures. DOE held a public meeting on July 13, 2016, to present the June 2016 NOPR, which included the proposed prescriptive and performance requirements, in addition to the LCC, NIA, manufacturer impact analysis (''MIA''), and emissions analyses. DOE received a number of responses to its June 2016 NOPR. Further, in December 2017, the Sierra Club filed a suit against DOE in the U.S. District Court for the District of Columbia, alleging that DOE had failed to meet its statutory deadlines for establishing energy efficiency standards for manufactured housing. *Sierra Club* v. *Granholm,* No. 1:17–cv–02700–EGS (D.D.C. filed Dec. 18, 2017).

In response to concerns related to potential adverse impacts on price-sensitive, low-income purchasers of manufactured homes from the imposition of energy conservation standards on manufactured housing, DOE sought additional information from the public regarding these impacts by publishing the August 2018 NODA. *See* 83 FR 38073 (August 3, 2018). That NODA indicated that DOE had re-examined its available data and re-evaluated its approach in developing standards for manufactured housing. *See* 83 FR 38073, 38075. These discussions with HUD, along with a

[13] The ANOPR comments can be accessed at: *www.regulations.gov/#!docketDetail;D=EERE-2009-BT-BC-0021*.

[14] These included discussions with the Manufactured Housing Institute (''MHI'') and several of its member manufacturers, the California Department of Housing and Community Development, the Georgia Manufactured Housing Division, three private-sector third-party primary inspection agencies under the HUD manufactured housing program, and one private-sector stakeholder familiar with manufactured housing.

[15] Available at *www.regulations.gov/document?D=EERE-2009-BT-BC-0021-0069* and *www.regulations.gov/document?D=EERE-2009-BT-BC-0021-0058*.

[16] The NOPR analysis, NOPR TSD, and NOPR public meeting information are available at *www.regulations.gov* under docket number EERE–2009–BT–BC–0021.

concern over the initial first-cost impacts that DOE's earlier proposal would have on low-income buyers, led DOE to examine a potential tiered proposal that would set varying levels of energy efficiency performance with specified increases in incremental upfront costs that would still improve the overall energy efficiency of manufactured homes. *See* 83 FR 38077. In November 2019, the court in the above-referenced litigation entered a consent decree in which DOE agreed to complete the rulemaking by stipulated dates.

On August 26, 2021, DOE published a supplemental NOPR (''SNOPR'') for the manufactured housing energy conservation standards rulemaking. 86 FR 47744 (''August 2021 SNOPR''). In response to comments to the June 2016 NOPR and August 2018 NODA, DOE proposed two standards, one being the primary ''tiered'' proposal and the other being the alternate ''untiered'' proposal. DOE's primary proposal was the ''tiered'' approach, based on the 2021 IECC, wherein a subset of the energy conservation standards would be less stringent for certain manufactured homes in light of the cost-effectiveness considerations required by EISA. DOE's alternate proposal was the ''untiered'' approach, wherein energy conservation standards based on the 2021 IECC would apply to all manufactured homes without a subset of less stringent standards for certain manufactured homes. Under the tiered proposal, two sets of standards would be established in proposed 10 CFR part 460, subpart B (*i.e.,* Tier 1 and Tier 2). Tier 1 would apply to manufactured homes with a manufacturer's retail list price of $55,000 or less, and incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC, but would limit the incremental purchase price increase to an average of less than $750. Tier 2 would apply to manufactured homes with a manufacturer's retail list price above $55,000, and incorporate building thermal envelope measures based on certain thermal envelope components and specifications of the 2021 IECC (*i.e.,* the Tier 2 requirements would be the same as those under the proposed single, ''untiered'' set of standards). 86 FR 47744, 47746. Both proposals replaced DOE's June 2016 proposal. Additionally, DOE noted in the August 2021 SNOPR that it had considered, and was still considering, tiers based upon metrics other than manufacturer's retail list price such as size (*e.g.,* square footage, number of sections) and regional variations, and requested feedback on the use of these other bases for the tier thresholds. *Id.* at 86 FR 47760–47761. Further, DOE also considered in the August 2021 SNOPR the impacts on the LCC savings of requiring less stringent exterior wall insulation for Tier 2 climate zones 2 and 3 (at R-21 instead of R-20+5) to remove the continuous insulation requirement. *Id.* at 86 FR 47802–47803. DOE held a public meeting on September 28, 2021, to present the August 2021 SNOPR.

On October 26, 2021, DOE published a NODA regarding updated inputs to the August 2021 SNOPR and results of corresponding analyses, including certain sensitivity analyses. 86 FR 59042 (''October 2021 NODA'') The updated inputs resulted, in part, in raising the threshold between Tiers 1 and 2 to $63,000. Also, as contemplated in the August 2021 SNOPR and based on feedback from stakeholders and HUD, the additional analyses in the NODA included analysis and impacts of a sized-based tier threshold (based on number of sections) and analyses of alternative exterior wall insulation requirements (R-21) for climate zones 2 and 3. DOE reopened the public comment period on the SNOPR through November 26, 2021, and sought comment on the updated $63,000 tier threshold, the size-based tier threshold, and alternate exterior wall insulations requirements. In response to the August 2021 SNOPR and the October 2021 NODA, DOE received public comments from a variety of stakeholders. DOE also received over 900 substantively similar mass mail campaign letters from organizations and individuals in response to the August 2021 SNOPR, and over 300 in response to the October 2021 NODA. Further, DOE also received a number of comments from individual commenters.[17] All of the comment submissions are available in the docket for this rulemaking.

On January 14, 2022, DOE published the draft environmental impact statement for proposed energy conservation standards for manufactured housing (DOE/EIS–0550). 87 FR 2430 (''January 2022 DEIS'') DOE prepared the January 2022 DEIS in support of the August 2021 SNOPR. The January 2022 DEIS analyzed price-based alternatives based around the $63,000 threshold for manufacturer retail list price and different wall insulation requirements. It also analyzed the alternatives based on the size of the manufactured housing (single sections and multiple sections with differences in wall insulation requirements), untiered alternatives with only differences in wall insulation requirements, and a ''no action'' alternative (*i.e.,* no DOE standard). Accordingly, DOE published a notice re-opening the comment period on the rulemaking proceeding to consider how the January 2022 DEIS should inform the final energy conservation standards for manufactured housing. January 14, 2022 (87 FR 2359)

In response to the January 2022 DEIS, DOE received additional public comments from a variety of stakeholders as to how the DEIS should inform the final rule. In this final rule, DOE is only including and addressing comments as the comments relate to the energy conservation standards. As such, DOE is not including or addressing comments on the discussion and analyses presented in the January 2022 DEIS; those comments are addressed as part of the environmental impact assessment process. DOE also received over 300 substantively similar form letters from individuals in response to the January 2022 DEIS. All of the comment submissions are available in the docket for this rulemaking. The comments and DOE's responses are discussed in sections III, IV, and V of this document.

Table II.1 presents a summary of all the written comments received for the August 2021 SNOPR, October 2021 NODA, and the January 2022 DEIS, as it relates to the energy conservation standards.

[17] DOE has not identified each and every individual commenter in the Table II.2 of this document, but has included and addressed their comments in this final rule

TABLE II.1— SUMMARY OF WRITTEN COMMENTS *

Organization(s)	Reference in this final rule	Organization type
Alliance to Save Energy, American Council for an Energy-Efficient Economy, E4TheFuture, Earth Advantage, Elevate Energy, Environmental and Energy Study Institute, Institute for Market Transformation, National Association of Energy Service Companies, National Association of State Energy Officials, Next Step Network, Natural Resources Defense Council.	Joint Commenters	Efficiency organization.
Adventure Homes	Adventure Homes	Manufacturer.
American Chemistry Council's Foam Sheathing Committee	ACC FSC	Trade association.
American Council for an Energy-Efficient Economy	ACEEE	Efficiency organization.
American Homestar	American Homestar	Manufacturer.
American Public Gas Association, The Aluminum Association, American Chemistry Council, American Exploration & Production Council, American Farm Bureau Federation, American Fuel & Petrochemical Manufacturers, American Gas Association, American Highway Users Alliance, American Iron and Steel Institute,.	APGA et. al.	Trade association.
American Petroleum Institute, American Public Gas Association, American Public Power Association, Associated Builders and Contractors, Associated General Contractors of America, Council of Industrial Boiler Owners, The Fertilizer Institute, Independent Petroleum Association of America, National Association of Manufacturers, National Lime Association, National Mining Association, National Rural Electric Cooperative Association, Portland Cement Association, U.S. Chamber of Commerce.		
Arizona Department of Housing	ADOH	State Government.
American Society of Heating, Refrigerating and Air-Conditioning Engineers	ASHRAE	Trade association.
Attorneys General of NY, IL, ME, MN, NV, NJ, NM, OR, VT, WA, MA, and NY	State Attorneys General	State Government—State Attorneys General.
Blount County Habitat for Humanity	Blount County Habitat for Humanity.	Non-profit.
C2ES, Institute for Policy Integrity at NYU Law, Sierra Club, Union of Concerned Scientists.	C2ES et. al.	Environmental Non-profit.
California Energy Commission	CEC	Efficiency Organization.
CASA of Oregon	CASA of Oregon	Non-profit.
Cavco Industries	Cavco	Manufacturer.
Champion Home Builders Inc.	Champion Home Builders	Manufacturer.
Clayton Home Building Group	Clayton Homes	Manufacturer.
Connecticut Manufactured Home Owners Alliance	CMHOA	Non-profit.
Community Housing Partners	CHP	Affordable Housing and Community Development Non-profit.
E4TheFuture	E4TheFuture	Efficiency Organization.
Earthjustice & Prosperity Now	Earthjustice and Prosperity Now.	Efficiency Non-profit.
Fahe	Fahe	Community Development Financial Institution.
Habitat for Humanity of Greater Los Angeles	Habitat for Humanity of LA	Non-profit.
Idaho Manufactured Housing Association	IMHA	Non-profit/Trade association.
Indiana Manufactured Housing Association/Recreation Vehicle Indiana Council	IMHA/RVIC	Trade association.
International Code Council	ICC	Codes organization.
Kansas Manufactured Housing Association	KMHA	Non-profit/Trade association.
LifeStyle Factory Homes LLC	LifeStyle	Manufacturer.
Local Initiatives Support Corporation	LISC	Non-profit.
Manufactured & Modular Home Association of Minnesota	MMHA	Trade association.
Manufactured Housing Association for Regulatory Reform	MHARR	Trade association.
Manufactured Housing Consensus Committee	MHCC	Advisory committee.
Manufactured Housing Institute	MHI	Trade association.
Michigan Manufactured Housing Association	Michigan MHA	Non-profit/Trade association.
Mississippi Manufactured Housing Association	Mississippi MHA	Non-profit/Trade association.
Modular Lifestyles, Inc.	Modular Lifestyles	Manufacturer.
National Association of Home Builders	NAHB	Trade association.
National Association of State Energy Officials	NASEO	Non-profit.
National Manufactured Home Owners Association	NMHOA	Non-profit.
National Rural Electric Cooperative Association	NRECA	Electric cooperative.
Natural Resources Defense Council	NRDC	Efficiency organization.
Network for Oregon Affordable Housing	NOAH	Non-profit.
New Building Institute	NBI	Non-profit.
New Jersey Manufactured Housing Association	NJMHA	Trade association.
New York State Energy Research and Development Authority	NYSERDA	State corporation.
Next Step Network, Inc.	Next Step	Efficiency organization.
North American Insulation Manufacturers Association	NAIMA	Trade association.
Northwest Energy Efficiency Alliance	NEEA	Efficiency organization.
Northwest Power and Conservation Council	NPCC	Interstate Compact Agency.
Ohio Manufactured Homes Association	OMHA	Non-profit.
Oliver Technologies Inc.	Oliver Technologies	Manufacturer.

TABLE II.1— SUMMARY OF WRITTEN COMMENTS *—Continued

Organization(s)	Reference in this final rule	Organization type
PA Department of Community and Economic Development	PA–DCED	Government.
Pennsylvania Manufactured Housing Association	PMHA	Trade association.
PathStone Corporation	PathStone	Not-for-profit organization.
People's Self-Help Housing, Inc.	People's Self-Help Housing	Non-profit.
Pleasant Valley Homes, Inc.	Pleasant Valley	Manufacturer.
Redwood Energy	Redwood Energy	Designers.
ReFrame Foundation	ReFrame Foundation	Non-profit.
Responsible Energy Codes Alliance	RECA	Efficiency organization.
Rural Community Assistance Corporation	RCAC	Non-profit.
Schulte, Philip	Schulte	Individual.
Skyline Champion Corporation	Skyline Champion	Manufacturer.
Texas Manufactured Housing Association	TMHA	Trade association.
Trellis	Trellis	Non-profit.
Members of Congress of the United States (David Kustoff, Larry Bucshon, Bill Huizenga, Lance Gooden, William Timmons, Bryan Steil, Gary Palmer, Bill Johnson, Tim Walberg, Greg Pence, Ann Wagner, John Rose, French Hill, Debbie Lesko, John Joyce, H. Morgan Griffith, Barry Loudermilk, Tom Emmer, Andy Barr).	Select Representatives of Congress.	Government.
University of Arizona and Arizona State University	University of Arizona and Arizona State.	University.
University of Colorado Boulder	UCB	University.
University of Colorado Denver	UCD	University.
University of Colorado Law School	UC Law School	University.
Urban Habitat Initiatives Inc.	UHI	Sustainability Consultant.
Verde	Verde	Non-profit.
Vermont Energy Investment Corporation	VEIC	Efficiency organization.
Vermont Law School	Vermont Law School	University.
Virginia Manufactured and Modular Housing Association	VAMMHA	Trade association.
West Indianapolis Development Corporation	WIDC	Trade association.
Western Manufactured Housing Communities Association	WMA	Trade association.
Westland Distributing	Westland	Distributor.
Wisconsin Housing Alliance	WHA	Trade association.

* DOE received a number of comments in response to the January 2022 DEIS that were almost identical in substance to comments submitted by the same commenters in response to the August 2021 SNOPR or October 2021 NODA. Accordingly, for the purposes of this notice, DOE is only referencing the submission ID of the first submission of comments with identical content.

On April 8, 2022, DOE published the notice of availability for the final EIS (DOE/EIS–0550). 87 FR 20852. (''April 2022 FEIS'') The final EIS includes the information presented in the January 2022 DEIS as well as further analyses developed in response to public comments on the January 2022 DEIS. Elsewhere in this issue of the **Federal Register**, DOE has issued its record of decision (''ROD'') pursuant to its obligations under NEPA. The ROD finalizes DOE's considerations of the environmental impacts under the NEPA process and memorializes DOE's determinations and approach chosen consistent with this final rule. Further discussion of the final EIS, the ROD and the NEPA process may be found in section V.D. of this document.

The comments and DOE's responses are discussed in sections III, IV, and V of this document.

C. Abbreviations

The abbreviations used in this document, other than abbreviations of the names of commenters listed in Table II.1, Summary of Written Comments, are defined as follows:

ACCA: Air Conditioning Contractors of America.
ACH: Air changes per hour.
ACH_{50}: Air changes per hour at 50 Pascals pressure difference between the inside and outside of the home.
AEO: Annual Energy Outlook.
AFUE: Annual fuel utilization efficiency.
AHS: American Housing Survey.
AMI: Area median income.
ANOPR: Advance notice of proposed rulemaking.
BECP: Building Energy Codes Program.
CCE: certification, compliance, and enforcement.
CDFI: Community Development Financial Institutions.
cfm: Cubic feet per minute.
CFR: Code of Federal Regulations.
DEIS: Draft environmental impact statement.
DHP: Ductless heat pump.
DOE or in context, ''the Department'': U.S. Department of Energy.
DTI: Debt-to-income ratio.
E.O.: Executive Order.
EA: Environmental Assessment.
EAP: Equity Action Plan.
EEM: Energy efficiency measure.
EGUs: Electric generating units.
EIA: U.S. Energy Information Administration (within DOE).
EIS: Environmental impact statement.
EISA: Energy Independence and Security Act of 2007.
EPA: U.S. Environmental Protection Agency.
EPCA: Energy Policy and Conservation Act.
ERI: Energy Rating Index.
ERV: Energy recovery ventilator.
FEIS: Final environmental impact statement.
FFC: Full-fuel-cycle.
FHA: Federal Housing Administration (within HUD).
FRFA: Final regulatory flexibility analysis.
GRIM: Government Regulatory Impact Model.
GSE: Government-sponsored enterprise.
HAP: Hazardous air pollutants.
HoF: ASHRAE Handbook of Fundamentals.
HRV: Heat recovery ventilator.
HSPF: Heating seasonal performance factor.
HUD Code: HUD Manufactured Home Construction and Safety Standards.
HUD: U.S. Department of Housing and Urban Development.
HVAC: Heating, ventilation, and air conditioning.
IECC: International Energy Conservation Code.
INPV: Industry net present value.
IRFA: Initial regulatory flexibility analysis.
IWG: Interagency Working Group on the Social Cost of Greenhouse Gases

LCC: Life-cycle cost.
MATS: Mercury and Air Toxics Standards.
MH: Manufactured home or manufactured housing.
MHCSS: Manufactured home construction and safety standards.
MHI: Manufactured Housing Institute.
MHS: Manufactured Housing Survey.
MIA: Manufacturer impact analysis.
NAAQS: National Ambient Air Quality Standards.
NAICS: North American Industry Classification System.
NEMS: National Energy Modeling System.
NES: National energy savings.
NIA: National impact analysis.
NODA: Notice of Data Availability.
NOPR: Notice of proposed rulemaking.
NPV: Net present value.
OIRA: Office of Information and Regulatory Affairs (within OMB).
OMB: Office of Management and Budget.
PBP: Payback period.
PITI: Principal, interest, taxes, and insurance.
$PM_{2.5}$: Fine particulate matter (with an aerodynamic equivalent diameter of 2.5 micrometers (microns)).
PUF: Public use file.
RFI: Request for information.
SBA: U.S. Small Business Administration.
SC: Social cost.
SEER: Seasonal energy efficiency ratio.
sf: Square foot or square feet.
SHGC: Solar heat gain coefficient.
SNOPR: Supplemental notice of proposed rulemaking.
TSD: Technical support document.
UMRA: Unfunded Mandates Reform Act of 1995.
U_o: Overall thermal transmittance.

III. Discussion of the Standards

A. The Basis for the Standards

EISA requires DOE to base standards for manufactured housing on the IECC. However, application of the IECC standards is also subject to a number of considerations set forth by the statute in order to ensure standards will be appropriately tailored for manufactured homes and the manufactured home market. Specifically, EISA requires that DOE establish energy conservation standards for manufactured housing that are ''based on the most recent version of the [IECC], except in cases in which [DOE] finds that the [IECC] is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the [IECC] on the purchase price and on total life-cycle construction and operating costs.'' (42 U.S.C. 17071(b)(1))

In addition to the required cost-effectiveness considerations, EISA explicitly allows DOE to consider the differences in design and factory construction techniques of manufactured homes, as compared to site-built and modular homes. (42 U.S.C. 17071(b)(2)) As noted in section II.B.2, the 2021 IECC applies generally to residential buildings, including site-built and modular housing, and is not specific to manufactured housing. Additionally, EISA requires DOE to consult with HUD, which may seek further counsel from the MHCC, prior to establishing the standards. 42 U.S.C. 17071(a)(2)(B). EISA also allows DOE to base the standards on climate zones established by HUD, and to provide for alternative practices that result in net estimated energy consumption equal to or less than the specified standards. 42 U.S.C. 17071(b)(2)) As discussed more in section III.F, DOE has opted to base its standards on the climate zones established by HUD. Additionally, DOE's standards provide two methods by which to achieve compliance with the building thermal envelope requirements of Subpart B: A prescriptive pathway (which utilizes the components specified by DOE) and an overall U_o performance pathway (which allows for compliance based on the overall thermal performance of the manufactured home). The latter approach, *i.e.,* the U_o method, gives manufacturers the flexibility to use any combination of energy efficiency measures as long as the minimum U_o is met. Manufacturers do not need to meet both the prescriptive and the performance method; rather they have the option to only meet one.

The energy conservation standards in this final rule are based on specifications included in the 2021 IECC while also accounting for the unique aspects of manufactured housing. DOE carefully considered the following aspects of manufactured housing design and construction in developing the standards:

- Manufactured housing structural requirements contained in the HUD Code;
- External dimensional limitations associated with transportation restrictions;
- The need to optimize interior space within manufactured homes; and
- Factory construction techniques that facilitate sealing the building thermal envelope to limit air leakage.

In DOE's view, the language Congress used in instructing DOE to set standards for these structures is broad and does not require the imposition of requirements for manufactured homes that are identical to those that IECC provides for site-built structures. The use of the phrase ''based on'' readily indicates that Congress anticipated that DOE would need to use its discretion in adapting elements of the IECC's provisions for manufactured housing use, including whether those elements would be appropriate in light of the specific circumstances related to the structure. Congress also provided that DOE has discretion to depart from the IECC to the extent it is not cost-effective, or a more stringent standard could be more cost-effective. Finally, Congress required DOE to consult with HUD, the primary regulator of manufactured housing, for input prior to establishing the DOE standards.

Pursuant to this discretion afforded by Congress, DOE is establishing tiered standards based on the 2021 IECC. Specifically, DOE is finalizing a tiered standard whereby single-section manufactured homes (''Tier 1'' manufactured homes) would be subject to different building thermal envelope requirements (subpart B of 10 CFR part 460) than all other manufactured homes (''Tier 2'' manufactured homes). Both tiers are based on the 2021 IECC in that both tiers have requirements for the building thermal envelope, duct and air sealing, installation of insulation, HVAC specifications, service hot water systems, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions consistent with the 2021 IECC. In light of the first-cost concerns raised during the EISA-required consultation with HUD and the MHCC, and in comments from stakeholders, Tier 1 provides tailored improvements in efficiency with regard to building thermal envelope components based on the 2021 IECC, which are projected to result in an average incremental price increase of less than $750 for single-section homes. Tier 2 focuses on the building thermal envelope, duct and air sealing, insulation installation, HVAC specifications, service hot water systems, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions, at stringencies consistent with those for site-built homes in the 2021 IECC, and is estimated to result in an average incremental price increase of $4,100–$4,500 for multi-section homes.

Further, with regards to the aspects of manufactured housing design and construction, DOE considered the range of efficiency measures originally identified by the MH working group as appropriate for manufactured home design, which included the following: exterior ceiling R–22 to R–38; exterior wall R–11 to R–21+5; exterior floor R–11 to R–30; window U-factor U–1.08 to U–0.30; and window SHGC 0.7 to 0.25. (See chapter 5 of the final rule TSD) Accordingly, based on the information provided by the MH working group, DOE did not include several of the 2021 IECC requirements, including the more stringent ceiling R-value requirements (greater than R–38) [18] and requirement for the exterior ceiling insulation to be of uniform thickness or uniform density, given the space constraints of manufactured homes.

DOE determined that the energy conservation standards in this final rule are cost-effective by evaluating the impact on the purchase price of a manufactured home and on the total lifecycle construction and operating costs. Both Tier 1 and Tier 2 are cost-effective for the 30-year period that was analyzed. Specifically, section I.A presents the benefits and burdens to purchasers of manufactured homes, with Table I.1 and Table I.3 presenting the total incremental purchase price under the standards, and Table I.3 presenting the estimated national average LCC savings. The incremental purchase price was determined by calculating the difference in the energy efficiency measure (''EEM'') costs of DOE-compliant and minimally compliant HUD homes. These incremental costs correspond to the purchase prices seen by the homeowner, and thus account for manufacturer and retail markups. The LCC savings accounts for the energy cost savings and purchase costs (including down payment, mortgage and taxes based on incremental purchase price) over the entire analysis period discounted to a present value. As presented in Table I.3, there are positive national average LCC savings over the life of the manufactured home (*i.e.,* 30-years). In addition, the positive 30-year LCC savings carries through to every climate zone and city analyzed. (See Chapter 8 of the TSD for results.) Finally, Table I.3 presents the national average simple payback period to be 3.7 years and 8.9 years for single- and multi-section homes respectively.

As noted previously, in establishing standards for manufactured housing, Congress directed DOE to: (1) Consult with the Secretary of HUD (42 U.S.C. 17071(a)(2)(b)), and (2) base the standards on the most recent version of the IECC, except in cases in which the Secretary finds that the code is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the codeon the purchase price of manufactured housing and on total life-cycle construction and operating costs. (42 U.S.C. 17071(b)(1)) Relatedly, the Secretary of HUD is mandated to establish standards for manufactured housing that, in part, ''ensure that the public interest in, and need for, affordable manufactured housing is duly considered in all determinations relating to the Federal standards and their enforcement.'' (42 U.S.C. 5401(b))

In this consultative role, HUD raised concerns with the potential adverse impacts on manufactured housing affordability that could result from additional energy efficiency standards proposed for manufactured homes in the June 2016 NOPR and the August 2021 SNOPR. More specifically, HUD noted concerns that increases in the purchase prices for manufactured homes resulting from the costs of requiring to meet standards based upon the IECC could result in prospective manufactured homeowners being unable to purchase a manufactured home. With this concern in mind, DOE reviewed the 2021 Consumer Financial Protection Bureau report, ''Manufactured-Housing Finance: New Insights from the Home Mortgage Disclosure Act Data (HMDA),'' (hereinafter, ''2021 CFPB Report'') [19], and in the October 2021 NODA, presented updated analyses based on this report and sought comment on the report and these updates. 86 FR 59042, 59044.

DOE's review of the 2021 CFPB Report'', presented the following key findings:

- Manufactured homes represent an affordable housing option for millions of Americans because they cost less on average than site-built homes and are one of the least expensive forms of housing available without government subsidies.
- Manufactured home homeowners tend to have lower incomes (median is $52,000 for manufactured home homeowners with chattel (*i.e.,* personal property) loans and $53,000 for those with mortgage loans) and less net worth than their counterparts who own site-built homes (median is $83,000);
- Borrowers who own their land can either finance their home purchase with a chattel loan or a mortgage, whereas those who do not own their land are typically only able to finance with a chattel loan.
- Manufactured home loan amounts for (1) chattel loans range from $40,500 (25th percentile) to $80,785 (75th percentile), with median at $58,672; (2) mortgage loans range from $90,330 (25th percentile) to $172,812 (75th percentile), with median at $127,056. Comparatively, site-built home loan amounts range from $162,011 (25th percentile) to $342,678 (75th percentile), with median at $236,624.
- Of the manufactured housing loans acquired, the percentage of chattel loans nationally is estimated to range from 42 percent (from the 2019 HMDA, which includes new and used homes) to 76 percent (from 2019 Manufactured Housing Survey, which includes new homes only).

Compared to mortgages for site-built homes, MH mortgages tend to have smaller loan amounts, higher interest rates, fewer refinances, and less of a secondary market, patterns that are even more acute for chattel loans. Additionally, chattel loans have shorter loan terms than mortgages for either MH or site-built homes. A key reason for this difference is that the vast majority of manufactured housing stock is titled as chattel (*i.e.,* personal property), and, as a result, is eligible only for chattel financing. Chattel financing is typically offered to purchasers at a significantly higher interest rate than the rates offered to site-built homeowners. While most manufactured homeowners who also own the land on which the manufactured home is sited may be eligible for mortgage financing, there is a tradeoff between lower origination costs with significantly higher interest rates (chattel loans) and higher origination costs with significantly lower interest rates and greater consumer protections (mortgage). 2021 CFPB, pp. 33–34.

In response to the affordability concerns raised by HUD and commenters regarding purchasers and renters who may live in these homes, and the general financial circumstances for manufactured housing occupants, DOE is finalizing a tiered standard in this final rule that would mitigate first-cost impacts for purchasers at the lower end of the manufactured home price

[18] Specifically, manufactured homes typically have a lower overall height compared to site-built homes, which leads to constrained space, and therefore limited ability to increase exterior ceiling insulation.

[19] CFPB report, 2021. *https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf.*

range. To the extent that manufactured home purchasers are cost-driven, in conjunction with the lower median income and net worth of these purchasers, consumers at the lower end of the manufactured home purchase price range are generally likely to be more sensitive to increases in purchase price. DOE's considerations of affordability and cost-effectiveness in establishing these standards, and associated responses to comments, are discussed more below in sections III.A.1 and III.B.

Finally, the standards established in this final rule are based on the climate zones of the HUD Code. EISA also allows DOE to base standards on the climate zones of the HUD Code instead of the IECC. (42 U.S.C. 17071(b)(2)(B)) There are differences in the number and boundaries of the HUD zones as compared to the IECC climate zones. For example, under the 2021 IECC climate zone map, California is divided into five climate zones (including zone variation based on moisture regimes), with four of the zones subject to SHGC maximums (0.40 applicable to climate zones 4 and 5, and 0.25 applicable to climate zones 2 and 3). Under the HUD zone map, all of California is within a single zone. Developing energy conservation standards based on the HUD zones, as permitted under EISA, necessitates deviating from the IECC. DOE has determined that aligning the climate zones between the DOE requirements and the HUD Code would reduce the complexities and burden faced by manufacturers of compliance with the DOE standards. The updated standards would establish thermal envelope requirements, as does the 2021 IECC, but setting the values for those requirements necessitates that DOE develop standard levels different than those in the 2021 IECC to account for the difference in the number of climate zones. Use of the HUD zones in DOE's standards is discussed more in section III.F.2.a. of this document.

As discussed more in sections III.C and D, DOE is not addressing a test procedure, or compliance and enforcement provisions for energy conservation standards for manufactured housing in this document. DOE notes that HUD has an established design approval, monitoring and enforcement system, defined in 24 CFR part 3282, that is robust and provides compliance and enforcement of the manufactured housing industry standards. Moreover, manufacturers must comply with referenced standards incorporated by HUD in its regulations. DOE continues to consult with HUD about pathways to address testing, compliance and enforcement for these standards in a manner that may leverage the current HUD inspection and enforcement process so that such testing, compliance and enforcement procedures are not overly burdensome or duplicative for manufacturers, and are well understood by manufacturers and consumers alike.

In response to the August 2021 SNOPR proposal and the October 2021 NODA, DOE received a number of comments regarding the statute, IECC and the rulemaking in general, which are summarized and addressed in the following sections.

1. Affordability

Multiple commenters stated that the proposed energy requirements fail the EISA statutory requirement of cost-effectiveness and the proposal will eliminate manufactured housing as an affordable housing option for families. Additionally, they commented that the proposal ignores the unique features of factory-built housing, to the point that many parts of the proposal are simply not feasible from a construction and transportation standpoint. Further, they stated that the development of the rule was not compliant in any meaningful way with the EISA requirement to consult with HUD or MHCC and does not follow an accurate cost-benefit analysis as the statute requires. (MMHA, No. 995 at p. 4); (Michigan MHA, No. 1012 at p. 2–3); (WHA, No. 1025 at p. 2); (PMHA, No. 1165 at p. 3); (Westland, No. 1263 at p. 2); (Pleasant Valley, No. 1307 at p. 2); (American Homestar, No. 1337 at p. 2–3); (Oliver Technologies, No. 1350 at p. 3); (KMHA, No. 1368 at p. 2); (Adventure Homes, No. 1383 at p. 3); (NJMHA, No. 1451 at p. 3); (WMA, No. 1452 at p. 2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 3); (Skyline Champion, No. 1499 at p.2); (Mississippi MHA, No. 1588 at p. 4); (Clayton Homes, No. 1589 at p. 3) The campaign form letter(s) stated that the proposed rule will eliminate a significant source of affordable housing for hundreds of thousands of American families and, in many cases, it would be simply impossible to construct and transport homes built with the requirements. Commenters stated that increased costs will never be recouped by the homeowner, and for many buyers the increased cost will pose a barrier to homeownership in the first place. In addition, commenters stated that DOE's energy conservation standards must balance affordability with energy efficiency, which commenters alleged the proposed rule did not. (Campaign Form Letter, Multiple submissions at p. 1) An individual commenter would not support the proposed rule unless modified because of affordability issues. (Wangelin, No. 975 at p. 1) Another individual commenter stated that the cost of the new energy standards might outweigh the effects it will have on the environment because manufactured homes are made to be affordable. (Heidbreder, No. 940 at p. 1) Another individual commenter suggested that either tier would be a big upgrade from current requirements. (Major, No. 1023 at p. 1)

MHI commented that the higher home cost associated with the proposed standards will make manufactured housing far more expensive, excluding potential buyers and reducing total manufactured housing sales. MHI also commented that DOE's own analysis shows the proposal will increase costs for homebuyers without reciprocal energy savings, and many households will simply be priced out of homeownership due to this proposal. MHI's survey of manufacturers found that it is unlikely that a buyer purchasing a new home and financing 90 percent of the purchase price would recover these upfront costs at a future sale, and while there are several reasons contributing to this, the fact that homebuyers usually sell their homes within the first 7–10 years is the most relevant. (MHI, No. 1592 at p. 3, 4) Further, MHI stated that the proposal could jeopardize homeownership for millions of Americans at a time when there is an affordable housing shortage. MHI further stated that this increase will have a disproportionate impact on minority communities, who face the most significant burden in obtaining affordable homeownership, and that this would be in direct contrast to the Administration's goal of achieving racial equity in homeownership. (MHI, No. 1592 at p. 3, 23); (Clayton Homes, No. 1589 at p. 14)

MHARR stated that it opposed the proposed standards because they are a baseless and useless burden on both moderate and lower-income consumers and will lead to a decrease in homeownership and higher levels of homelessness. (MHARR, No. 1388 at p. 2–3); (MHARR, No. 1974 at p. 2) UCB stated that the rule will eliminate affordable housing for many low-income people. They stated that although DOE says the initial cost increase will be paid back over the life of the home from energy savings, most owners will not see this payback. (UCB, No. 1405 at p. 1) An individual commenter stated that the proposed changes would very likely eliminate hundreds of thousands of buyers from the market during a time when housing is in short supply, and

that, if adopted, the new energy standards would dramatically increase the cost of manufactured homes and likely eliminate many of the design features that make manufactured homes livable (high ceilings, overhead HVAC ducts, etc.). Moreover, this commenter stated that the upfront cost from higher down payments would disqualify many home buyers for a mortgage, and any future utility cost savings would take decades to recoup. (Individual Commenter, No. 1496 at p. 1)

IMHA stated that the proposal is fundamentally flawed and will eliminate manufactured housing as an affordable housing option for families throughout Idaho. Further, they were concerned that DOE's cost analysis assumptions and the average tenure of a manufactured homeowner will result in a situation where the homeowner will never recoup the additional costs of these measures with energy savings. They stated that imposing these standards on manufactured homes built in Idaho (or elsewhere) will rob their industry of seeking out those amendments that make the energy code best fit the construction practices of a manufactured home, and that this will add to costs and complications that will certainly price homeowners out of the market. (IMHA, No. 1453 at p. 1)

NRECA commented that the proposed standards in the SNOPR could put home ownership out of reach for those who cannot afford site-built homes, thus denying them the potential opportunity to attain this milestone for themselves and their families. They stated that their members have explored and implemented many different initiatives to improve energy efficiency for their consumer-members and that they are doing so in a way that balances costs and benefits. Therefore, they urged DOE to reconsider the proposal in its SNOPR to balance affordability of manufactured housing with common-sense, proven methods at improving their energy efficiency. (NRECA, No. 1406 at p. 2) ADOH was concerned that the proposed changes will equate to a price point that is either out of reach for a potential purchaser of a manufactured home, or will eliminate or prevent a manufactured home from being an affordable housing option. ADOH recommended continued reliance on the existing standards in the National Manufactured Housing Construction and Safety Act. (ADOH, No. 1459 at p. 1)

Select Representatives of Congress were concerned that the proposed rule would require manufacturers to redesign most (if not all) of their existing floorplans to comply with standards concerning thermal systems and air and duct sealing. Select Representatives of Congress stated that this would result in a significant price increase that would delay or prevent some potential manufactured homebuyers—whose median annual household income is around $33,000—from buying a home. They urged DOE to analyze closely the effective cost and impact of any proposed energy efficiency standards on those who are pursuing affordable homeownership. (Select Representatives of Congress, No. 1445 at p. 1)

UC Law School stated that the purchase price for manufactured homes should not factor into the cost-benefit analysis because DOE did not deliver economic considerations and integrated efforts with other agencies to secure affordability to the manufactured homes. Instead, they suggested that only the social cost of carbon and GHG emissions should be factored into the cost-benefit analysis, based on the Interagency Working Group (IWG). (UC Law School, No. 1634 at p. 11, 13, 14) UCB stated the SNOPR should consider the emissions costs associated with not implementing stricter energy efficiency standards for manufactured homes over a 30-year lifetime, which, in the commenter's view, would create a good comparison to show how much of a difference these standards would make. (UCB, No. 1618 at p. 17)

NAHB urged DOE to continue to facilitate consumer choice by ensuring any new energy conservation standards and regulatory reform efforts do not favor manufactured homes over other types of residences, leading to consumer confusion and unfair competition in the marketplace. (NAHB, No. 1398 at p. 3) An individual commenter stated that a consumer should have the freedom to choose a less energy efficient, but less expensive, window, door, or construction method for the home they are building, and that absorbing the SNOPR proposed requirement expenditure is quite difficult. (Hoover, No. 1566 at p. 1)

In light of the concerns it noted, MHARR stated that DOE must withdraw the proposed manufactured housing energy standards as being inappropriate for MH, excessively costly in violation of applicable law, destructive of the affordable MH market, not cost-justified and fundamentally arbitrary, capricious and an abuse of discretion in violation of the federal Administrative Procedure Act, federal MH law and the EISA of 2007. (MHARR, No. 1640 at p. 9) MHARR commented that the average MH energy costs for all fuel types tracked by the U.S. Census Bureau are already lower than those for much more costly site-built homes, none of which are subject to the 2021 IECC. MHARR also stated that alleged climate benefits of the proposed standards would be miniscule in relation to the economic costs, and that newer data published in the 2019 AHS shows that manufactured homes have lower median monthly energy costs than site-built homes in all major fuel categories. MHARR also suggested that DOE should reject cost comparisons based on a ''per-square foot'' energy usage and should instead consider ''whole-house'' energy usage. (MHARR, No. 1388 at p. 3, 5–6); (MHARR, No. 1974 at pp. 5–6; 11–12)

Multiple commenters suggested that the most appropriate code to utilize to update energy standards for manufactured homes is the HUD Code, and to instead include new energy efficiency standards as part the HUD Code. (MMHA, No. 995 at p. 4); (Michigan MHA, No. 1012 at p. 2); (WHA, No. 1025 at p. 2); (PMHA, No. 1165 at p. 3); (Westland, No. 1263 at p. 2); (Pleasant Valley, No. 1307 at p. 2); (American Homestar, No. 1337 at p. 2); (Oliver Technologies, No. 1350 at p. 2); (KMHA, No. 1368 at p. 2); (Adventure Homes, No. 1383 at p. 2); (NJMHA, No. 1451 at p. 2–3); (WMA, No. 1452 at p. 2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 2); (Skyline Champion, No. 1499 at p.2); (Mississippi MHA, No. 1588 at p. 2) ; (Skyline Champion, No. 1612 at p. 3); (Cavco, No. 1622 at p. 2); (VAMMHA, No. 1624 at p. 2); (Champion Home Builders, No. 1639 at p. 4); (IMHA, No. 1453 at p. 2); (MHI, No. 1592 at p. 4–6, 25) MHI believes the most appropriate code to utilize to update energy standards for manufactured homes is the HUD Code. (MHI, No. 1592 at p. 25)

Alternatively, NASEO stated that failure to update the standards in a manner consistent with EISA will only increase the difficulty of meeting future standards and unnecessarily leaves manufactured home residents with homes built to decades-old standards and high energy bills. (NASEO, No. 1565 at p. 3) Another individual commenter commented that although the rule would incur some upfront costs, there is long-term benefit in the rule related to reducing carbon emissions. (Anonymous, No. 593 at p. 1; (Anonymous, No. 781 at p. 1) Another individual commenter suggested that although the tiered system of cost implementation creates significantly more administrative responsibility, it is a more equitable and desirable means of accomplishing the aforementioned agency goals. They suggested that the

proposed rule by DOE seems adequately supported by reasonable inquiries into emission reduction, energy efficiency, and cost allocation for thermal requirements of manufactured homes. (Gustafson, No. 778 at p. 1) NAIMA supported the updates recommended as a good faith attempt of the 2021 IECC while recognizing unique construction challenges. NAIMA also stated that a home's energy efficiency and affordability is not an either/or proposition. (NAIMA, No. 1017 at p. 1) NYSERDA supported DOE's two-tier approach to address the affordability concerns. (NYSERDA, No. 1620 at p. 1)

In addition, Schulte stated that ENERGY STAR-certified homes represent a significant market share of home production especially in Zone 2 States and this fact would support that manufactured home purchasers are willing to purchase more expensive and energy efficient homes that save them money in the long run. Also, Schulte stated that there is no evidence from sales figures that enhanced thermal standards reduced the demand of manufactured homes from 1990–1999. Finally, Schulte stated that adopting Tier 1 standards would substantially reduce the price hike for additional energy investments. However, it would also mean that utility bills would remain high for many manufactured home purchasers who tend to have lower incomes than the median family income. (Schulte, No. 1028 at p. 14, 15, 18 & 22)

ACEEE suggested that the impact on affordability should consider energy burden (*i.e.,* energy cost as a percentage of income) and housing cost burden (*i.e.,* total housing costs as a percentage of income). In their comment and analysis, they interpreted high energy burden to be energy bills exceeding 6 percent of the income and high housing burden to be total housing costs exceeding 30 percent of the income. They stated that based on the 2019 AHS, for residents of manufactured homes, the median energy burden (*i.e.,* the energy cost as a percentage of income) is 5.3 percent compared to 2.9 percent for all homes, and 44 percent of manufactured home residents face a high energy burden. They stated that setting stronger efficiency standards can improve the affordability of these homes by lowering their occupants' high energy burdens. (ACEEE, No. 1631 at pp. 2–3) NRDC recommended using a more reasonable cost effectiveness metric, such as a present value analysis using a defensible discount rate, such as the 3 percent real rate that DOE employs in appliance efficiency analysis, over the observed lifetime of the home. (NRDC, No. 1599 at p. 5, 7)

Next Step commented that manufactured homes are a critical component of America's affordable housing stock, and the need for increased energy efficiency in housing is particularly acute for low-income homebuyers. (Next Step, No. 1617 at p. 1) They commented that based on the median income of manufactured home owners and renters and the HUD definitions for what constitutes ''low-income,'' [20] manufactured housing serves households below 60 percent median income for low-income owners and below 50 percent median income for very low-income renters.[21] (Next Step, No. 1617 at p. 2) Further, they commented that based on a 2020 Urban Institute study,[22] the monthly housing costs for manufactured home occupants falls within 30 percent of monthly income, which is defined as ''cost-burdened'' based on HUD's housing cost burden metric.[23] Accordingly, they supported increased energy efficiency standards, arguing that data suggest that the incremental costs for energy efficiency upgrades (added to other housing costs) keep manufactured housing affordable and accessible to low-income homeowners earning less than 60 percent of median income. (Next Step, No. 1617 at p. 1)

Finally, Next Step also commented that Freddie Mac's research analyzed energy efficient homes rated between 2013 and 2017 and found the following: (1) From the property value analysis, rated homes are sold for, on average, 2.7 percent more than comparable unrated homes; (2) Better-rated homes are sold for 3–5 percent more than lesser-rated homes; (3) From the loan performance analysis, the default risk of rated homes is not, on average, different from unrated homes (once borrower and underwriting characteristics are considered). Loans in the high debt-to-income (''DTI'') bucket (45 percent and above) that have ratings, however, appear to have a lower delinquency rate than unrated homes. (Next Step, No. 1617 at p. 6) Further, Next Step noted Freddie Mac's GreenCHOICE program, which weighs energy efficiency into its underwriting and covers manufactured housing. *Id*

EISA directs DOE to establish energy conservation standards for manufactured housing. (42 U.S.C. 17071) Further, EISA directs that cost-effectiveness is determined based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. (42 U.S.C. 17071(a) and (b)(1))

In response to the affordability concerns raised by HUD and commenters on first cost impacts, and the general financial circumstances for manufactured housing owners, DOE is finalizing a tiered standard, based on the 2021 IECC, that would alleviate first-cost impacts for purchasers at the lower end of the manufactured home price range. Tier 1 would apply to single-section manufactured homes, and incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC and would increase the incremental purchase price increase by less than $750 for single-section homes. This lower incremental cost would allow those first-cost sensitive purchasers, assumed to be those with lower median income and net worth, to still purchase a new manufactured home with improved energy efficiency measures that will generate cost savings to the purchaser over time. Accordingly, Tier 1 limits the incremental purchase price such that a purchaser would, on average, realize a positive cash flow within Year 1 of the standard based on the down payment, incremental loan payment, and energy cost savings. See Table III.4 for results.

Tier 2 would apply to multi-section manufactured homes, and incorporate building thermal envelope measures based on certain thermal envelope components and specifications of the 2021 IECC, with alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3 (see section III.F.2.b which includes further discussion on wall insulation). Otherwise, DOE notes that the adopted Tier 2 requirements in this final rule will only update the window U-factor requirements for all climate zones compared to the term sheet agreed upon by the MH working group (window U-

[20] Next Step cited the following HUD program definitions: 50% median income = $33,761 = Very Low Income; 80% Median Income = $54,017 = Low Income;

[21] In their review, they stated that manufactured homes are a portfolio of housing that serves a median income of $38,087 for owners and $28,280 for renters. Based on the federal low-income housing definitions, 60 percent median income (which is a multifamily tax subsidy income limit) amounts to $40,513 (in 2020 dollars) and 50 percent median income (which is the very low income limit) amounts to $33,761.

[22] Choi, J.H., and Goodman, L. (2020, August). 22 Million Renters and Owners of Manufactured Homes Are Mostly Left Out of Pandemic Assistance. The Urban Institute. *https://www.urban.org/urban-wire/22-million-renters-and-owners-manufactured-homes-are-mostly-left-out-pandemic-assistance.*

[23] HUD defines spending more than 30 percent of income on housing costs as cost-burdened. Spending more than 50 percent of income on housing costs is considered severely cost-burdened.

factor of 0.35 and 0.32; to 0.32 and 0.30, respectively), which is the same as what was proposed in the August 2021 SNOPR. The window U-factors were updated consistent with the 2021 IECC. Adopting R–21 instead of R–20+5 also resolves issues regarding shipping width that the stakeholders commented on, which is discussed in section III.F.2.b. of this document.

The total life-cycle construction and operating costs of the home is calculated based on the total expected lifetime of the home, which is 30 years. Both Tier 1 and Tier 2 standards would provide benefits in energy savings to the consumer which, over the span of the payback period (''PBP''), would offset the increase in purchase price. Under the tiered proposal, manufactured homes that would be subject to the Tier 1 standards would, in all cases, have a PBP less than 10 years, with a range of 1.4 years to 7.4 years amongst all cities analyzed, and a national average of 3.7 years. This is well within the range suggested by MHI in which first homeowners often sell their manufactured homes. Further discussion on these results is provided in section IV.A.2. of this document.

DOE estimates in this final rule the number of households no longer able to purchase a manufactured home from the pool of households planning to purchase a manufactured home (which is much smaller than the total number of American households). DOE estimates the final rule would result in a loss in demand and availability because of the increase in upfront home price for each tier. Therefore, DOE includes in the analysis a price elasticity of demand. Price elasticity is typically represented as a ratio of the percentage change in quantity relative to a percentage change in price. DOE considered a price elasticity of −0.48 based on a study by Marshall and Marsh [24] and considered an additional price elasticity as part of a scenario analysis (See appendix 11A for further information).

In the study published in the Journal of Housing Economics by Marshall and Marsh, the authors conclude that national and local programs that cause small price increases in manufactured housing units (*e.g.,* increasing energy efficiency) will not necessarily deter thousands of low-income families from purchasing manufactured homes and that such consumers are likely to be willing to accept incrementally higher prices from improvements in energy use and cost efficiency. Specifically, the study states that these consumers are not nearly as price-sensitive because ''the cost of a manufactured home still ranges from 21 to 65 percent of the cost of a site built home and low- and moderate-income families have few low-cost choices for home ownership.'' [22] Costs provided by a 2021 manufactured housing industry overview fact sheet developed by MHI suggests that in 2019, on average, the average sales price of a manufactured home compared to a new single-family site built home is about 27 percent (without land).[25]

As such, DOE estimated the final rule would result in a loss in demand and availability of about 31,975 homes (single section and multi-section combined) for the tiered standard using a price elasticity of demand of −0.48 for the 30-year analysis period (2023–2052). Out of the 31,975 homes in the tiered standard, the majority of the reduction is in Tier 2 (80 percent) vs. Tier 1 (20 percent). Within Tier 1, DOE estimates a 0.55 percent reduction in demand and availability of single-section homes for low-income purchasers due to Tier 1 standards. DOE assumes that low-income consumers generally purchase lower priced manufactured homes (*i.e.,* many single section homes) based on data that shows single-section homes, on average, have householders with lower to median incomes, as opposed to multi-section homes (see conclusions in section III.B.1). Accordingly, DOE concludes that low-income consumers would not be priced out by the Tier 1 standards adopted in this final rule.

Finally, for those manufactured home purchasers that buy new homes, even with the incremental costs, DOE notes that the median purchase price of a manufactured home would continue to be significantly lower than site-built homes (per 2019 AHS, the median purchase price of manufactured homes is $32,000 vs. a single-detached home is $158,000). Costs provided by a 2021 manufactured housing industry overview fact sheet developed by MHI suggests that in 2019, on average, the average sales price of a manufactured home compared to a new single-family site built home is about 27 percent (without land).[26] Additionally, the 2021 CFPB Report [27] states that manufactured homes represent an affordable housing option for millions of Americans because they cost less on average than site-built homes and are one of the least expensive forms of housing available without government subsidies.

In conclusion, based on the input received from HUD during consultation and input from commenters, DOE believes that access to affordable housing and reducing energy burdens of the purchasers are of the utmost importance in the manufactured housing market. The tiered standard adopted in this final rule addresses both of these concerns. Both tiers within the tiered standard reduce energy costs and provide positive LCC savings for homeowners over the life of the average manufactured home (*i.e.,* 30-years). Further, Tier 1 of the tiered standard mitigates first-cost impacts for purchasers at the lower end of the manufactured home price range, and would provide, on average, a positive cash flow within Year 1 of the standard based on the down payment, incremental loan payment, and energy cost savings. Accordingly, as discussed further, DOE has adopted the tiered approach in this final rule.

2. Loan Qualification

MHARR stated that neither the NODA nor the original DOE SNOPR considers, or accounts in any way, for the impact that regulatory-driven purchase price increases, attributable both directly and indirectly to the proposed rule, would have on the ability of lower and moderate-income consumers to access financing for, and purchase, mainstream manufactured homes. (MHARR, No. 1640 at p. 4, 5) Several commenters stated that the proposed standards ignore the large number of homebuyers who will no longer be able to buy a MH because they no longer qualify for an FHA, Fannie Mae, or Freddie Mac mortgage loan due to the impact of increased mortgage payments on debt-to-income ratios. (Westland, No. 1263 at p. 2); (Pleasant Valley, No. 1307 at p. 3); (American Homestar, No. 1337 at p. 3); (Oliver Technologies, No. 1350 at p. 3); (Adventure Homes, No. 1383 at p. 3); (Champion Home Builders, No. 1639 at p. 5); (MHI, No. 1592 at pp. 3, 11) MHI stated that FHA's customary DTI requirement is 43 percent, and therefore any homebuyer at the edge of this 43 percent DTI requirement will no longer qualify for an FHA loan because of the higher price caused by the new energy standards. (MHI, No. 1592 at p. 3, 11) MHARR stated that the higher level of loan rejection rates within the chattel or personal property loan sector will disproportionately impact and harm ''Hispanic white, Black and African-American and American Indian and Alaska Native borrowers'' and will have

[24] See Marshall, M.I. & Marsh, T.L. Consumer and investment demand for manufactured housing units. *J. Hous. Econ.* 16, 59–71 (2007).

[25] Manufactured Housing Institute. 2021 Manufactured Housing Facts: Industry Overview.

[26] Manufactured Housing Institute. 2021 Manufactured Housing Facts: Industry Overview.

[22] Consumer Financial Protection Bureau. Manufactured Housing Finance: New Insights from the Home Mortgage Disclosure Act Data (2021).

a racially-disproportionate impact. (MHARR, No. 1640 at p. 5)

Separately, NASEO stated that by failing to establish cost-effective baselines of energy efficiency in the lowest-cost homes, DOE increases the likelihood that the residents of these homes will require federal and state public assistance from the Weatherization Assistance Program, Low-Income Home Energy Assistance Program, or other bill payment assistance programs in the future. (NASEO, No. 1565 at p. 2)

LISC recommended the federal government ensure there is flexibility in federally insured and guaranteed home mortgage program regulations to permit an increase in debt to income ratios when paired with reductions in energy costs. In addition, they suggested that the federal government should proactively market these programs and other potential assistance to help with incremental cost increases, including ENERGY STAR tax credits and other financing vehicles that factor in future energy savings. (LISC, No. 1233 at p. 3) NRECA suggested DOE could incentivize dealers to showcase ENERGY STAR-qualified manufactured homes on their lots by providing rebates for the price difference to the dealers so that the price difference does not force the consumer to make a choice between affordability and home ownership. They commented that such action would improve the overall efficiency of new manufactured homes up front in such a way that would not jeopardize home ownership potential for consumers. (NRECA, No. 1406 at p. 1, 3)

UCB stated that DOE should be working with HUD to come up with subsidies and offsets/ways to pay for extra insulation, and that the previous DOE claim that there is no authority to provide this is incorrect. (UCB, No. 1405 at p. 2) They recommended that for low-income purchasers, the DOE front the chattel loans in a government program similar to other federal agencies programs—HUD, the U.S. Department of Veteran Affairs, and the USDA's rural housing service—to provide lower interest rates and additional consumer protections that could cover the cost of better insulation. They also stated that, although the tiered standards are more cost-effective overall for homebuyers, the cost of these homes should still be subsidized, and loan programs should be created by the DOE in collaboration with HUD. Finally, they noted that DOE should consider providing a renter's tax credit targeted at certain MH buyers. (UCB, No. 1618 at p. 9–11) Schulte advised that in the coming years, DOE may want to work with EPA and other agencies to encourage more utilities to provide rebates for energy efficient manufactured homes, because these rebates can help offset part of the cost increases. (Schulte, No. 1028 at p. 16)

UC Law School commented that DOE should subsidize the costs of low-income participants who might be directly impacted by the Final Rule, including consideration of financing, tax credits, or other financial incentives or assistance for consumers of manufactured housing. (UC Law School, No. 1634 at pp. 5, 9, 10) UCB stated that DOE should consider policies that would reinforce anti-discrimination housing laws and support novel lending practices to involve people of color who may not otherwise be eligible for a traditional loan while making certain the sustainability of their loan protects the investment of equity. (UCB, No. 1618 at p. 9)

Next Step commented that the incremental costs for energy-efficiency upgrades do not price out manufactured home residents. They noted that manufactured housing is often considered a source of Naturally Occurring Affordable Housing (defined as unsubsidized housing that meets the affordability standard for households making 60–80 percent of area median income, or AMI). They commented that two of the most prominent affordable housing, new construction programs (the HOME Program and the Low-Income Housing Tax Credit Program), are used for individual and family household incomes below 60 percent AMI. In their evaluation of Tier 2 of the proposed standard, they used CFPB's median loan data in conjunction with DOE's average incremental cost increase and concluded that loans will remain affordable to those at 60 percent of median income (''AMI''), even when accounting for increased energy efficiency upgrades. (Next Step, No. 1617 at pp. 5, 7–9) Finally, Next Step commented that the Federal Housing Administration (''FHA'') and other government-backed lenders, conventional lenders, and Community Development Financial Institutions (''CDFIs'') generally underwrite manufactured home loans to ensure affordability by using a housing ratio of 29 percent of gross monthly income applied to housing costs, which includes the principal, interest, taxes, and insurance (''PITI''). However, The FHA's Energy Efficient Mortgage absorbs energy savings for efficient homes and stretches the ratio to 31 percent, and Freddie Mac's GreenChoice Program weighs energy efficiency into its underwriting and includes manufactured housing. (Next Step, No. 1617 at p. 6)

The State Attorneys General stated that analyses performed by Next Step, a member of the federal advisory MHCC with expertise in affordable housing, confirm that despite potential increases in purchase price due to incremental construction costs associated with improved efficiency requirements, a manufactured home built to DOE's proposed IECC-based standards would remain affordable to even the most price sensitive consumers due to the availability of federal and state tax incentives, and loan and down-payment assistance programs to assist low income home buyers. (State Attorneys General, No. 1625 at p. 5)

The 2021 CFPB report provides some data on borrower characteristics for manufactured homes. As suggested by the commenters, DOE confirmed that the standard FHA guidelines allow for a DTI up to 43 percent on the back end, but allow for higher ratios based on compensating factors like residual income, cash reserves, good credit score, etc.[28] The back-end DTI ratio refers to the ratio of the applicant's total monthly debt to the total monthly income. Table 7 of the 2021 CFPB summarizes that the median debt-to-income DTI ratio for chattel loans is 35.7 percent, and for mortgage loans is 38.9 percent. DOE notes the DTI data presented are not separated for new manufactured homes, so DOE presumes the ratio is for all manufactured homes. Further, Table 3 of the 2021 CFPB shows that chattel loans, despite being potentially eligible for FHA loans, are seldom FHA for manufactured housing; 0.7 percent of chattel loans are FHA loans and 39.4 percent of mortgage loans are FHA loans. The 2019 AHS also estimates that only 16 percent of all MH homeowners with at least one regular mortgage[29] report having FHA insurance. Therefore, DOE concludes that FHA loans may not be as prevalent for consumers for manufactured homes because of the low percentage of borrowers presented in both the 2021 CFPB and the 2019 AHS, and therefore amended energy conservation standards may not have as much of an impact as commenters are suggesting.

As discussed, Tier 1 in the final rule responds to concerns on first-cost impacts for low-income consumers. As presented in Table I.1, the national average incremental housing purchase

[28] *https://fhalenders.com/fha-debt-to-income-ratio/.*

[29] This figure includes home-equity lump sum mortgages, but excludes home-equity credit lines and reverse annuity mortgages.

price for Tier 1 single-section homes is $660. As such, the Tier 1 standard would slightly increase the monthly debt portion of the DTI ratio; assuming chattel rate at 9 percent with 23-year loan term and a down-payment of 10 percent (see chapter 8 of the final rule TSD for further discussion on these assumptions), this would increase monthly payments by approximately $6. Table 7 of the 2021 CFPB suggests a median income of $52,000 for chattel loans, which can be used to calculate the original median monthly debt of $1,547 (35.7 DTI * 52,000/12). All else equal, with the increase in monthly payments of approximately $6 for single-section homes resulting from this final rule, DTI can be recalculated as 35.8 DTI, which increases the DTI by 0.1 and is still under the standard 43 DTI limit for the small portion of consumers for manufactured homes that use FHA loans (although as noted previously, this ratio can be higher based on certain compensating factors). Considering average household income of single-section homeowners (approximately $40,000 based on the 2019 AHS), the incremental monthly payments of approximately $6 would increase the DTI to 35.9, which is 0.2 above the median DTI ratio for chattel loans presented in the 2021 CFPB and well under the 43 DTI limit. Further, DTI does not take into account any reduction in energy costs from the standards established in this final rule. Finally, DOE only considered the effect of DTI on the Tier 1 standard because commenters were focused on how the energy conservation standards could affect DTI on low-income consumers who have higher DTIs and affordability concerns. Accordingly, DOE concludes that the final rule will not have the impact on loan qualification that the commenters suggest, and to the extent there are such impacts, Tier 1 of the final rule helps mitigate them because of the lower first-costs.

Finally, as mentioned by Next Step, Freddie Mac has a GreenChoice Mortgage® program which facilitates the financing of energy efficient home improvements and energy efficient homes, including manufactured homes. This program is specifically also meant for borrowers who want to qualify for greater purchasing power despite their higher DTI and housing expense-to-income for manually underwritten loans. With respect to commenters' suggestions that DOE provide forms of financial assistance or other aid to assist manufactured home purchasers, EISA does not authorize DOE to provide such assistance in establishing the standards for manufactured housing. However, DOE will work with other Federal agencies within its statutory authorities to assist homeowners, including manufactured homeowners, in achieving energy burden reductions in an affordable and equitable manner.

3. IECC

Multiple commenters stated that that the IECC does not take into consideration all the construction aspects unique to manufactured housing, and its application to manufactured housing would require the industry to comply with a building code that was developed for commercial and site-built residential buildings. (MMHA, No. 995 at p. 3); (Michigan MHA, No. 1012 at p. 2); (WHA, No. 1025 at p. 2); (PMHA, No. 1165 at p. 3); (Westland, No. 1263 at p. 2); (Pleasant Valley, No. 1307 at p. 2); (American Homestar, No. 1337 at p. 2); (Oliver Technologies, No. 1350 at p. 2); (KMHA, No. 1368 at p. 2); (Adventure Homes, No. 1383 at p. 2); (NJMHA, No. 1451 at p. 2); (WMA, No. 1452 at p. 2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 2); (Skyline Champion, No. 1499 at p. 2); (Mississippi MHA, No. 1588 at p. 3); (Mississippi MHA, No. 1588 at p. 4); (Skyline Champion, No. 1627 at p. 2); (Campaign Form Letter, Multiple submissions at p. 1–2) NRECA commented that they are concerned that the 2021 IECC standard and the other features of the SNOPR could ultimately price many consumers out of the market and urged DOE to consider alternatives. (NRECA, No. 1406 at p. 3) Accordingly, NRECA questioned the use of the 2021 IECC standard for manufactured housing in the SNOPR, while most states are still following the 2009 IECC standard for site-built homes. They suggested that DOE look to other iterations of the IECC standard which could better balance efficiency and affordability, while still including an efficient building envelope as part of the standard. (NRECA, No. 1406 at p. 4)

Clayton Homes stated that they believe that requiring the industry to comply with the IECC is not an appropriate solution. (Clayton Homes, No. 1589 at p. 16) The MHCC stated that they believe the energy efficiency requirements from the 2021 IECC, as currently proposed, are not the appropriate resource to be used in updating manufactured housing energy requirements, as the 2021 IECC was not developed or intended for these homes. (MHCC, No. 1600 at p. 6) TMHA stated the IECC was never intended to apply to HUD-Code manufactured homes and as proven in Texas it poses significant issues to the factory-built home manufacturing process at affordable price points. TMHA stated that they believe that DOE, in concert with HUD and the MHCC, should reach an agreement on which elements from the Code deliver the most energy conservation gains while minimizing the increase in construction cost to protect low-income consumers and the supply of affordable housing. (TMHA, No. 1628 at p. 3) MHARR commented that manufactured homes have never previously been subject to any version of the IECC. Thus, for manufactured homes, the increase in costs entailed in implementing the 2021 IECC would not be an ''incremental'' or marginal increase over and above the cost of the 2018 IECC, but the total, cumulative costs of implementing all elements of the IECC incorporated within its 2021 iteration, dating back to the very first version of that code. (MHARR, No. 1640 at p. 8)

Alternatively, Earthjustice and Prosperity Now stated that DOE must adopt standards based on the most recent version of the IECC, except as expressly permitted by EISA. They stated that the language of EISA makes clear that DOE must analyze the IECC's cost effectiveness on a provision-by-provision basis. (Earthjustice and Prosperity Now, No. 1637 at p. 1, 2) Further, ASHRAE stated that the most recent edition of their standard ANSI/AHSRAE/IEC 90.2–2018 includes manufactured housing within scope and because Standard 90.2 is an industry-based standard, it allows manufacturers credit for energy savings from a wider variety of measures than are used in other model codes such as the IECC prescriptive standards, including the use of higher efficiency heating and cooling equipment, and also solar panels. Accordingly, they recommended that DOE evaluate whether ASHRAE 90.2–2018 would be more cost-effective than the proposed standard, and for DOE to consider Standard 90.2 alongside or in place of the 2021 IECC. (ASHRAE, No. 1373 at p. 2) NRDC also recommended the use of ASHRAE 90.2–2018 as a starting point to set the standards at a higher level. NRDC stated that the one known method of reducing default risk is to increase energy efficiency and require disclosable energy ratings/quality assurance. NRDC stated that ASHRAE 90.2 accomplishes both goals, and urged DOE to evaluate this standard as well as the IECC 2021 code as the basis for its standards for manufactured housing, since ASHRAE 90.2 requirements have been demonstrated to be cost-effective. (NRDC, No. 1599 at p. 5–7)

As described in section II.A, EISA mandates that the manufactured housing energy conservation standards be based upon the most recent IECC, except in cases in which the Secretary finds that the IECC is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. (42 U.S.C. 17071(b)(1)) As noted previously and discussed more below in section IV, DOE has found today's final rule, which is based on the 2021 IECC, to be cost-effective. Accordingly, DOE evaluated the requirements of the IECC along with the other considerations enumerated by EISA in establishing these standards. In DOE's view, the directive that these standards ''shall be based on'' the most recent version of the IECC indicates Congress' intent that DOE exercise discretion in establishing these standards and does not require these standards for manufactured homes to be an identical or verbatim equivalent of the IECC, especially in light of the other considerations DOE must make under the statute (*i.e.,* the design and construction techniques of manufactured homes, cost-effectiveness, etc.).

Additionally, DOE disagrees with Earthjustice and Prosperity Now's comment that DOE must analyze the cost-effectiveness of the IECC on a provision-by-provision basis. Nothing in section 413 of EISA suggests that Congress intended for DOE to conduct a provision-by-provision cost-effectiveness analysis of the IECC. If Congress wanted DOE to take such a granular approach, it would have specified such a requirement. Moreover, while DOE disagrees with the commenters' assertion, DOE nonetheless has engaged in an analysis to determine which IECC provisions are appropriately applied to manufactured housing and which impact first-cost and affordability considerations, consistent with the considerations enumerated in EISA. But, unlike the analysis commenters suggest, DOE's evaluations have been in the context of the whole home, rather than considering individual provisions in isolation, which is more consistent with the approach for which manufactured housing has met current HUD energy conservation requirements via a U_o for the entire home. Considerations regarding the design and construction of manufactured homes were a main focus of the MH working group while developing the recommendations that DOE has considered in this rulemaking. For example, section R402.2.4 of the 2015 IECC (which was considered by the MH working group) and the 2021 IECC (which is the latest version of the IECC) include a specification for vertical doors that provide access from conditioned to unconditioned spaces to meet certain fenestration insulation requirements. However, internal doors that separate conditioned and unconditioned space rarely are relevant to manufactured homes. Therefore, the MH working group recommended that this provision be removed from the energy conservation standards as it was deemed not relevant to manufactured housing design and construction. Further, DOE did not incorporate requirements for uniform thickness or a uniform density for the exterior ceiling insulation given that the space between the roof and exterior ceiling is limited in a manufactured home as compared to a site-built home, particularly at the eaves, and as such uniformity of thickness may not be possible at the insulation levels established in this final rule. Because the IECC is specific to site-built structures, the approach finalized in this document would establish requirements using modified versions of those related IECC provisions that can be adapted for manufactured homes.

With respect to ASHRAE Standard 90.2–2018, DOE notes that, while commenters provided some information regarding the cost-effectiveness of Standard 90.1–2018 to site-built homes, they did not provide information regarding the cost-effectiveness of 90.2–2018 as applied to manufactured homes. Moreover, the commenters did not provide information on how 90.2–2018 applies to manufactured homes relative to the 2021 IECC-based requirements DOE proposed in the August 2021 SNOPR and finalized in this rule. EISA does allow DOE to base its manufactured housing energy conservations standards on a code other than the IECC to the extent that the IECC is not cost-effective, or the alternate code is more stringent and more cost-effective. At this time, DOE is declining to make such determinations for Standard 90.2–2018. Instead, DOE has elected to maintain the 2021 IECC as the basis for this final rule, consistent with the considerations of EISA section 413 and the recommendations of the MH working group and other stakeholders. DOE remains open to consideration of Standard 90.2–2018 or other building energy codes that may be appropriately applied to manufactured housing and meet the increased stringency and cost-effectiveness requirements of EISA section 413 in future rulemakings for these standards.

B. Final Standards

DOE is finalizing tiered standards that would prescribe cost-effective energy conservation requirements based on requirements in the 2021 IECC. The Tier 1 standards would apply to single-section manufactured homes. The Tier 1 requirements incorporate IECC-based building thermal envelope component measures that result in an incremental purchase price increase less than $750 for single-section homes. In other words, the Tier 1 requirements address many of the same thermal envelope components of a home as the IECC (after accounting for the design and factory construction considerations under EISA discussed previously), but with lesser stringencies to address the affordability concerns raised by HUD during consultation and in stakeholder comments. The Tier 2 standards would apply to multi-section manufactured homes. The Tier 2 standards would be based on the most recent version of the IECC with similar stringencies for thermal envelope components, taking into consideration the design and factory construction techniques of manufactured homes. Tier 2 includes the alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3, as presented in the August 2021 SNOPR and October 2021 NODA. Tier 2 is estimated to result in an average incremental price increase of $4,100–$4,500 for multi-section homes. Both Tier 1 and Tier 2 standards also include requirements that are applicable to manufactured homes related to ducts; HVAC; service hot water systems; mechanical ventilation fan efficacy; and heating and cooling equipment sizing. These requirements are also based on the 2021 IECC after accounting for the design and factory construction considerations under EISA, and are applicable to all manufactured homes (single-section and multi-section).

1. Size-Based Threshold

In this final rule, DOE is finalizing standards based on home size instead of the August 2021 SNOPR proposed manufacturer's retail list price. DOE initially considered a retail-price threshold to address the affordability concerns expressed by HUD and other stakeholders. 86 FR 47744, 47760. DOE received a number of comments against using manufacturer's retail list price, and alternate suggestions to use a size-based threshold instead, as discussed in section III.B.3 of this document. DOE noted in the August 2021 SNOPR that it had considered a size-based threshold

and requested comment on the use of a size-based threshold, or other alternate threshold, in place of the retail list price threshold. *Id.* at 47760–47762. DOE also performed a sensitivity analysis regarding an alternate sized-based tier threshold in the October 2021 NODA.[30] 86 FR 59042.

The manufactured housing survey (''MHS'') 2020 public use file (''PUF'') data, provides estimates of average sales prices for new manufactured homes sold or intended for sale by geographical region and size of home.[31] Table III.1 summarizes the average, minimum and maximum sales prices based on census region and section.

TABLE III.1—MHS PUF 2020 CENSUS REGION AND SALES PRICE DATA

Census region	Single-section sales price (2020$)			Dual-section sales price (2020$)		
	Average	Minimum	Maximum	Average	Minimum	Maximum
Northeast	$57,916	$35,600	$95,000	$107,951	$56,000	$233,000
Midwest	56,983	33,200	79,000	104,987	54,000	184,000
South	56,798	31,400	79,000	106,942	58,000	170,000
West	61,748	34,100	117,000	118,282	64,000	236,000
All	57,233	31,400	117,000	108,583	54,000	236,000

Further, the MHS also summarizes average manufactured home sales price by state.[32] Table III.2 presents the average sales prices in 2020 per HUD zone based on the MHS data discussed previously and manufactured home shipments published by Manufactured Housing Institute.[33]

TABLE III.2—MHS AVERAGE SALES PRICE DATA BY HUD ZONE

HUD zone	Single-section average sales price (2020$)	Dual-section average sales price (2020$)
1	$57,124	$107,003
2	57,290	111,208
3	56,207	109,147

As presented in Table III.1 and Table III.2, the average, minimum and maximum sales price for single-section homes are significantly lower than the same for multi-section homes.

The 2019 AHS separately provides data relating household income to manufactured housing size. On average, the household income for households in single-section homes ($39,331) is lower than that of multi-section homes ($51,358). The 2019 AHS also provides data relating the poverty status [34] (using the federal poverty level thresholds [35]) to size of home. Table III.6 summarizes that a larger portion of single-section homes have residents at poverty levels less than 100 and 200 percent of the Federal Poverty Level compared to multi-section homes.

TABLE III.3—2019 AHS POVERTY LEVEL SUMMARY DATA

Poverty level	Number of units (thousands)		Percentage of units (%)	
	Single-wide	Double-wide	Single-wide	Double-wide
Less than 100 percent	1109	506	29	17
Less than 200 percent	2278	1307	60	45

Accordingly, DOE concludes that single-section homes, on average, have lower sales prices than multi-section homes. Further, DOE concludes that single-section homes, on average, have householders with lower to median incomes than multi-section homes. To the extent that manufactured home purchasers are cost-driven, in conjunction with the lower average income, consumers at the lower end of the manufactured home purchase price range generally would be more sensitive to increases in purchase price. Based on the relationship between home size and cost, DOE has determined that, similar to the retail list price-based threshold, the size-based threshold addresses affordability concerns. However, as noted by commenters, the size-based threshold would not be susceptible to fluctuations in pricing due to changing market conditions or consumer customization that could impact the applicability of standards (see the discussion in section III.B.3 of this document). The size-based threshold

[30] DOE also evaluated a sized-based threshold among the alternatives for both the January 2022 DEIS and April 2022 FEIS. 87 FR 2430; 87 FR 20852.

[31] Manufactured Housing Survey, Public Use File (PUF) 2020. *www.census.gov/data/datasets/2020/econ/mhs/puf.html.*

[32] Manufactured Housing Survey, Annual Tables of New Manufactured Homes: 2014—2020; *www.census.gov/data/tables/time-series/econ/mhs/annual-data.html.*

[33] Manufactured Housing Institute, Annual Production and Shipment Data; *www.manufacturedhousing.org/annual-production/.*

[34] In the AHS tables, poverty status was determined by comparing the combined income of the individuals living in the household to the appropriate size-based poverty threshold (*i.e.,* two-person poverty threshold, three-person poverty threshold, etc.). Further details on the definition for poverty status is found in the AHS definitions handbook (*www2.census.gov/programs-surveys/ahs/2019/2019%20AHS%20Definitions.pdf*).

[35] U.S. Census Bureau. Poverty Thresholds. *www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html.*

therefore provides greater certainty for manufacturers and consumers as to the applicability of standards to individual manufactured homes and reduces opportunities for gaming. Accordingly, DOE is finalizing a tiered standard with the Tier 1 standard applicable to single-section homes and the Tier 2 standard applicable to multi-section homes.

2. Tiered Standard

DOE developed the Tier 1 standard with the lower incremental purchase price in response to concerns from HUD and other commenters regarding the incremental purchase price of a manufactured home built to a DOE standard, and the current ability of the first homeowner/purchaser of these homes to recoup the increase in purchase price and realize the savings offered by the greater energy efficiency of a Tier 1 manufactured home. The Tier 1 standard includes requirements for thermal envelope components similar to those of the 2021 IECC, but at lesser stringencies than the 2021 IECC to lower the incremental purchase price in order to address the affordability concerns raised by HUD and other stakeholders.

In determining the energy efficiency measure (''EEM'') combinations included in Tier 1, DOE ensured that the performance-based overall thermal transmittance (U_o) for these combinations would be more stringent than the current HUD requirements. DOE's objective in defining the Tier 1 incremental purchase price threshold was based on implementing efficiency improvements by which a low-income buyer purchasing a single-section home (using typical loan terms currently available to these homebuyers, primarily chattel loans with higher interest rates) would, on average, realize a positive cash flow within Year 1 of the standard based on the down payment, incremental loan payment, and energy cost savings. DOE believes this approach addresses the concerns raised by HUD and other stakeholders regarding affordability as low-income purchasers, whom DOE considered in developing Tier 1 standards, would begin to quickly realize the energy cost savings of the standards. As such, DOE determined that an incremental purchase price of less than $750 for a set of energy efficiency measures provided a beneficial financial outcome for these consumers given lifecycle cost savings and energy cost savings, while minimizing first cost impacts in the manner noted above. Specifically, for single-section manufactured homes, DOE determined the set of energy efficiency measures with an average incremental purchase price of $660 (as presented in Table I.1) with a 10 percent down payment (using a chattel loan) would, on average, result in a positive cash flow within the first year, as presented in Table III.4. Further discussion on the LCC inputs to this subgroup calculation are presented in section Chapter 9 of the TSD.

TABLE III.4—TIER 1 LCC SUB-GROUP NATIONAL RESULTS

Single-section only; 30-year analysis period; national results	Tier 1
Incremental cost	$660
Incremental down-payment (10%)	66
Yearly Incremental Loan Payment	67
First Year Incremental Payment (Down-payment + Loan)	133
Yearly Energy Cost Savings	177
First Year Savings (Energy Cost Savings—Incremental Payment)	44

The Tier 2 standard would apply the same thermal envelope EEMs to multi-section homes, but at similar stringencies as the 2021 IECC, with consideration of cost-effectiveness and design and factory construction techniques of manufactured homes taken into account. (42 U.S.C. 17071(b)(1); 42 U.S.C. 17071(b)(2)(A)) Tier 2 also incorporates the alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3, as presented in the August 2021 SNOPR and October 2021 NODA. DOE notes that Tier 2 requirements adopted in this final rule will update only the window U-factor requirements for all climate zones compared to the term sheet agreed upon by the MH working group (window U-factor: 0.35 and 0.32; to 0.32 and 0.30 respectively). The window U-factors were updated consistent with the 2021 IECC, while the other updates were not included because of the design and factory construction of a manufactured home or cost-effectiveness considerations (see further discussion in section III.F.2.b of this document). Otherwise, the remaining Tier 2 EEMs are consistent with the recommendations from the MH working group, except based on the three HUD zones (as opposed to the four climate zones recommended in the Term sheet). Further discussion of the climate zones may be found in section III.F.2.a. of this document.

The required building thermal envelope requirements for both tiers are presented in section III.F.2.b of this document.

3. Comments on the August 2021 SNOPR Proposal and the October 2021 NODA

DOE received a number of comments regarding whether a tiered or the alternative untiered approach should be considered.

Multiple commenters supported single-tier (*i.e.,* untiered) standards for energy conservation based on the 2021 IECC standards. They stated that all manufactured homes should be as efficient as would be cost-effective, considering the construction costs, energy costs, and financing over the life-cycle of the homes. They also commented that homebuyers purchasing homes in Tier 1 should not be subjected to the pitfalls of lower-quality, inefficient homes, which would also reduce resale value. The commenters also noted that a two-tiered approach would further stratify the growing homeownership gap for underserved communities, depriving individuals and families from quality, energy-efficient housing choices. (CASA of Oregon, No. 925 at p. 1–2) (Verde, No. 928 at p. 1–2), (Trellis, No. 974 at p. 1–2), (NOAH, No. 976 at p. 1–2), (PathStone, No. 1013 at p. 1–2), (Habitat for Humanity of LA, No. 1015 at p. 1–2), (WIDC, No. 1016 at p. 1–2), (RCAC, No. 1183 at p. 1–2), (UCD, No. 1030 at p. 1–2), (LISC, No. 1233, at p. 2–3); (CHP, No. 1384 at p. 1–2); (Blount County Habitat for Humanity, No. 1417 at p. 1–2); (ReFrame Foundation, No. 1424 at p. 1–2); (People's Self-Help Housing, No. 1591 at p. 1); (Fahe, No. 1572 at p. 1–2); (NBI, No. 1404 at p. 1–2); (NPCC, No. 1567 at p. 2); (E4TheFuture, No. 1374 at p. 1); (Next Step, No. 1617 at p. 10, 11); (UHI, No. 1026 at p. 1); (E4TheFuture, No. 1976 at p. 1); (ICC, No. 1979 at p. 2); (NYSERDA, No. 1981 at p. 1); (Next Step, No. 1984 at p. 1, 2) UHI stated that

lower-quality, less efficient homes will be less comfortable and subject residents to potential health and safety hazards from poor ventilation, poor insulation, and a lesser ability to withstand extreme weather conditions. (UHI, No. 1026 at p. 1) VEIC recommended that DOE pursue a single standard for all manufactured homes that is based on the 2021 IECC and incorporate all measures that are cost-effective based on total lifetime costs of the home, including energy costs. (VEIC, No. 1633 at p. 3) NMHOA stated that while establishing a tiered system may somewhat address the issue of the higher upfront costs associated with purchasing a home, doing so fails to address the core purpose of the proposed rule: addressing the ongoing costs of ownership. (NMHOA, No. 1635 at p. 3) UC Law School stated the untiered approach makes the most sense from a climate perspective, provided DOE could solve the affordability problem. (UC Law School, No. 1634 at p. 6, 7, 10) NBI commented that proposed Tier 2 energy conservation standards missed significant energy savings by not applying the entire scope of the 2021 IECC to manufactured homes. (NBI, No. 1404 at p. 1–2)

ACEEE commented that the proposed Tier 1 standards are illegal. The authorizing statute (42 U.S.C. 17071) requires DOE to set the standards based on the most recent version of the IECC (currently the 2021 IECC) except when that code is not cost-effective or a more stringent standard would be more cost-effective. It specifies that cost-effectiveness is based on ''the purchase price . . . and on total life-cycle construction and operating costs.'' Thus, they stated that DOE must base any change from the 2021 IECC on cost-effectiveness, including total life-cycle energy costs. (ACEEE, No. 1631 at p. 4) ACEEE also expressed concern that the proposed Tier 1 would not help low-income residents, that there may be cheaper savings not included in the draft standard. (ACEEE, No. 1498 at p. 1) ACEEE also commented that tiered standards will reinforce inequitable outcomes. Setting weaker standards for cheaper homes will result in inequitable access to the benefits of higher quality, more efficient construction, and will create a dangerous precedent by setting standards that are targeted according to consumer income level. (ACEEE, No. 1631 at p. 3) Instead, ACEEE commented that untiered standards will ensure that all residents benefit equitably from the same strong, cost-effective efficiency standards. They stated that the proposed threshold for Tier 2 is arbitrary and subject to gaming and the use of manufacturer's retail list price is a notional amount that can be manipulated. (ACEEE, No. 1631 at p. 4–6) Further, ACEEE also stated that the untiered standards are justified based on legal requirements, cost-effectiveness, and environmental impacts without consideration of the economic or other impacts from greenhouse gas reduction, and thus, the recent injunction [36] on the use of the social cost of carbon should not delay this standard. (ACEEE, No. 1988 at p. 3) Finally, ACEEE stated that the EIS confirms that the untiered standards deliver the highest 30-year LCC savings to residents and provides the greatest climate, environmental justice, socioeconomic, and health benefits. In addition, they stated the untiered standards deliver the largest reduction in ongoing energy costs, which is an essential part of preserving the affordability of manufactured housing and lowering high energy burdens for its residents. (ACEEE, No. 1988 at p. 1)

Vermont Law School commented that DOE lacked the legal authority to adopt the proposed less energy efficient tiered standards based on a manufactured home's retail list price or number of sections because the 2021 IECC does not base any of its provisions on a home's list price, number of sections, ''first cost impacts on purchasers,'' or 1–10 year payback periods, and DOE has not affirmatively found that the 2021 IECC standard is not cost effective. (Vermont Law School, No. 1638 at p. 2–4) Vermont Law School reiterated their concern that the tiered approach was not cost-effective, nor consistent with the 2021 IECC, then went on to acknowledge that ''DOE has, however, explicitly and affirmatively found that the untiered approach, which is based on the IECC, is cost-effective.'' Vermont Law School also commented that the untiered approach goes much further than the tiered approach in addressing the financial, health, and energy burdens faced by low-income residents, and will reduce the energy burden of all new residents of manufactured homes. (Vermont Law School, No. 1991 at p. 1–3)

The CEC urged DOE to adopt the untiered approach that applies the 2021 IECC to all manufactured housing, regardless of retail cost or size. They stated that adopting either tiered approach (retail cost-based or size-based) would impede the nation's and individual states' efforts to address climate change in a just and equitable way. CEC also stated that, because DOE may not deviate from establishing standards based on the IECC for all manufactured housing unless it makes a finding that the code is not cost-effective, DOE must finalize the untiered approach. (CEC, No. 1629 at p. 2, 3) While CEC acknowledged that to make the standards meaningful, DOE has discretion to adopt standards based on the IECC rather than identical IECC standards, they disagreed with DOE's conclusion that this discretion extends to the bifurcated application of IECC standards based on cost or configuration in a way that reduces energy savings, utility savings, or greenhouse gas emissions. This interpretation would effectively render the statutory requirement meaningless. (CEC, No. 1629 at p. 3) Finally, CEC commented that they were concerned regarding equity considerations and the disproportionate impact the tiered proposals would have on low-income residents. (CEC, No. 1629 at p. 4) Next Step commented that by sacrificing energy-efficiency features in lower-cost manufactured homes, the proposed DOE rule will adversely impact lower-income communities—including immigrant communities and communities of color, and that the rulemaking should be considered under President Biden's January 20, 2021, Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. (Next Step, No. 1617 at p. 7, 11) In April 2022, DOE released its Equity Action Plan (EAP) to implement this Executive order: *https://www.energy.gov/equity.* As directed by the Executive order, the EAP lays out a roadmap for how DOE will incorporate equity considerations in procurement, financial assistance, and stakeholder engagement across DOE programs. In developing this rule, DOE has taken equity impacts into account and the Administration's comprehensive approach to advancing equity. Moreover, the FEIS provides a detailed analysis of socioeconomic and environmental justice considerations.

Earthjustice, Prosperity Now, and Sierra Club urged DOE to abandon the proposed tiered approach and to apply a strengthened version of the proposed Tier 2 standards to all new homes. They stated that DOE has entirely failed to consider the beneficial impacts of stronger standards on renters of new homes, and therefore has ignored an important aspect of the affordability problem it claims to be addressing. (Earthjustice and Prosperity Now, No. 1637 at pp. 1, 5, 6, 8); (Earthjustice, Prosperity Now, and Sierra Club, No.

[36] *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.).

1992 at p. 2) Further, they commented that (1) the Tier 1 standards are not based on 2021 IECC and DOE has not shown that standards based on the 2021 IECC are not cost-effective; and (2) the tiered approach raises significant equity concerns. (Earthjustice and Prosperity Now, No. 1637 at p. 3) In addition, they stated by prescribing weaker energy efficiency standards for the lowest cost homes as DOE has proposed, these commenters assert that DOE would limit access to the benefits of higher quality, more efficient construction, particularly for families renting a manufactured home and those who own a home and rent a lot in a manufactured housing community, in which a significant share of lower-cost homes are placed. (Earthjustice and Prosperity Now, No. 1637 at p. 6) Finally, they noted that there is ample evidence in the record to support DOE's nationwide adoption of standards that are far stronger and more comprehensive than the requirements included in the proposed Tier 2 standards, even if the economic impacts of avoiding greenhouse gas emissions are completely ignored. (Earthjustice, Prosperity Now, and Sierra Club, No. 1992 at p. 9)

RECA urged DOE to take the untiered approach proposed in the SNOPR because it is the only proposed alternative consistent with the relevant statute, and it is the most equitable long-term solution because it recognizes that reducing utility bills is just as important (and likely more important) for low-income households as it is for higher-income households. RECA stated that, unless DOE has specifically found a lack of cost-effectiveness or a more stringent cost-effective measure than what is contained in the IECC, the 2021 IECC should be the standard for energy conservation in manufactured housing. (RECA, No. 1570 at pp. 1, 2, and 7)

NASEO commented that DOE and HUD are proposing energy efficiency standards for Tier 1 homes which are or will soon be less efficient than the efficiency codes and standards in place in the various states, and which states are unable to supersede due to federal pre-emption. NASEO was particularly concerned that it has been nearly 30 years since the last update to MH standards. NASEO stated that establishing a two-tiered standard that excludes the lowest cost homes from energy efficiency saddles those residents with high energy bills for the 30–40 year average lifetime of a manufactured home. (NASEO, No. 1565 at p. 2)

NEEA strongly opposed a two-tier approach for four reasons: (1) Those who buy a Tier 1 home may have a lower first cost, but future buyers will have to bear higher life-cycle and energy costs; (2) the 2-tier approach based on retail list price will shift market pricing practices to keep advertised price low while adding higher priced dealer options at the point of sale; (3) park owners will continue to purchase less efficient Tier-1 homes since rent is set on market rates and energy bills will be paid by the tenants; and (4) a 2-tier approach introduces complexity into this code and sets a bad precedent for other product categories. NEEA commented that DOE must recognize the landlord-tenant relationship (where landlords are not incentivized to invest in energy efficiency because they are not paying the utility bills) and implement single tier, strong energy conservation standards for manufactured housing. (NEEA, No. 1601 at pp. 2, 3, 6, 8, and 9)

The State Attorneys General urged DOE to prescribe the requirements set forth in DOE's untiered proposal. They commented that a tiered approach is inconsistent with the IECC. Were DOE to adopt a tiered approach, it would do so in violation of 42 U.S.C. 17071(b)(1), which provides that DOE's standards for manufactured housing ''shall be based on'' the IECC. Accordingly, they stated that DOE should adopt standards based on the 2021 IECC and make them applicable to all manufactured homes, regardless of home cost or size. They argued that DOE's untiered proposal is a significant improvement over the current HUD Code, but DOE should still adopt a more stringent set of requirements to fully comply with EISA. (State Attorneys General, No. 1625 at pp. 2, and 4–6) Further, they commented that the tiered approach would create a double standard that will perpetuate persistent poverty and inequality. (State Attorneys General, No. 1625 at p. 4) UC Law School stated that the untiered approach is the most cost-effective when the cost-benefit analysis factors in only the social cost of carbon and the emissions reductions into the equation. (UC Law School, No. 1634 at p. 11, 13, 14).

University of Arizona and Arizona State strongly endorsed the application of minimum standards for energy conservation based on the 2021 IECC for all new manufactured homes sold (as in, did not endorse the tiered standards) in order to reduce future health and financial vulnerabilities among manufactured housing residents. They stated that manufactured homes also provide housing for high concentrations of heat-sensitive populations, including older adult, low-income and minority groups, and that new standards for manufactured housing energy-efficiency are long overdue and should be issued and implemented as soon as possible. (University of Arizona and Arizona State, No. 1379 at p. 1–2)

MHI also supported a single-tier standard, albeit not with the requirements that DOE proposed in the untiered approach. MHI recommended less stringent component and U_o requirements for the single-tier standards (which are discussed further in section III.F.2.b). (MHI, No. 1990 at p. 14–17)

On the other hand, NAHB did not support the untiered standards and thus supports the adoption of a tiered approach to allow builders and manufacturers to have options when implementing building thermal envelope requirements. They stated that the ''tiered'' approach provides options for builders and manufacturers when implementing building thermal envelope requirements. However, they also stated that it is unclear if using the manufacturer's retail price is an appropriate metric for the two tiers. (NAHB, No. 1398 at p. 2) An anonymous commenter offered its support for the tiered standards as a way to strike a balance between increased energy efficiency and affordable housing. (Anonymous, No. 1446 at p. 1, 2) Clayton Homes commented that the untiered proposal is not cost-effective in general or for low-income consumers. (Clayton Homes, No. 1589 at p. 16)

UC Law School stated that the untiered approach risks making manufactured homes unaffordable for low-income consumers. First, under the untiered standard, purchase price increases could represent a significant portion of the average consumer's annual income while those customers are likely already living paycheck to paycheck. Second, under the untiered approach, the dramatic increase in purchase price will increase the amount of chattel or real property loan taken out by the buyer to obtain a manufactured home. Third, DOE stated in the SNOPR that various factors contribute to consumers of manufactured homes being more price-sensitive to changes that would impact the cost of a manufactured home. Accordingly, they suggested that DOE should consider this when evaluating the tiered and untiered approaches for this proposed rule, as only the tiered approach considers the financial hardship the rule will pose to low-income consumers. (UC Law School, No. 1634 at p. 7, 8)

An individual commenter stated that the proposed rule is a necessary step in reducing U.S. energy usage and increasing manufactured housing

efficiency, and that the ''tiered'' approach to regulating homes' thermal envelopes would help to reduce overall energy consumption while also keeping home costs relatively unchanged. (Kurfman, No. 941 at p. 1) Another individual commenter suggested that although the tiered system of cost implementation creates significantly more administrative responsibility, it is a more equitable and desirable means of accomplishing the aforementioned agency goals. They suggested that the proposed rule by DOE seems adequately supported by reasonable inquiries into emission reduction, energy efficiency, and cost allocation for thermal requirements of manufactured homes. (Gustafson, No. 778 at p. 1) NYSERDA supported DOE's two-tier approach to address the affordability concerns. (NYSERDA, No. 1620 at p. 1)

Further, DOE also received a number of comments on the tiered approach, specifically as it relates to the proposed threshold (*i.e.,* manufacturer's retail list price), which are summarized in the following paragraphs.

Multiple commenters suggested that the $55,000 low-income threshold for the eligibility for streamlined energy efficiency requirements for the tiered standard should be eliminated (or significantly increased), and that it is incorrect that homes above $55,000 are not affordable to low-income homebuyers. (MMHA, No. 995 at p. 4); (Michigan MHA, No. 1012 at p. 2); (WHA, No. 1025 at p. 2); (PMHA, No. 1165 at p. 3); (Westland, No. 1263 at p. 2); (Pleasant Valley, No. 1307 at p. 2); (American Homestar, No. 1337 at p. 2); (Oliver Technologies, No. 1350 at p. 2); (KMHA, No. 1368 at p. 2); (Adventure Homes, No. 1383 at p. 2); (NJMHA, No. 1451 at p. 2–3); (WMA, No. 1452 at p. 2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 2); (Skyline Champion, No. 1499 at p.2); (Mississippi MHA, No. 1588 at p. 2) ; (Skyline Champion, No. 1612 at p.2); (Cavco, No. 1622 at p. 2); (VAMMHA, No. 1624 at p. 2); (Champion Home Builders, No. 1639 at p. 4); (IMHA, No. 1453 at p. 2); (MHI, No. 1592 at p. 4–6, 25)

MHARR stated that the $55,000 dividing line between Tier 1 and Tier 2 standards selected by DOE is fundamentally arbitrary and would limit the applicability of the proposed Tier 1 standards to a mere 17.3 percent of the total HUD Code market notwithstanding the fact that all manufactured housing is identified and protected as affordable housing under applicable federal law. MHARR also objected to any threshold set so low, including the updated $63,000 price threshold, because it would subject a significant majority of all manufactured homes and all manufactured homeowners to prohibitively costly energy standards. MHARR further stated that the inflationary and supply chain pressures will increase the threshold amounts by the time of the implementation of any such standard. (MHARR, No. 1640 at p. 2–4) NBI stated that establishing a price threshold for manufactured homes that must meet lower energy efficiency requirements will no doubt risk gaming of the threshold by manufacturers and inadvertently shift more of the market to less efficient manufactured homes. (NBI, No. 1404 at p. 1–2)

If DOE keeps the tiered proposal, multiple commenters commented that the $55,000 low-income price cap threshold for streamlined energy efficiency requirements should be eliminated or significantly increased to at least $110,260. (Westland, No. 1263 at p. 1); (Pleasant Valley, No. 1307 at p. 2); (American Homestar, No. 1337 at p. 2); (Oliver Technologies, No. 1350 at p. 2); (Adventure Homes, No. 1383 at p. 2); (NJMHA, No. 1451 at p. 3); (WMA, No. 1452 at p. 2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 3); (Skyline Champion, No. 1499 at p.2); (Mississippi MHA, No. 1588 at p. 4); (MHI, No. 1592 at p. 17); (Cavco, No. 1622 at p.3); (Champion Home Builders, No. 1639 at p. 4) Clayton Homes recommended that the $55,000 low-income price cap threshold should be either eliminated or increased to at least $110,000 for a single section and $140,000 for a multi-section home to better reflect today's affordable housing market. (Clayton Homes, No. 1589 at p. 13, 15, 16, 18)

MHI commented that if a tiered system based on price is used, the price point in Tier 1 must be significantly increased to at least $110,260, and must be updated annually to reflect actual costs, which can change dramatically. MHI says that as of now, the $55,000/$63,000 threshold is arbitrary, and it excludes significant numbers of low income manufactured housing homebuyers. (MHI, No. 1592 at p. 2, 17) MHI stated that home price is determined by the retailer based on the home features selected by the consumer, and requiring approval of every floorplan after consumer choices are made (which would determine the retail price) would mean every house would have to be approved separately, adding astronomical costs and slowdowns to the process. (MHI, No. 1592 at p. 7, 22, 23, 25) In addition, MHI and Clayton Homes suggested that the Tier 2 definition should not have a threshold price; instead, a Tier 2 home should be defined as ''A manufactured home that is not qualified as a Tier 1 home.'' (MHI, No. 1592 at p. 30); (Clayton Homes, No. 1589 at p. 21)

MHCC stated that they do not believe a tiered approach based on manufacturer's retail list price is appropriate. Using manufacturer's retail list price as a basis for thresholds could lead to situations where, for a single model, multiple plan sets may need to be generated leading to multiple plan review and approvals. (MHCC, No. 1600 at p. 3, 4) Schulte recommended that if DOE wishes to use the Tier 1 method, the price limit should be closer to the anticipated average sales price in 2022 (*e.g.,* $75,000) to cover 68 percent of the single wide market as stated in the proposed value. However, they stated that the manufactured home production costs are very likely to increase due to rising component, construction labor, financing and transportation costs, and therefore the price baseline could rapidly become obsolete. (Schulte, No. 1028 at p. 5, 22) Further, they commented that the differing parts and components of the two tiers of homes will make compliance with the published designs and components of the quality assurance system even more challenging than it already is. (Schulte, No. 1028 at p. 21)

Skyline Champion commented that the $55,000 low-income price cap threshold for streamlined energy efficiency requirements should be eliminated. Skyline Champion strongly disagreed with any tiered system. Skyline Champion stated that they believe a single set of requirements based on value and affordability that offers the customer a clear path to a cost benefit is the best solution. (Skyline Champion, No. 1612 at p. 3) They suggested for the untiered standard, adjusting the tier 1 values slightly upward to improve requirements of ceiling insulation for thermal zones 2 and 3 along with floor insulation on thermal zone 3. (Skyline Champion, No. 1612 at p. 3)

TMHA stated that the price increase considerations that were appropriately made by DOE regarding the Tier 1 standards need to be applied to all HUD-Code homes regardless of their price. TMHA stated that they do not believe that a price threshold should be used at all, and the HMDA data for low-income manufactured home purchases provides evidence that HUD-Code homes across the price distribution deserve cost-effectiveness consideration as intended under 42 U.S.C. 17071(b)(1), which makes no mention of segmenting manufactured housing by price and instead only states that HUD zones be

used for any differentiation. If DOE decides to use a price threshold still, TMHA recommended that DOE at least apply the 70th percentile calculation to the entire set of home prices as opposed to limiting the data used to only single-section homes. (TMHA, No. 1628 at p. 1, 2) TMHA stated that the entire range of manufactured housing property values that went to these low-income households is a better representation of affordable home values and should be considered for the same cost-effectiveness protection. (TMHA, No. 1628 at p. 2)

While MHI does not believe a price threshold is at all appropriate, MHI suggested that if used there absolutely needs to be an index to increase the price over time. The proposed rule should establish the Federal agency tasked with providing the annually adjusted threshold values. Whether it is HUD or the DOE, MHI suggested that a single adjusted value must be provided to ensure consistency across the industry. Also, MHI stated the application of the AEO to the adjustment of home price needs to be standardized and established in the rule for the purposes of enforcement. (MHI, No. 1592 at p. 16, 23) UCB stated that DOE should use the untiered standards if they are to choose a price-based alternative, but otherwise consider other potentially effective options for determining energy efficiency thresholds. (UCB, No. 1618 at p. 3, 10–12)

Alternatively, ACC FSC commented that DOE should consider thresholds based on square footage instead of retail price. They stated that a square footage threshold is more objective than a manufacturer's suggested retail price and should be more reliably implemented and enforced, and would still target the affordable housing market. They suggested that Tier 1 should only apply to single-section homes. (ACC FSC, No. 1364 at p. 1) UCB suggested using different monetary standards for tiers, size-based tiers, or location-based tiers. (UCB, No. 1405 at p. 3) Clayton Homes urged DOE to consider other thresholds such as square footage (recommending 1650 sq. ft. of living space) or a measure that differentiates based on location where the home will be sited, rather than price. (Clayton Homes, No. 1589 at p. 15) MHI stated DOE must seriously consider an alternative tier approach such as square footage or sections. (MHI, No. 1592 at p. 2, 17) MHCC stated that if DOE moves forward with a tiered approach, single- or multi-section would be the most appropriate metric. (MHCC, No. 1600 at p. 3, 4) ACEEE supported a metric that is harder to manipulate (such as home floor area) if DOE insisted on creating multiple tiers. ACEEE also stated that disclosure prior to initial sale or rental should clearly identify lower-tier homes and inform buyers and renters that they are likely to pay higher energy bills and may face other problems. (ACEEE, No. 1631 at p. 4–6)

As discussed previously, in response to feedback from stakeholders and based on the statutorily required consultation with HUD, DOE proposed the ''tiered'' approach in the August 2021 SNOPR to mitigate the potential adverse impacts of increased costs on manufactured housing affordability for low-income consumers that may arise from increasing the stringency of energy efficiency requirements applied to manufactured homes. In this final rule, DOE is finalizing a size-based tiered approach as it mitigates the potential adverse impacts of increased first-costs on manufactured housing affordability from increasing the stringency of energy efficiency requirements applied to manufactured homes.

In response to comments opposing the tiered approach, the tiered approach is ''based on'' the 2021 IECC, as DOE interprets the statute. As noted previously in DOE's reading, the language Congress used in instructing DOE to set standards for these structures does not require the imposition of requirements for manufactured homes that are identical to those that IECC provides for site-built structures. Instead, DOE reads the language of the statute as readily indicating that Congress anticipated that DOE would need to use its discretion in adapting the IECC's provisions for manufactured housing use, including whether those elements would be appropriate in light of the design and factory construction techniques of manufactured homes and to the extent the IECC is not cost-effective. As noted previously, the IECC does not apply to manufactured homes, and the IECC's provisions could not be transferred verbatim to manufactured homes because of differences in these structures. Moreover, Congress directed DOE to ''establish standards for energy efficiency in manufactured housing'' that are ''based on'' the IECC. Congress could have, but did not, require DOE to establish standards that are ''equivalent to'' those in the IECC, ''the same as'' those in the IECC, or similar such language that would indicate a lack of discretion. Therefore, it is DOE's reading of the statute that Congress provided DOE with ample discretion to adapt the IECC to the unique design, manufacturing, transportation, and cost characteristics of manufactured homes and the associated market.

In addition, because DOE does not read ''based on'' as being ''identical to,'' there is no reason to make a finding that the IECC is not cost-effective, which is required only when DOE is not basing its standards on the IECC (or, alternatively, utilizing more stringent standards than found in the IECC). Here, DOE is basing its standards on the IECC, but necessarily adapting these standards to the unique features of manufactured housing. If, in EISA, Congress did intend for ''based on'' to be ''identical to'' (contrary to DOE's interpretation), then DOE would necessarily have to conclude that the IECC is not cost-effective because it is impracticable to copy standards for site-built housing to manufactured housing. Thus, DOE still would adopt the standards adopted in this final rule because they promote the energy efficiency of manufactured housing based on the criteria set forth by Congress.

The tiered approach in this final rule is ''based on'' the 2021 IECC. As noted in the August 2021 SNOPR, both tiers are based on the 2021 IECC in that both tiers have requirements for the building thermal envelope, duct and air sealing, installation of insulation, HVAC specifications, service hot water systems, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions consistent with those of the 2021 IECC. 86 FR 47757. In other words, both tiers in this final rule regulate the same components of a home as the 2021 IECC, with modifications made by DOE to account for the design, construction, transportation and cost-effectiveness considerations for manufactured homes required by EISA, and as agreed upon by the MH working group. Pursuant to the discretion afforded DOE by Congress, neither the tiered nor the untiered standard (*i.e.,* Tier 2) replicates the 2021 IECC as it would apply to site built homes. Rather, both tiers adopted in this final rule are ''based on'' the 2021 IECC. Even if DOE had opted against tiering of standards in this rule, the standards adopted still would not be identical to the 2021 IECC (as alternatively proposed in the SNOPR), because, as repeatedly noted, it is not possible to impose standards developed for site-built structures to manufactured homes.

DOE also disagrees with commenters suggestion that the Tier 1 requirements are inconsistent with section 413 of EISA because DOE tentatively found the proposed untiered standard to be cost-effective, or otherwise did not show that the untiered standard was not cost-

effective. First, as noted previously, the tiered standard is based on the 2021 IECC and is cost-effective, and is therefore consistent with the statute. Second, the only differences between the tiered standard and the untiered standard are the lesser stringencies of the building thermal envelope components for Tier 1 homes that DOE incorporated in order to address the first-cost and affordability concerns raised by HUD in the EISA-required consultation, as well as other stakeholders throughout the rulemaking process. (See section III.C of this document for more discussion on DOE's consultation process with HUD) As the primary regulator of manufactured homes for nearly 50 years, HUD has significant expertise in the unique design, construction, transportation and cost characteristics of manufactured homes. In requiring consultation under EISA, Congress intended for DOE to benefit from this expertise. To ignore the advice and concerns voiced by HUD would render the statutory consultation requirement meaningless.

Moreover, as noted previously, DOE estimates a 0.55 percent reduction (essentially no reduction) in demand and availability of single-section homes for low-income purchasers due to Tier 1 standards. Given that low-income consumers generally purchase lower priced manufactured homes (*i.e.,* many single section homes), DOE concludes that low-income consumers would not be priced out by the Tier 1 standards adopted in this final rule. In contrast, as noted in the October 2021 NODA, DOE estimated a 2.8 percent reduction in shipments due to the untiered standard (2.1 percent reduction for the untiered standard using the R–21 wall insulation in Climate Zones 2 and 3).[37] *See* 86 FR 59060. DOE believes the tiered standard adopted in this final rule better addresses the affordability concerns raised by HUD during consultation, and other stakeholder comments, because it will ensure continued availability for the homes most often purchased by low-income purchasers (single-section homes) with little change to the current market, while providing energy cost savings that provide positive cash flow within 1 year of purchase. Accordingly, DOE incorporated the tiered structure into its rule in order to ensure that HUD's first-cost and affordability concerns were addressed.

[37] In the October 2021 NODA, DOE estimated that the untiered standard would result in a reduction in shipments of 70,203 homes (single and multi-section combined), and 53,185 homes for the untiered standard using the alternative R–21 wall insulation in Climate Zones 2 and 3. 86 FR 59060.

With respect to comments regarding equity concerns related to the tiered approach, DOE understands and acknowledges that, under the tiered approach, purchasers of some single-section homes (which are more likely to be low-income individuals) will not obtain the same long-term energy savings benefits as purchasers of multi-section homes. However, the tiered standards adopted in today's final rule, in addition to increasing energy efficiency relative to the current HUD code, will help mitigate first-cost impacts to prospective manufactured home purchasers. With respect to comments that the standard—tiered or untiered—should not be based on the IECC, as described previously, EISA requires DOE to base the standards on the latest version of the IECC, which in this case is the 2021 IECC, unless the standards based on the IECC would not be cost-effective. 42 U.S.C. 17071(b)(1). As discussed previously, the tiered standards are based on the 2021 IECC, and DOE has found them cost-effective consistent with the other considerations contained in EISA. Thus, DOE is finalizing a tiered standard based on the 2021 IECC.

With respect to comments regarding the threshold for the tiered standard, based on further review and consideration of the comments received, DOE is not establishing the tier threshold based on the proposed manufacturer's retail list price, and is instead finalizing tiers based threshold on manufactured home size (single-section and multi-section). DOE agrees with commenters that a price-based threshold may be difficult to implement. DOE notes that applicability of the size-based threshold, as compared to a retail-list-price based threshold, would be impacted less by variations within a specific model that may change the retail list price. Further, DOE notes that a manufacturer is able to determine the size of the home they are manufacturing prior to distribution in commerce for sale or installation in the field. As such, basing the tiers on size would provide greater certainty as to the applicability of standards for specific manufactured home models, reducing the potential for ''gaming,'' as well as reduce the complexity of any potential enforcement of the standards.

In addition, as discussed in III.B.1 of this document, DOE understands that affordability is directly tied with manufactured home size, in that single-section homes are consistently less expensive than multi-section homes. To the extent that manufactured home purchasers are cost-driven, in conjunction with the lower median income and net worth of these purchasers, these purchasers would tend to buy less expensive homes, and generally would also be more sensitive to increases in purchase price. Accordingly, given the relationship between home size and cost, basing the standards on the home size still responds to first-cost impact concerns, while allowing for a less burdensome and more objective mechanism for manufacturers to comply with standards and achieving significant energy savings relative to the HUD code. Therefore, DOE is finalizing a size-based tiered standard in this final rule.

C. Rulemaking Process

As part of developing energy conservation standards for manufactured housing, DOE has undertaken a multi-stage process providing numerous opportunities for public comment and engagement, as discussed in further detail in section II.B.3 of this document. For this rulemaking, EISA requires DOE to ''consult with the Secretary of HUD, who may seek further counsel from the Manufactured Housing Consensus Committee''. 42 U.S.C. 17071(a)(2)(B). Pursuant to the statutory requirement, DOE has consulted with HUD throughout the development of these standards, as discussed in section II.B.3. of this document, DOE met with HUD multiple times during the preliminary stages of the proposed rule, as well as throughout the rest of the rulemaking process, and consulted HUD in the development of the August 2021 SNOPR, the October 2021 NODA and this final rule. As EISA expressly states that the Secretary of HUD may engage with the MHCC with regard to this rulemaking, DOE has attended three MHCC meetings, most recently in June of 2021, to gather further information and input on the rule. This rule addresses comments submitted by the MHCC (MHCC, No. 1600), which mirrored comments from other individual stakeholders. A number of other stakeholders, including industry stakeholders, have also provided information, data, and opinions regarding the rule.

In response to the August 2021 SNOPR and the October 2021 NODA, DOE received several comments regarding the rulemaking process used by DOE in developing these energy conservation standards.

MHI commented that DOE's proposal failed to comply with the statutory requirement to consult with HUD. (MHI, No. 1592 at p. 10) MHI also stated that many of the changes conflict with current HUD Code requirements, and no

direction is given as to how the two differing standards should be integrated, which will result in complicated, overlapping requirements. (MHI, No. 1592 at pp. 6–7) MHARR commented that DOE should rescind the SNOPR and pursue a legitimate rulemaking based on the unique nature, construction and affordability of MH using the pre-existing Federal manufactured home construction and safety standards (''MHCSS'') and statutory HUD manufactured housing consensus process. (MHARR, No. 1388 at p. 2–3) Select Representatives of Congress were concerned that the proposed rule may conflict with statutory obligations contained within the National Manufactured Home Construction and Safety Standards Act, which establishes HUD as the primary regulator of construction and safety standards for manufactured housing. To change energy efficiency standards for manufactured housing, they stated that DOE is required by EISA to consult with HUD, which in turn can seek further counsel from the MHCC. Select Representatives of Congress requested that DOE develop the proposed rule and a subsequent implementation strategy in consultation with HUD and MHCC, in line with statutory requirements. (Select Representatives of Congress, No. 1445 at p. 1, 2) PA–DCED stated that it would be more appropriate to review existing requirements within the MHCSS and to modify those standards through submissions to the MHCC for possible revisions rather than a separate agency implementing a totally new standard(s). (PA–DCED, No. 1485 at p. 2) Clayton Homes also recommend that DOE work with HUD and MHCC to evaluate the energy standard improvements that will add the most value in energy savings and account for the cost impact to consumers. (Clayton Homes, No. 1589 at p. 4)

As stated earlier, DOE is conducting this rulemaking pursuant to the statutory provisions in EISA that direct DOE to establish energy conservation standards for manufactured housing. This statutory directive is separate from the 1974 National Manufacturing Housing Construction and Safety Standards Act that governs HUD's authority in promulgating regulations for manufactured housing. Additionally, DOE demonstrates in section III.F of this document how the standards do not conflict with those established by HUD. Furthermore, this discussion and related supporting analyses together present the analytical approach used by DOE in evaluating the relevant information and on which DOE based its determinations regarding the proposed requirements in accordance with the directives in EISA, the Administrative Procedure Act and the Negotiated Rulemaking Act. Accordingly, as discussed previously, in preparation for the prior negotiated rulemaking that produced the June 2016 NOPR, DOE set up a negotiated rulemaking process in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act, which included a broad and balanced array of stakeholder interests and expertise, and included a representative from MHARR. 79 FR 41456 (July 16, 2014). Further, as stated previously, DOE has consulted both with HUD and engaged with the MHCC with regard to this rulemaking, and has incorporated information and considerations provided by HUD and the MHCC into this final rule.[38]

D. Test Procedure

DOE published a test procedure NOPR for manufactured housing on November 9, 2016. 81 FR 78733 (November 2016 test procedure NOPR). The November 2016 test procedure NOPR proposed applicable test methods to determine compliance with the following metrics that were included in a June 2016 NOPR: The *R*-value of insulation; the *U*-factor of windows, skylights, and doors; the SHGC of fenestration; *U*-factor alternatives to *R*-value requirements; the air leakage rate of air distribution systems; and mechanical ventilation fan efficacy. The November 2016 test procedure NOPR proposed test methods that would dictate the basis on which a manufactured home's performance is represented and how compliance with the energy conservation standards would be determined. DOE notes that a number of the test methods that were proposed were consistent with test methods from the IECC, which includes test methods for *R*-value of insulation, *U*-factor and SHGC of fenestration, duct leakage and mechanical fan efficacy.

The November 2016 test procedure NOPR provided stakeholders an opportunity to comment on the proposed test procedure for manufactured housing. In response to the August 2021 SNOPR, DOE received some comments on the test procedure.

MHI stated that testing requirements for each of the systems being modified in the proposal are not included and must be addressed before any rule is published. If testing is required to be performed by a third-party or in cases where the installer is not capable of performing the testing, the additional cost of testing could be $600 or more. For example, MHI questioned whether the duct testing will require every unit to be tested thus requiring each manufacturer to hire one individual to test the ducts in line. Further, if each multi-section home will need to be tested on-site, they stated it will cost around $1,000 per unit, assuming the duct system passes the first time. Also, although MHI supports efforts to limit duct leakage, they believe such tests should be limited to testing of duct systems in the factory only, where such testing provides the best value to consumers. (MHI, No. 1592 at pp. 20, 22, and 28) Clayton Homes said DOE must not propose a rule without including the required testing requirements, so any analysis can include the true impact. (Clayton Homes, No. 1589 at pp. 3–5)

ICC stated that testing and inspection should be conducted under the purview of either a state program or third-party entities with the requisite knowledge and procedures to assure the results. In states without state programs, third-party providers should be permitted to conduct testing and inspection. DOE should require third-party providers be accredited to ISO/IEC 17020, which ensures the competence of inspection bodies, their impartiality, and the consistency of their inspection activities. (ICC, No. 1621 at p. 3)

As discussed previously, DOE is not addressing a test procedure in this rulemaking. DOE will consider the comments related to test procedures, including an analysis of any related costs, in any future action on test procedures.

E. Certification, Compliance, and Enforcement

In the November 2016 test procedure NOPR and in the August 2021 SNOPR, DOE did not propose a system of certification, compliance, and enforcement (''CCE''), instead indicating those items would be addressed in a separate rulemaking. At this time, DOE is not addressing CCE issues in this rulemaking, but may do so in the future. DOE received a number of comments regarding CCE implementation and costs.

UCB stated that compliance and implementation need to be included in the rule since it will make a large difference on how the standard is enforced, and suggested that DOE should work with HUD not only outside of the rulemaking, but also as part of the rulemaking. (UCB, No. 1405 at p. 1)

[38] DOE presented to the MHCC on December 3, 2014, August 18, 2015, and June 10, 2021. The minutes of these meetings can be found at *www.hud.gov/program_offices/housing/rmra/mhs/mhccom.*

NEEA urged DOE to move quickly to address compliance and enforcement of the standards with opportunity for stakeholder input. (NEEA, No. 1601 at p. 15) An anonymous commenter stated that DOE should expand the proposed rule to include the projected regulatory compliance and implementation of the proposed rule, because the current proposal does not consider additional regulatory costs that will occur with a change in the regulatory policy. (Anonymous, No. 1446 at p. 1, 2) Clayton Homes commented that the rule does not include energy testing or compliance costs, which would further exacerbate homeownership affordability challenges in the wake of the recent escalation of home prices, and could amount to $600 or more. (Clayton Homes, No. 1589 at p. 6) MHI stated that DOE's proposal is based on improper calculations and methodologies, including not considering the costs of testing procedures and compliance. (MHI, No. 1592 at pp. 4–6, 25) MHARR stated that the analysis does not include additional purchase price impacts due to costs related to enforcement, testing, and regulatory compliance. (MHARR, No. 1640 at pp. 2–4) Campaign Form Letter commented that failure to implement a comprehensive compliance path creates competing regulations (HUD and DOE) would both cause uncertainty in quality assurance processes, and cause delays in production, which in turn would harm the industry and consumers who are eagerly seeking the affordable housing the manufactured homes provide. (Campaign Form Letter, Multiple submissions at p. 2)

Regarding compliance approach, Schulte stated that DOE staff should work directly with HUD so that both agencies can meet their separate statutory responsibilities. Initially, they stated that DOE may wish to visit the primary inspection agencies, manufacturing plants to see the factory inspection process in action along with the inspection process for the placement of the homes. In Schulte's view, doing this will give DOE the opportunity to evaluate the current HUD regulatory process and whether DOE wants to participate in the current enforcement system managed by HUD rather than instituting a separate compliance process under 10 CFR part 429. They suggested that HUD and DOE should publish amendments to 10 CFR part 460 and 24 CFR part 3280 to reflect the final standards issued by both agencies. (Schulte, No. 1028 at p. 28, 32) Schulte also stated that the HUD Code already contains a number of certification documents which can be modified to accommodate many different items and therefore the cost of updating these certifications will be negligible and have no real impact on the life-cycle cost analysis. (Schulte, No. 1028 at p. 31) Skyline Champion stated that HUD already has a well-established system for enforcement which is working effectively, and Skyline Champion strongly encouraged the use of this established system with any final rule created. (Skyline Champion, No. 1627 at p. 3); (Champion Home Builders, No. 1639 at p. 3) MHI and Clayton Homes stated that it is unnecessary for DOE to develop a new enforcement mechanism because the HUD Code is an already-established enforcement mechanism that mandates a uniform standard for design, construction, and installation, including federal requirements for safety, durability, and energy efficiency. Accordingly, they urged DOE to work with HUD to utilize the compliance and enforcement provisions already in place today. (Clayton Homes, No. 1589 at p. 6, 7); (MHI, No. 1592 at p. 10)

ICC commented that DOE should coordinate any compliance verification processes it mandates with the existing program in place at HUD. Overlapping or disjointed requirements would create process inefficiencies for manufacturers and inspection agencies, potentially raising costs. Finally, ICC encouraged DOE to consider the 2021 IECC pathways to achieve compliance in the rulemaking. Should DOE consider options that require verification onsite, post transport, they stated that DOE should be mindful of the scope of local building officials' inspection authority with respect to manufactured housing. (ICC, No. 1621 at p. 3) NMHOA stated that HUD should be the lead agency in implementing the new rules. They stated that compliance should be addressed in the final rule to ensure DOE and HUD efforts and coordinated, and that HUD's regulatory and inspections processes appear to be the most appropriate mechanism for ensuring compliance without creating a new, complicated system of two-party inspections. (NMHOA, No. 1635 at p. 4)

Separately, NAIMA commented that new manufactured homes should carry a label that details all relevant information related to energy efficiency standard compliance, similar to the 2021 IECC permanent certificate which includes insulation R-values, U-factors of fenestration, duct leakage testing results, and types and efficiencies of heating, cooling and water heating equipment. They stated that requiring the same certification on manufactured housing will promote owner/occupant awareness and help ensure manufacturer compliance with the standard. (NAIMA, No. 1017 at p. 1) ACEEE stated that DOE should ensure that buyers, owners, and renters have understandable and usable information on the overall efficiency or energy use of each home and on its efficiency features, and recommended that disclosure in the sales process and a permanent label could provide the information. (ACEEE, No. 1631 at p. 16)

DOE notes that many of the requirements in the standards would require minimal compliance efforts (*e.g.,* documenting the use of materials subject to separate Federal or industry standards, such as the R-value of insulation or U-factor values for fenestration), and therefore such efforts would result in minimal additional costs to manufacturers. However, DOE acknowledges that it has not fully enumerated testing and enforcement costs at this time. DOE continues to work with HUD on potential approaches for compliance, enforcement and labeling that may leverage the existing HUD inspection and enforcement process to ensure manufacturer compliance with the standards in a manner that is not overly burdensome or costly to manufacturers. Accordingly, DOE has also not included any potential associated costs of testing, compliance or enforcement at this time. DOE will consider the comments related to CCE, testing and labeling received in this rulemaking and will continue to consult with HUD in any future actions.

F. Energy Conservation Standards Requirements

This section discusses in detail the energy conservation standards in this final rule. DOE is codifying in a new part of the CFR under 10 CFR part 460 subparts A, B, and C.

Subpart A provides the scope of the standards, definitions of key terms, and other commercial standards that are incorporated by reference into this part. The subpart also would establish a compliance date of one year following the publication of the final rule.

Subpart B would include the energy conservation standards requirements associated with the building thermal envelope of a manufactured home according to the tier and climate zone in which the home is located. DOE bases its standards on the three HUD zones. Manufacturers would be able to choose between two pathways to comply, with each one ensuring an appropriate level of thermal transmittance through the building thermal envelope. The first pathway relies on prescriptive requirements for components of the

building thermal envelope. The second pathway relies on performance requirements, under which a manufactured home is required to achieve a maximum U_o in addition to fenestration *U*-factor and SHGC requirements. Manufactured homes would be required to comply with one of these two pathways. Subpart B would also establish prescriptive requirements for insulation and sealing the building thermal envelope to limit air leakage.

Subpart C includes requirements related to duct leakage, HVAC thermostats and controls, service water heating, mechanical ventilation fan efficacy, and equipment sizing.

1. Subpart A: General

a. § 460.1 Scope

Section 413 of EISA directs DOE to establish energy conservation standards for manufactured housing. (42 U.S.C. 17071(a)(1)) In this final rule, § 460.1 would (1) restate the statutory requirement and introduce the scope of the requirements, and (2) require manufactured homes that are manufactured on or after one year following publication of the final rule to comply with the requirements established, consistent with the August 2021 SNOPR.

In response to the August 2021 SNOPR, multiple commenters stated that these standards for manufactured housing energy-efficiency are long overdue and should be issued and implemented as soon as possible. (CASA of Oregon, No. 925 at p. 1); (Verde, No. 928 at p. 1), (Trellis, No. 974 at p. 1), (NOAH, No. 976 at p. 1), (PathStone, No. 1013 at p. 1), (Habitat for Humanity of LA, No. 1015 at p. 1), (WIDC, No. 1016 at p. 1), (RCAC, No. 1183 at p. 1), (UCD, No. 1030 at p. 1), (LISC, No. 1233, at p. 3); (CHP, No. 1384 at p. 1–2); (Blount County Habitat for Humanity, No. 1417 at p. 1–2); (ReFrame Foundation, No. 1424 at p. 2); (NPCC, No. 1567 at p.2); (Fahe, No. 1572 at p. 1); (People's Self-Help Housing, No. 1591 at p. 1) (Joint Commenters, No. 1630 at p. 1). UC Law School stated that DOE should consider a 1-year lead time as sufficient for compliance with the DOE standards for the purposes of the HUD certification process. (UC Law School, No. 1634 at p. 15) Next Step stated that HUD and the manufactured housing industry should implement the law within one to two years, with allowance for exceptions. (NextStep, No. 1617 at p. 12) ACEEE commented that a one-year lead time before compliance is required should be sufficient. They stated that if particular provisions of the standards cannot be met in that timeframe, then DOE could allow temporary exceptions or waivers (as for appliance standards) or could set a later compliance date for those provisions. (ACEEE, No. 1631 at p. 15) NYSERDA encouraged DOE to move as swiftly as possible to finalize the rulemaking. (NYSERDA, No. 1620 at p. 2); (NYSERDA, No. 1981 at p.2) Schulte commented that moving forward with a final rule in 2022 would give consumers, especially low- to moderate-income Americans the benefits of lower energy bills and increased comfort. (Schulte, No. 1028 at p. 10) Further, they commented that due to HUD's performance-based code and the efficiencies inherent in factory production based on approved designs, manufactured home producers are nimble and can adjust relatively quickly to new standards. (Schulte, No. 1028 at p. 18)

On the other hand, Clayton Homes stated that the proposed rule would impose more extreme changes than the industry can absorb in one code cycle, and recommended that the implementation period should be 5 years. The ICC updates building codes such as the IECC in three-year cycles, and States normally consider adoption on similar three-to-five-year cycles. The commenter believes the best first step should be to improve the minimum standards that are currently in place that are workable in the present market environment, and then continue to evaluate additional improvements to the standards over time. (Clayton Homes, No. 1589 at p. 3); (Clayton Homes, No. 1986 at p. 3–5) NAHB also supported allowing for a longer time than the proposed 1-year timeframe so that manufacturers have enough time to adjust procurement, design, and production practices while managing their limited resources. (NAHB, No. 1398 at p. 3) NMHOA commented that the proposed one-year lead time to implementation is not sufficient given the changes required to the production process, inspections process, and more than likely, the other public policy changes that would be required to make the higher upfront costs work for consumers and suggested that a three-year time frame seems more appropriate. (NMHOA, No. 1635 at p. 4) Champion Home Builders urged DOE to provide the industry with ample time of 3–5 years to properly implement the adopted energy conservation standards once they are finalized. (Champion Home Builders, No. 1983 at p. 3, 4) MHI stated that when DOE makes changes to appliance standards there is generally a five-year compliance period. Given that the process for manufacturing homes is at least as complex as appliances, the same time period should apply. (MHI, No. 1592 at p. 24); (MHI, No. 1990 at p. 4) MHCC commented that major changes to the manufacturer's process, facilities, home designs, and supply chains would be required to comply with the DOE standards and a more realistic time frame for implementation would be a minimum of 5 years. (MHCC, No. 1600 at p. 5) TMHA requested that any effective date consider having backlogs and supply-chains to have returned to normal. (TMHA, No. 1628 at p. 4)

DOE notes that the industry has experience with the means to comply with the performance requirements (*i.e., Uo*), as they have had to comply with HUD U_o requirements previously. Further, many manufacturers have complied with ENERGY STAR Version 2 efficiency requirements for homes produced on or after June 1, 2020, which includes both component specific and overall U_o requirements. Finally, certain manufacturers have been complying with the NEEM program (*i.e.,* NEEM+ certification), which also includes component specific and overall U_o requirements. Therefore, DOE believes that many manufacturers already have experience complying with efficiency requirements similar to what DOE is requiring in this final rule.

DOE notes that section 413 requires DOE to update the manufactured home standards within one year following an update to the IECC. (42 U.S.C. 17071(b)(3)(B)) This one-year rule development time period provides DOE the time to evaluate industry compliance with the standards prior to DOE's consideration of updates to the IECC in 2024, as required by the statute. The one-year rule development time period would also minimize the lag time between updates to the IECC and any potential updates to the DOE standards, ensuring that manufactured home purchasers are receiving energy savings based on the most recent model energy codes.

DOE recognizes that compliance with the DOE energy conservation standards may require manufacturers to update designs required under the HUD Code. However, EISA requires DOE to base the energy conservation standards for manufactured homes on the latest edition of the IECC, with considerations made for cost-effectiveness. As discussed in detail in section I.A of this document, while manufacturers may incur costs to update designs to meet the proposed standards, DOE's analysis indicates these costs are outweighed by the benefits gained in energy savings by

manufactured home purchasers as a result of the standards, as discussed in section III.A of this document.

b. § 460.2 Definitions

In this final rule, DOE is finalizing all definitions proposed in the August 2021 SNOPR, except DOE is modifying the definition for ''whole-house mechanical ventilation system'' based on a comment received. Accordingly, DOE is finalizing the definitions for the following terms proposed in the August 2021 SNOPR in § 460.2: ''access (to),'' ''air barrier,'' ''automatic,'' ''building thermal envelope,'' ''ceiling,'' ''climate zone,'' ''conditioned space,'' ''continuous air barrier,'' ''door,'' ''dropped ceiling,'' ''dropped soffit,'' ''duct,'' ''duct system,'' ''eave,'' ''equipment,'' ''exterior ceiling,'' ''exterior floor,'' ''exterior wall,'' ''fenestration,'' ''floor,'' ''glazed or glazing,'' ''insulation,'' ''heated water circulation system,'' ''2021 IECC,'' ''manufactured home,'' ''manufacturer,'' ''manual,'' ''opaque door,'' ''*R*-value (thermal resistance),'' ''rough opening,'' ''service hot water,'' ''skylight,'' ''skylight well,'' ''solar heat gain coefficient (SHGC),'' ''state,'' ''thermostat,'' ''*U*-factor (thermal transmittance),'' ''U_o (overall thermal transmittance),'' ''ventilation,'' ''vertical fenestration,'' ''wall,'' ''window,'' and ''zone.''

In response to comments received to the August 2021 SNOPR, DOE is updating the definition for the term ''whole-house mechanical ventilation system'' as follows: means an exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air with outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation rates.

The following paragraphs summarize the comments received in response to the August 2021 SNOPR regarding the definitions and the discussion regarding the ''whole-house mechanical ventilation system'' definition update.

MHI recommended that the definition of ''whole-house mechanical ventilation system'' must be revised to include ''to satisfy the whole house ventilation rates'' at the end of the definition. They stated that as proposed in the August 2021 SNOPR, the definition would include all exhaust fans including bath fans and range hoods, systems that MHI stated that they do not believe should be included. (MHI, No. 1592 at pp. 16, 21) In reviewing section R202 of 2021 IECC, DOE notes that the definition is in line with the MHI recommendation, in that it includes ''to satisfy the whole house ventilation rates'' at the end of the definition. Further, the MH Working Group also recommended including the full definition of the term from the 2015 IECC, which included ''to satisfy the whole house ventilation rates'' at the end of the definition. Term Sheet, No. 107 at p. 11. DOE notes that the definition remained unchanged in the 2021 IECC update. Therefore, to be consistent with the 2021 IECC and the MH Working Group recommendation, DOE is updating the definition to be finalized as follows: Means an exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air with outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation rates.

NEEA commented that improved clarity on what is considered interior conditioned space is needed. NEEA stated that the space under the floor but above insulation should not be considered conditioned space. (NEEA, No. 1601 at p. 15) DOE received the same exact comment from NEEA in response to the June 2016 NOPR. In response to this comment, DOE recognized that there was an error regarding the ''conditioned space'' definition proposed in the June 2016 NOPR and instead, proposed in the August 2021 SNOPR that the definition be updated to match the 2021 IECC definition. DOE stated that under the proposed definition, the space under the floor but above the insulation is considered conditioned space, and because DOE is proposing the term as defined in the IECC, the term is appropriately understood by industry. 86 FR 47744, 47767. As such, in this final rule, DOE is finalizing the same proposed definition for ''conditioned space,'' consistent with the August 2021 SNOPR and the 2021 IECC.

NEEA also recommended that ''skylight wells'' be defined as exterior walls, to clearly indicate that they require insulation to at least exterior wall insulation levels. (NEEA, No. 1601 at p. 16) Again, DOE received the same exact comment from NEEA in response to the June 2016 NOPR. In response to this comment, DOE agreed with NEEA's suggestion to define skylight well and proposed the following definition: The exterior walls underneath a skylight that extend from the interior finished surface of the exterior ceiling to the exterior surface of the location to which the skylight is attached. DOE also proposed to specify that skylight wells are exterior walls by updating the definition of ''exterior wall'' to include skylight wells. 86 FR 47744, 47767. DOE did not receive any other comments on this proposal. As such, in this final rule, DOE is finalizing the same proposed definition for ''skylight well,'' consistent with the August 2021 SNOPR.

NEEA also commented that a clearer definition of ''access'' should be included. (NEEA, No. 1601 at p. 15) In the August 2021 SNOPR, DOE discussed that the 2021 IECC replaced ''accessible'' with ''access (to)'' within the code. As the definition of the word ''access'' was found in the 2021 IECC, DOE proposed to include a definition for this term. Further, to prevent confusion, DOE proposed to revise the regulatory text to incorporate the use of the word ''access'' instead of ''accessible,'' similar to the updates in the 2021 IECC. 86 FR 47744, 47767–47768. DOE did not receive any other comments on this proposal. As such, in this final rule, DOE is finalizing the same proposed definition for ''access (to),'' consistent with the August 2021 SNOPR.

ACC FSC commented that the prescriptive R-value requirement in the proposed standards includes a continuous insulation component that is not adequately described or explained in the currently proposed Tier 2 provisions for HUD Zones 2 and 3. Therefore, they stated that continuous insulation is directly and indirectly a part of the proposed standards and a definition is needed together with a table footnote explaining the insulation components such as cavity insulation and continuous insulation where they are combined. Accordingly, they recommended DOE include the IECC definition for continuous insulation: insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior, or is integral to any opaque surface, of the building envelope. (ACC FSC, No. 1364 at p. 4) In this final rule, DOE is no longer including the exterior wall continuous insulation requirement and instead is finalizing an R–21 exterior wall insulation for Tier 2 climate zones 2 and 3; comments and discussion related to this topic are provided in section III.E.2.b of this document. Therefore, because continuous insulation is no longer included as part of the requirements, a definition for the same is not necessary in this final rule.

VEIC recommended that DOE adopt the IECC definition for ''high-efficacy light sources''. (VEIC, No. 1633 at p. 6) Because the regulatory text adopted in this final rule does not use the term ''high-efficacy light sources,'' DOE is not defining this term. Further discussion

on lighting is provided in section III.F.2 of this document.

Finally, Clayton Homes recommended that DOE adopt a proposed definition for ''Manufacturer's retail list price.'' (Clayton Homes, No. 1986 at p. 9) In addition, Clayton Homes recommended language revisions to§ 460.4(b) and (c) regarding the tiered system proposed in the August 2021 SNOPR. (Clayton Homes, No. 1986 at p. 10) In this final rule, DOE is adopting tiered energy conservation standards based on home size, and not based on manufacturer's retail list price. Because the threshold based on manufacturer's retail list price is no longer applicable, DOE is not including a definition for manufacturer's retail list price in this final rule.

c. § 460.3 Materials Incorporated by Reference

In this final rule, DOE is not incorporating the 2021 IECC by reference. The 2021 IECC serves as the basis for the regulations proposed in this document, with the proposed requirements addressing technical issues specific to manufactured homes, relying on the HUD zones, and addressing issues related to health and safety, as well as the need to preserve the affordability of manufactured homes.

Further, DOE is incorporating by reference Air Conditioning Contractors of America (''ACCA'') Manual J; ACCA Manual S; and ''Overall *U*-Values and Heating/Cooling Loads—Manufactured Homes'' by Conner and Taylor (the Battelle Method). DOE is incorporating by reference ACCA Manuals J and S in § 460.205 of the regulatory text and would relate to the selection and sizing of heating and cooling equipment. In addition, PNL–8006 (''Overall U-values and Heating/Cooling Loads–Manufactured Homes''), or the Battelle Method, is an industry standard methodology for calculating the overall thermal transmittance (U_o) of a manufactured home and is also currently referenced in the HUD Code for calculation of overall thermal transmittance. DOE is incorporating by reference the Battelle Method to determine the same (U_o).

DOE received a number of comments regarding the materials incorporated by reference. DOE also received technical comments regarding the application of ACCA Manuals S and J for manufactured housing, which are discussed in section III.F.3.e of this document.

MHI recommended deleting the reference to the specific sections of the 2021 IECC in the proposed regulatory text § 460.102 through § 460.204. (MHI, No. 1592 at pp. 17 through 21) Conversely, the ICC requested that in referencing the IECC, DOE ensures it has respected the Code Council's rights as a copyright holder. Referencing Office of Management and Budget (''OMB'') Circular A–119, ''Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities, Revised,'' ICC commented that in order to meet the minimum requirements, DOE must ''(a) expressly acknowledge that the IECC is a copyright protected document, published and owned by ICC; (b) explicitly state that any reproduction or copying of the standard (other than for personal, non-commercial purposes) requires express written permission or license from ICC; and (c) state that copies of the IECC are available for purchase from ICC at its website, *www.iccsafe.org.*'' Accordingly, the ICC encouraged that DOE incorporate by reference the copywritten material from the IECC. (ICC, No. 1621 at p.2)

Subject to copyright law, DOE acknowledges that the IECC is a copyright protected document, published and owned by the ICC, and that reproduction or copying of the IECC requires written permission or license from the ICC. As noted previously, copies of the IECC are available for purchase at *www.iccsafe.org.* They may also be viewed for free on ICC's public access website at: *https://codes.iccsafe.org/public/collections/I-Codes.* As discussed previously, DOE and the manufactured housing working group evaluated the 2015 IECC, and DOE subsequently evaluated the 2018 and the 2021 IECC. The MH working group recommendations and the June 2016 NOPR were based on the 2015 IECC, but as explained throughout this document, modifications are necessary to address technical issues that are specific to manufactured housing, as opposed to site-built housing, which is the focus of the IECC. As such, this final rule is (1) based directly on certain IECC sections, (2) based on other sections of the IECC with modification, and (3) does not include certain other sections as they were either not pertinent to manufactured housing or not needed to establish energy conservation standards.

2. Subpart B: Building Thermal Envelope

The requirements in subpart B relate to climate zones, the building thermal envelope, installation of insulation and building thermal envelope leakage for manufactured homes. The following sections provide further details, a discussion of comments on the August 2021 SNOPR and October 2021 NODA relevant to subpart B and responses to any such comments. As discussed previously, for the tiered standards, Tier 1 manufactured homes (*i.e.,* single-section homes) would be subject to different building thermal envelope requirements than all other manufactured homes (Tier 2 manufactured homes; *i.e.,* multi-section homes). The requirements are discussed in the following sections.

a. § 460.101 Climate Zones

Pursuant to EISA, DOE may base its energy conservation standards on the climate zones established by HUD rather than on the climate zones contained in the IECC. (42 U.S.C. 17071(b)(2)(B)) The potential for climatic differences to affect energy consumption supports an approach in which energy conservation standards account for geographic differences in climate. In this final rule, DOE aligns with the HUD zones.

As indicated in Figure III.1, the HUD Code divides the United States into three distinct climate zones for the purpose of setting its building thermal envelope requirements, the boundaries of which are separated along state lines. By contrast, as indicated in Figure III.2, section R301 of the 2021 IECC divides the country into nine climate zones, the boundaries of which are separated along county lines. The 2021 IECC also provides requirements for three possible variants (dry, moist, and marine) within certain climate zones, as indicated in Figure III.2. The HUD Code zones were developed to be sensitive to the manner in which the manufactured housing industry constructs and places manufactured homes into the market. The IECC climate zones are separated along county lines to reflect a more granular overview of climate distinctions within the United States, and to facilitate state and local enforcement of the IECC for residential and commercial buildings, including site-built and modular construction.

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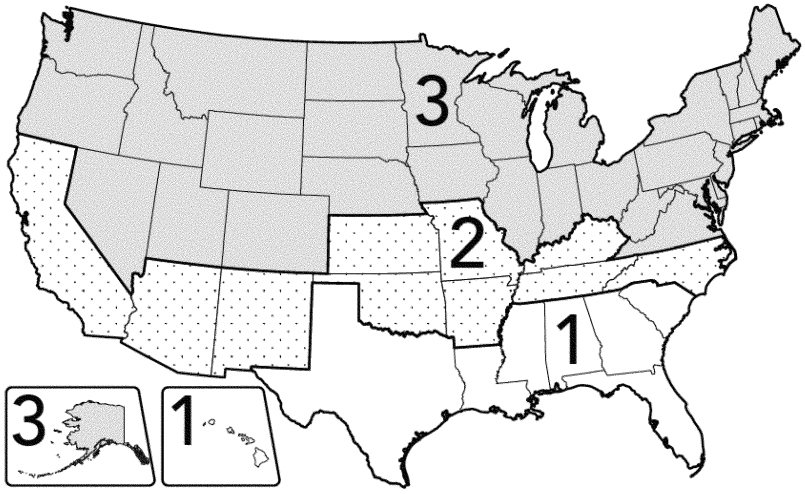

Figure III.1 U_o Zones in the HUD Code

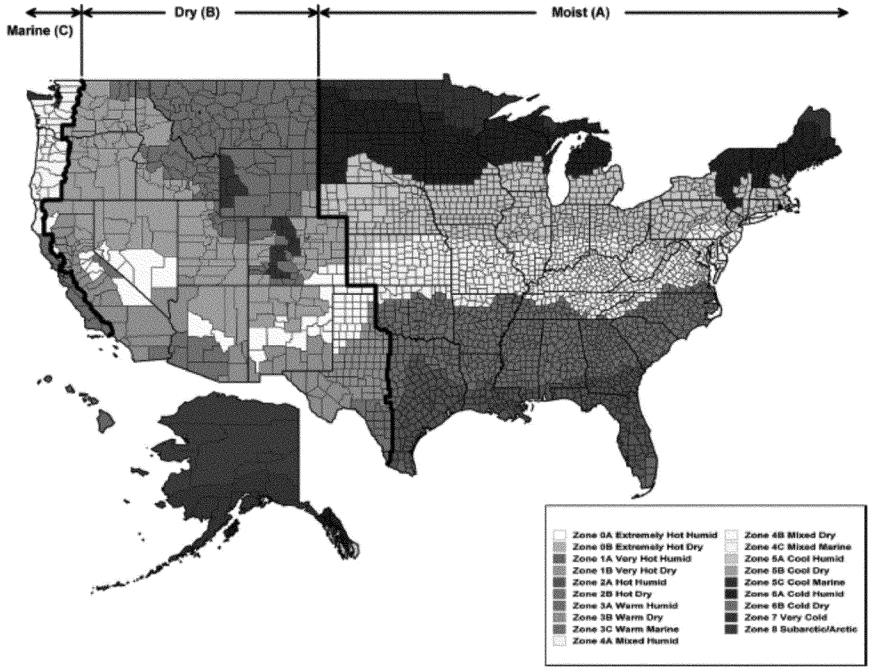

Figure III.2 Climate Zones in the 2021 IECC

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In the August 2021 SNOPR and October 2021 NODA, DOE proposed three climate zones consistent with the HUD zones. DOE received several comments regarding climate zones.

UCB suggested that DOE should consider different climate zone maps that are more representative of actual U.S. climate variability. They commented that the zones do not accurately reflect areas of similar weather and climate for the country. Accordingly, they stated that a more complex climate zone map that accounts for different areas of climate variability would be more sufficient in determining these different levels of efficiency standards, and therefore DOE should create a new climate zone map based on the IECC zones. (UCB, No. 1618 at p. 3, 12–14) On the other hand, MHI appreciated DOE's use of the HUD Code zones to match manufacturing practices more appropriately. (MHI, No. 1592 at p. 17) MHCC and Clayton Homes also strongly supported using the current HUD zones for the purpose of this standard. (MHCC, No. 1600 at p. 6); (Clayton Homes, No. 1589 at p. 16) Schulte stated that while there are similarities in the proposed insulation requirements for components for zones 1 and 2 walls and floors, the climates of temperate zone states are sufficiently different from those of warm states to justify a separate thermal zone. (Schulte, No. 1028 at p. 12)

As already discussed, EISA explicitly permits the use of HUD zones. (42 U.S.C. 17071(b)(2)(B)) The HUD zones were developed with specific consideration of the manner in which the manufactured housing industry constructs and places manufactured homes into the market. The HUD zone boundaries are separated along state lines. Aligning the climate zones between the DOE requirements and the HUD Code would reduce the complexities and burden faced by manufacturers of compliance with the

DOE standards. Additionally, it would reduce the potential for confusion of manufactured home purchasers by allowing them to rely on a single map to determine whether a manufactured home would be appropriate for a given location, as opposed to requiring them to consult one map under the HUD Code and a different map under the DOE requirements. As such, in this final rule, DOE maintains the three climate zones, consistent with the HUD zones. DOE understands that the HUD code may be updated in the future to adopt more representative HUD zones. Should HUD update those zones, DOE would move in a timely manner to consider adopting aligning changes in its own code in future rulemakings for manufactured housing as DOE understands the importance of harmonization and reducing complexities for manufacturers.

b. § 460.102 Building Thermal Envelope Requirements

For the standard, Tier 1 would incorporate building thermal envelope measures based on the 2021 IECC but would limit the incremental purchase price increase to an average of less than $750 for single-section homes. For Tier 2, the building thermal envelope measures are based on those proposed in the June 2016 NOPR, updated to reflect the HUD zones and cost-effective measures based on the 2021 IECC requirements. Further, Tier 2 includes alternate exterior wall insulation requirement (R–21) for climate zones 2 and 3, as presented in the August 2021 SNOPR and October 2021 NODA.

Consistent with the August 2021 SNOPR, DOE is including § 460.102 in the regulatory text to establish requirements related to the building thermal envelope, including the materials within a manufactured home that separate the interior conditioned space from the exterior of the building or interior spaces that are not conditioned space. Further § 460.102(a) would provide manufacturers the option of choosing one of two pathways for compliance to ensure that the building thermal envelope would meet more stringent energy conservation levels. These two pathways are known as the prescriptive approach and the performance approach. Consistent with the recommendation of the MH working group, DOE will allow manufacturers to choose between these two pathways for compliance, which would result in cost-effective energy savings for homeowners while providing for flexibility within the manufactured housing industry. Term Sheet, No. 107 at pp. 3–4. This approach is also consistent with the 2021 IECC, which provides a climate zone-specific prescriptive building thermal envelope component pathway (R402.1.2) and an alternate pathway to compliance, which allows for a home to be constructed using a variety of materials as long as the entire building thermal envelope has a maximum, singular total UA value [39] (R402.1.5).

Further, consistent with the August 2021 SNOPR and the October 2021 NODA, DOE continues to include prescriptive requirements that would establish specific component minimum R-value, maximum U-factor, and SHGC requirements, providing a straightforward option for construction planning. The prescriptive requirements would be under § 460.102(b), with the building thermal envelope requirements under § 460.102(b)(1). The compliance option based on performance requirements, on the other hand, would allow a manufactured home to be constructed using a variety of materials with varying thermal properties so long as the building thermal envelope achieved a required level of overall thermal performance. The performance requirements thus would provide manufacturers with greater flexibility in identifying and implementing cost-effective approaches to building thermal envelope design. The U_o requirements would be determined by applying the adopted prescriptive building thermal envelope requirements to manufactured homes using typical dimensions and construction techniques and then calculating the resulting U_o.

In developing the set of Tier 1 energy efficiency measures, DOE considered measures for building elements of manufactured homes based on building components subject to the 2021 IECC (*i.e.,* exterior floor, exterior walls, exterior ceiling, and fenestration). DOE evaluated different combinations of energy efficiency measures and stringencies for exterior floor, wall, ceiling, and windows (fenestration). DOE compared the potential energy savings for each of the different combinations analyzed and determined the optimal set of energy efficiency measures that would yield an incremental cost increase less than $750.

In developing the set of Tier 2 energy efficiency measures, DOE first mapped the June 2016 NOPR requirements (based on four climate zones) to HUD zones (based on three climate zones). DOE used the manufactured home national shipment percentages for each of the cities analyzed,[40] and the corresponding HUD zone and the June 2016 NOPR climate zone identifiers for each of the cities. DOE then summed the shipment percentages of the cities with the same June 2016 NOPR proposed climate zones within each of the HUD zones. According to which of the June 2016 NOPR-proposed climate zones showed the maximum shipment weight per HUD zone, DOE incorporated those proposed June 2016 NOPR requirements for that HUD zone.

As part of the energy efficiency measures, DOE considered the updates to the 2021 IECC. In reviewing Section R402.1 of the 2021 IECC, DOE determined the following relevant updates are merited when compared to the 2015 IECC that the MH working group had considered:

- The maximum fenestration *U*-factors were updated from 0.35 to 0.30 for IECC climate zones 3 and 4 (except marine); and from 0.32 to 0.30 for IECC climate zones marine 4, 5 through 8.
- The maximum glazed fenestration SHGC was updated from NR to 0.40 for IECC climate zones 5 and marine 4.
- The minimum ceiling *R*-value was updated from *R*-38 to *R*-49 for IECC climate zones 2 and 3; and from *R*-49 to *R*-60 for IECC climate zones 4 through 8.
- The minimum wall *R*-value was updated from *R*-13 to *R*-13 or *R*-0+10 for IECC climates zones 0 through 2; from *R*-20 or *R*-13+5 to *R*-20 or *R*-13+5ci or *R*-0+15 for IECC climate zones 3; from *R*-20 or *R*-13+5 to *R*-20+5 or *R*-13+10ci or *R*-0+15 for IECC climate zones 4 and 5; and from *R*-20+5 or *R*-13+10ci to *R*-20+5ci or *R*-13+10ci or *R*-0+20 for IECC climate zones 6 through 8.

With regards to the 2021 IECC updates, DOE did not incorporate the minimum ceiling *R*-value updates given the physical space constraints of manufactured homes and because EISA allows DOE to consider the design and factory construction techniques of manufactured homes as compared to site-built and modular homes. (42 U.S.C. 17071(b)(2)). Specifically, manufactured homes typically have a lower overall height compared to site-built homes, which leads to constrained space, and therefore there is less exterior ceiling insulation. DOE did consider all other updates consistent with EISA and the analysis done for the June 2016 NOPR and the August 2021 SNOPR. Accordingly, DOE similarly mapped the 2021 IECC updates to the corresponding climate zone.

[39] UA is the *U*-factor multiplied by area.

[40] DOE used shipments for 2020 from the annual production and shipment data provided by MHI. See Manufactured Home Shipments by Product Mix, Manufactured Housing Institute (2020).

Therefore, for the standard, the Tier 1 prescriptive building thermal envelope requirements are presented in Table III.5 and the Tier 2 prescriptive building thermal envelope requirements are presented in Table III.6. Further discussion on the requirements is provided in the forthcoming sections.

TABLE III.5—TIER 1 BUILDING THERMAL ENVELOPE PRESCRIPTIVE REQUIREMENTS

Climate zone	Exterior wall insulation *R*-value	Exterior ceiling insulation *R*-value	Exterior floor insulation *R*-value	Window *U*-factor	Skylight *U*-factor	Door *U*-factor	Glazed fenestration SHGC
1	13	22	22	1.08	0.75	0.40	0.7
2	13	22	19	0.5	0.55	0.40	0.6
3	19	22	22	0.35	0.55	0.40	Not applicable

TABLE III.6—TIER 2 BUILDING THERMAL ENVELOPE PRESCRIPTIVE REQUIREMENTS

Climate zone	Exterior wall insulation *R*-value	Exterior ceiling insulation *R*-value	Exterior floor insulation *R*-value	Window *U*-factor	Skylight *U*-factor	Door *U*-factor	Glazed fenestration SHGC
1	13	30	13	0.32	0.75	0.40	0.33
2	21	30	19	0.30	0.55	0.40	0.25
3	21	38	30	0.30	0.55	0.40	Not applicable

As discussed, use of the HUD zones instead of the IECC climate zones does not allow for use of the IECC requirements absent modification. In line with the building thermal envelope requirements and use of the HUD zones, DOE is finalizing the following proposals from the August 2021 SNOPR:

- The requirement regarding the use of a combination of *R*-21 batt insulation and *R*-14 blanket insulation in lieu of *R*-30 for the purpose of compliance with the Climate Zone 3 exterior floor insulation *R*-value requirement. (This would be applicable for Tier 2 only.)
- The maximum *U*-factor values as alternatives to the minimum *R*-value requirements. DOE calculated the maximum *U*-factor values by using the Battelle Method that was recommended by the MH working group.[41] DOE performed these calculations based on typical wall, ceiling, and floor assemblies used by the manufactured home industry. Table III.7 provides the updated maximum *U*-factor values for Tier 1 manufactured homes (which would be for single-section homes only).
- Table III.8 provides the updated maximum U-factor values for Tier 2 manufactured homes (which would be for multi-section homes only).

TABLE III.7—*U*-FACTOR ALTERNATIVES TO THE TIER 1 *R*-VALUE REQUIREMENTS

Climate zone	Exterior ceiling *U*-factor	Exterior wall *U*-factor	Exterior floor *U*-factor
1	0.061	0.094	0.049
2	0.061	0.094	0.056
3	0.061	0.068	0.049

TABLE III.8—U-FACTOR ALTERNATIVES TO THE TIER 2 R-VALUE REQUIREMENTS

Climate zone	Exterior ceiling *U*-factor	Exterior wall *U*-factor	Exterior floor *U*-factor
1	0.043	0.094	0.078
2	0.043	0.063	0.056
3	0.037	0.063	0.032

- U_o values using the Battelle Method for single- and multi-section manufactured homes. Table III.9 provides the updated U_o values for Tier 1 manufactured homes. The Tier 1 standards provide energy efficiency standards more stringent than the HUD thermal protection standards required in 24 CFR 3280.506(a). Table III.10 provides the updated U_o values for Tier 2 manufactured homes.

[41] ''Overall *U*-Values and Heating/Cooling Loads—Manufactured Homes'' by Conner and Taylor.

TABLE III.9—TIER 1 BUILDING THERMAL ENVELOPE PERFORMANCE REQUIREMENTS

Climate zone	Single-section U_o
1	0.110
2	0.091
3	0.074

TABLE III.10—TIER 2 BUILDING THERMAL ENVELOPE PERFORMANCE REQUIREMENTS

Climate zone	Multi-section U_o
1	0.082
2	0.066
3	0.055

• Area-weighted average vertical fenestration *U*-factor requirements to not exceed 0.48 in Climate Zone 2 or 0.40 in Climate Zone 3.

• Area-weighted average skylight *U*-factor requirements to not exceed 0.75 in Climate Zone 2 and Climate Zone 3.

The following sections discuss comments DOE received regarding the building thermal envelope requirements proposed in the August 2021 SNOPR and presented in the October 2021 NODA. Further, the following sections also provides the reasoning for the amended final rule prescriptive and performance requirements.

Tier 1 Standard Requirements

DOE received a number of comments regarding the proposed Tier 1 standard requirements. Schulte stated that Tier 1 standards are only a minor improvement from the existing HUD standards issued nearly 30 years ago, and that it is hard to see how approving these standards would accomplish the EISA goals. (Schulte, No. 1028 at p. 12) RECA stated that the U_o baseline should be improved by at least a similar percentage as the improvements in the IECC made since the 2007 EISA. RECA stated that, even if the efficiency requirements for specific components may not match the IECC perfectly, they would expect the percentage improvement in the U_o targets for both single- and multi-section units to improve by as much as the IECC over the period since Congress included this requirement in the 2007 EISA, and likely even more, considering how far behind these standards were in 2007. RECA also mentioned that the proposed U_o targets for Tier 1 (for both single-section and multi-section units) are only moderately improved (5.17–9.38 percent) from the current targets in 24 CFR 3280.506(a), and capture only a fraction of the IECC improvements adopted since 2007. Because of this, RECA recommended that DOE eliminate Tier 1 U_o targets and instead use Tier 2 U_o targets for all buildings, consistent with the improvements in the IECC since the 2007 EISA. If different Tier 1 targets are deemed absolutely necessary, they suggested that the standards should be set at least 20–25 percent more stringent than the current requirement. (RECA, No. 1570 at pp. 4–6)

In response to August 2021 SNOPR and October 2021 NODA, Clayton Homes stated that proposed Tier 1 energy conservation standards are a reasonable first step in raising the energy standards for MH. (Clayton Homes, No. 1589 at p. 16) MHI stated that based on the calculations performed on prototypical homes, the proposed Zone 1 requirements should be able to be met with upgraded insulation and upgraded windows. MHI recommended the following changes for Table 460.102–5 of the regulatory text: Change Zone 1 total U_o to 0.098 for single and 0.096 for multi-sectional, Zone 2 total U_o to 0.081 for single and 0.079 for multi-sectional, and the Zone 3 total U_o to 0.076 for single and 0.073 for multi-sectional. (MHI, No. 1592 at p. 9, 18); (Clayton Homes, No. 1589 at p. 9)

However, in response to the January 2022 DEIS, both MHI and Clayton provided alternate recommendations. MHI recommended untiered standards with less stringent requirements than Tier 2. (MHI, No. 1990 at p. 14–17) Clayton Homes separately recommended the following changes to Table 460.102–1 of the regulatory text: Change Zone 1 exterior wall insulation requirements to R–11, exterior ceiling insulation to R–22, and exterior floor insulation requirements to R–13; Change zone 2 exterior wall insulation requirements to R–11 and exterior ceiling insulation requirements to R–25; and change Zone 3 exterior wall insulation requirements to R–15, and exterior ceiling insulation requirements to R–25. In addition, Clayton Homes recommended the following changes to Table 460.102–3 of the regulatory text: Change Zone 1 exterior wall U-factor to 0.111 and exterior floor U-factor to 0.078, and change Zone 2 exterior wall U-factor to 0.111. (Clayton Homes, No. 1986 at p. 11, 13)

Regarding specific Tier 1 component requirements, RECA recommended that climate zone 2 be set at the same insulation R-value level as climate zones 1 and 3 for floor insulation, because they see no reason why climate zone 2 should be lower than climate zone 1 or 3. (RECA, No. 1570 at pp. 4–6) RECA also commented that the fenestration requirements for Tier 1 are unreasonably weak given the ubiquity of reasonably efficient and cost-effective fenestration with U-factors at or below 0.30 and SHGCs less than 0.25. Further, RECA stated that the proposed requirements for Tier 1 ceiling insulation, particularly in Climate Zone 3, are lower than the prescriptive requirements for any climate zone set by any version of the IECC published in the past 15 years. (RECA, No. 1570 at p. 3, 6) VEIC stated that they find it unacceptable that DOE would allow for single pane windows or single pane with storm windows in any climate zone. VEIC stated that if tiered standards are adopted, DOE should increase the prescriptive window efficiency standards for all zones. (VEIC, No. 1633 at p. 6, 7)

As discussed previously, in developing the set of Tier 1 energy efficiency measures, DOE started with the 2021 IECC building components and then adjusted the requirements to meet a first cost target. As such, DOE compared the potential energy savings for each of the different combinations analyzed (those building components subject to the 2021 IECC, *i.e.,* exterior floor, exterior walls, exterior ceiling, and fenestration) using the range of efficiency measures originally identified by the MH working group as appropriate for manufactured home design and determined the optimal set of energy efficiency measures that would yield an incremental cost increase less than $750.

DOE's objective in defining the Tier 1 incremental purchase price threshold was based on which threshold a low-income buyer purchasing a single-section home (using typical loan terms available to these homebuyers, primarily chattel loans with higher interest rates) would, on average, realize a positive cash flow within Year 1 of the standard based on the down payment, incremental loan payment, and energy cost savings. DOE considered positive cash flow within Year 1 to ensure manufactured homes would remain affordable for a low-income consumer. DOE believes this addresses the concerns raised by HUD and other stakeholders. As such, DOE determined that an incremental purchase price of less than $750 provided a beneficial financial outcome for these consumers given lifecycle cost savings and energy cost savings, while minimizing first cost impacts.

Accordingly, because of the objective of the tier to develop an optimal set of measures, the analysis resulted in different insulation requirements depending on climate zone, and for

certain insulation requirements to be higher than others. Therefore, any changes in requirements would have negative effects on positive cash flow for low-income consumers, which is contrary to DOE's intentions regarding housing affordability. Any decrease in efficiency measures would not provide the original benefit of expected energy cost savings within Year 1 of the standard. Finally, DOE notes that the performance method, *i.e., Uo* method, provides manufacturers more flexibility with determining the component specific requirements, as long as the minimum U_o requirements are met. As such, DOE maintains the Tier 1 energy efficiency options proposed in the August 2021 SNOPR.

Additional Efficiency Packages

Section R401.2.5 of the 2021 IECC requires that in addition to the prescriptive compliance option, additional energy efficiency requirements must be utilized to achieve further energy savings. Section 408.2 provides five additional efficiency package options to achieve these additional energy savings, which include: (1) Enhanced envelope performance; (2) more efficient HVAC equipment performance; (3) reduced energy use in service water heating; (4) more efficient duct thermal distribution; and (5) improved air sealing and efficient ventilation systems. In developing recommendations, the MH working group evaluated the 2015 IECC, which did not include comparable provisions to sections R401.2.5 and R408.2 of the 2021 IECC. In the August 2021 SNOPR, DOE did not propose any of the additional efficiency packages either because of consideration of the design and factory construction of manufactured homes, or potential cost-effectiveness constraints. 86 FR 47744, 47773–47774.

In response to the August 2021 SNOPR, DOE received a number of comments regarding these additional efficiency packages.

NPCC stated that the standards should ensure additional savings through prescriptive requirements and an additional efficiency requirement with package options based on the model code. (NPCC, No. 1567 at p. 2) The CEC recommended that DOE should incorporate the State Attorneys General's request to require manufacturers to include the additional efficiency packages consistent with IECC R401.2.5.1. (CEC, No. 1629 at p. 4) NBI stated that the 2021 IECC requires homes following the prescriptive pathway to choose among several efficiency packages, which they believe should apply to manufactured homes. (NBI, No. 1404 at p. 1–2) The Joint Commenters stated that neither DOE's tiered nor untiered standards require manufacturers to provide additional energy savings through efficiency package options such as those required by IECC R401.2.5.1. Therefore, to ensure compliance with EISA, they stated that DOE's final standards should include such a requirement. (Joint Commenters, No. 1630 at p. 1, 2) The Attorneys General urged DOE to consider additional energy savings through efficiency package options such as those required by IECC R401.2.5.1 to ensure compliance with EISA. (Attorneys General, No. 1625 at p. 2, 4, 6)

RECA stated that the final rule should incorporate the additional efficiency options of equivalent energy savings. RECA commented that the fact that specific requirements in the IECC are not already adapted for use in manufactured housing does not release DOE from its obligation to set energy conservation standards that are consistent with the model code, and RECA urged DOE to reconsider this decision and to require a 5 percent improvement and/or to find other alternatives to achieve similar energy savings. (RECA, No. 1570 at p. 1, 2, 7) Earthjustice and Prosperity Now suggested that DOE is required to evaluate provisions of sections R401.2.5 and R408 of the 2021 IECC. They stated that DOE has not yet determined whether this requirement would be cost-effective. Further, they suggested that HRV/ERVs (*i.e.,* heat recovery and energy recovery ventilators) must be addressed. They commented that DOE is required to consider the statutorily-mandated analysis and must address this defect in the final rule. (Earthjustice and Prosperity Now, No. 1637 at p. 7) Major mentioned that furnaces in MH are always oversized and that there are no furnace standards mentioned in the document. (Major, No. 1023 at p. 1)

NRECA stated that they have researched upgrading the ''shell'' or envelope of the manufactured home through rebates but doing so did not make sense once applying a cost-benefit analysis. Instead, they suggested focusing on upgrading the heating/cooling of the manufactured home made the most economic sense. NRECA stated that the most effective way to both improve efficiency in manufactured homes and lead to lower electricity bills for their consumer-members is by upgrading to high-efficiency heat pumps in the heating systems of these homes up front, before the home is delivered. They suggested that providing rebates to install high-efficiency heat pumps in new or existing MH would be helpful. (NRECA, No. 1406 at p. 1, 3)

NEEA recommended inclusion of the five IECC options plus a ''limited house size'' option. For enhanced envelope performance, not only did NEEA encourage DOE to increase the attic insulation to align with the IECC 2021 prescriptive path, but also to insert an additional efficiency package focused on envelope improvements that could reward manufacturers who are already building efficient envelopes. (NEEA, No. 1601 at p. 4) For more efficient HVAC, NEEA encouraged an additional efficiency package that requires air-source heat pumps instead of electric furnaces or electric baseboard heat will have significant energy and cost savings (NEEA found that 40 percent of MH use low efficiency electric furnaces). NEEA encouraged DOE to require 10 HSPF/16 SEER air source heat pumps, which aligns with IECC 2021. For gas furnaces in manufactured homes, NEEA encouraged requiring a 95 percent AFUE condensing gas furnace plus 16 SEER air conditioning unit, which would be installed instead of a non-condensing gas furnace. NEEA referenced a study that suggested that there is an incremental cost of $217 for a 95 AFUE gas furnace compared to current practice baseline assumed at 92 AFUE. (NEEA, No. 1601 at pp. 4–5)

For reduced energy use in service water heating, NEEA encouraged DOE to consider more efficient heat pump water heaters and tankless gas water heaters. Due to challenges in retrofitting heat pump water heaters into manufactured homes after initial construction, NEEA recommends encouraging their installation during initial construction. For distribution or ductwork, NEEA encouraged ductless heat pump (''DHP'') solutions that eliminate all energy losses due to ductwork. They suggested that allowing a 10 HSPF/16 SEER DHP option to satisfy the distribution criteria could lead to significant energy savings. Alternatively, NEEA suggested that bringing ducts inside the building shell to reduce the amount of heat loss external to the building. (NEEA, No. 1601 at p. 5) Regarding enhanced air sealing, NEEA stated that technology such as pressurized whole-building air sealing could be used in a warehouse and result in a very low-infiltration rate of the building shell. Further, they suggested an Energy Recovery Ventilator (''ERV'') or Heat Recovery Ventilator (''HRV'') for continuous mechanical ventilation could address poor air quality. Finally, NEEA encouraged a sixth additional efficiency option package based on limited house size.

They suggested that manufacturers could build a single wide home to the untiered standards and select the limited house size option (*i.e.,* they would not need to choose one of the five additional energy package options). For multi-section homes, however, NEEA suggested these homes would still need to select from the five other options. (NEEA, No. 1601 at p. 6)

ACEEE stated that a heat pump for cooling and heating, a heat pump water heater, a better thermal distribution system, better air sealing and ventilation, and possibly a better envelope all may be cost-effective options for additional savings. They stated that heat pumps can provide highly efficient heating (especially compared to electric resistance heat, the most common source in MH) and that heat pump water heaters also can provide large energy and carbon savings at a reasonable cost. ACEEE further provided a detailed study, with costs and energy savings, for including a heat pump option for manufactured homes.[42] (ACEEE, No. 1631 at p. 6) VEIC strongly recommended DOE adopt the additional efficiency package options requirement and modify the package options as appropriate to manufactured housing. They stated that only one option needs to be selected to demonstrate cost-effectiveness of the code overall, and provided an example of one potential package option, where ductwork was brought inside the thermal envelope by a factory located in New England. They stated that these duct designs could easily be integrated into a manufactured home assembly line. (VEIC, No. 1633 at p. 7, 8)

On the other hand, MHI stated that HRV and ERV provisions would add significantly to the cost (because of redesign and construction) of manufactured homes. (MHI, No. 1592 at p. 25) MHCC also stated that HRV and ERV systems are not cost effective for manufactured housing and have proven to be problematic in certain climate zones (without providing further details as to why). (MHCC, No. 1600 at p. 11)

Regarding costs, Schulte stated that the costs and energy savings for the five additional efficiency packages in the IECC have been evaluated by several organizations. The first is the National Association of Home Builders Home Innovation Research Lab Report No. CR1391: 2021 IECC Residential Cost Effectiveness Analysis.[43] The report covered the five additional efficiency options based on a 2,500 square foot standard reference single family home and the changes from the 2018 to the 2021 IECC standards. The report concluded that the five optional efficiency packages would have very long simple paybacks ranging from 20 years for the water heater to as much as 90 years for the improved ventilation, electric house with improved air tightness. The enhanced water heater had substantially shorter payback periods than the HVAC or duct sealing options. Schulte stated that the water heater option might be cost efficient, but even that option has a payback period of 20 years. Further, they referenced the PNNL–31440 Report[44] which they stated confirms the other findings that optional efficiency measure R408.2.3 for water heaters is the most cost-effective way to achieve the 5 percent additional reduction in energy usage. (Schulte, No. 1028 at p. 24–25)

As discussed in the August 2021 SNOPR and further in this section, consistent with the recommendations of the MH working group, the performance requirements in the proposed energy conservation standards are specific to the building thermal envelope only, and do not incorporate any specifications on HVAC energy efficiency. Accordingly, DOE did not consider the more efficient HVAC equipment performance and reduced energy use in service water heating options. Further, DOE also did not examine the more efficient duct thermal distribution option based on EISA's allowance to consider the design and factory construction techniques of manufactured housing. This option in the 2021 IECC focuses primarily on the location of the duct or ductless systems in a home (in terms of duct thermal distribution design) as opposed to improving efficiency of the ducts as already installed and designed, and therefore is not appropriate for this rule. (42 U.S.C. 17071(b)(2)) Finally, for the enhanced envelope performance option, DOE was unable to incorporate this requirement given the building thermal envelope energy efficiency measure limitations based on the space constraints of manufactured homes. 86 FR 47744, 47773–47774

For the remaining efficiency package option, *i.e.,* improved air sealing and efficient ventilation system option, DOE acknowledges the possibility of achieving additional energy savings for manufactured homes, as suggested by commenters. In the August 2021 SNOPR, DOE presented the Building Energy Codes Program (''BECP'') analysis on HRVs and stated that that it had not yet determined whether including HRV or ERV would be cost-effective for manufactured homes. 86 FR 47744, 47774. Accordingly, DOE requested costs and savings data associated with this requirement (in addition to the other additional efficiency package options). *Id.* DOE did not receive any data regarding the cost-effectiveness of the ERV/HRV requirement. At this time, DOE does not have sufficient data to provide a reasonable assessment of these measures when applied to manufactured homes as required by the EISA statute. In other words, DOE is unable to determine whether these measures are appropriate for manufactured homes when considering the unique design and construction techniques of these homes and whether such measures would be cost-effective when applied to them. Accordingly, DOE is not considering these additional efficiency package options in this final rule. However, DOE will continue to accept any data regarding these measures and may consider these options in any future rulemakings.

Tier 2 Exterior Wall Insulation Requirement

In the August 2021 SNOPR, DOE proposed R–20+5 insulation for climate zone 2 and 3 for the Tier 2/Untiered standard to be consistent with the 2021 IECC. 86 FR 47744, 47772. DOE received a number of comments on the proposed Tier 2 Climate Zones 2 and 3 proposed R–20+5 continuous exterior wall insulation requirement.

VEIC applauded DOE's inclusion of a continuous insulation requirement for zones 2 and 3. VEIC recommended that DOE maintain the 2021 IECC alternative prescriptive approaches to obtaining the intended exterior wall efficiency, by specifically including the additional prescriptive wall insulation options within the prescriptive requirements table, *i.e.,* the 2021 IECC Table R402.1.3 minimum insulation R-value requirement for wood frame walls is written as follows: R–20+5 or 13+10 or 0+20. (VEIC, No. 1633 at p. 5) NEEA encouraged DOE not to revert to R–21 as explored in the NODA. They stated that continuous wall insulation reduces thermal bridging and increases occupant

[42] Bell-Pasht, A., and L. Ungar. 2021. Strong Universal Energy Efficiency Standards Will Make Manufactured Homes More Affordable. Washington, DC: American Council for an Energy-Efficient Economy. *aceee.org/white-paper/2022/01/strong-universal-energy-efficiencystandards-manufactured-homes.*

[43] Home Innovation Research Labs. 2021. 2021 IECC Residential Cost Effectiveness Analysis; Report No. CR1391_06112021. *https://www.nahb.org/-/media/NAHB/advocacy/docs/top-priorities/codes/code-adoption/2021-iecc-cost-effectiveness-analysis-hirl.pdf.*

[44] PNNL–31440 prepared for U.S. DOE; July 2021; Energy Savings Analysis: 2021 IECC for Residential Buildings; *https://www.energycodes.gov/sites/default/files/2021-07/2021_IECC_Final_Determination_AnalysisTSD.pdf.*

comfort, and they stated that there is evidence of potential cost savings from stick-built practices. NEEA recommended keeping the continuous insulation provision to align with IECC in Climate Zones 2 and 3, and that Climate Zone 1 better aligns with 2021 IECC currently. (NEEA, No. 1601 at pp. 4, 16)

ACC FSC suggested that DOE consider alternatives to 2 x 6 R–20 construction for Climate Zones 2 and 3 in the Tier 2 provisions.[45] They stated that 2 x 4 construction is much more common and suitable for manufactured housing, and recommended that if a compromise to the IECC levels of wall performance is needed, the most practical and reasonable cost-effective solutions should turn to 2 x 4 wall assembly options which may include R–15+5, R–13+7.5, R–15+7.5, or similar prescriptive R-value solutions for HUD Zones 2 and 3. They stated that the alternatives (R–15+5, R–13+7.5, or R–15+7.5) will make use of and employ the mentioned economic and performance benefits of a continuously insulated wall assembly, will more closely maintain the basis of the 2021 IECC, and will make modifications to better accommodate the practical constraints of manufactured housing as the authority given to DOE in EISA allows. (ACC FSC, No. 1364 at p. 2)

Further, ACC FSC commented that the R–20+5 analysis misses the benefits of foam plastic continuous insulation by protecting the wall assembly from moisture and condensation by providing an insulation ratio effect that is effective in HUD Zones 2 and 3. They commented that the benefits tend to result in better performing and more resilient manufactured homes, which will also tend to improve the economics of home-ownership by having extended life-expectancy (typically more than 40-years, not 30-years as assumed by DOE). ACC FSC also commented that vapor and moisture control strategies are inextricably linked to energy efficiency measures such as insulation properties, amount, and location on the assembly. (ACC FSC, No. 1364 at p. 2–3) Finally, ACC FSC stated that the R–20+5 vs. R–21 wall insulation analysis missed the economic benefit of having reduced heating/cooling load and equipment sizing with the R–20+5 option, and that this benefit would also apply to consideration of the above-mentioned R–15+5, R–13+7.5, and R–15+7.5 alternatives. (ACC FSC, No. 1364 at p. 3)

On the other hand, Schulte stated it is not clear that the energy savings for R–20+5 will offset the added investment cost, and therefore DOE should defer imposition of the R–20+5 requirement until it can demonstrate its cost effectiveness. (Schulte, No. 1028 at p. 23) Cavco stated that homes built for thermal zones 2 and 3 will no longer allow for 2 x 4 wall construction but will require 2 x 6 walls with rigid foam insulation. They stated that this simple change increases the cost of materials, adds steps to the production process, decreases the available habitable space and requires floor plans to be redrawn and resubmitted. Cavco stated that this large jump is not cost justified, especially when considering the impact to the production process. (Cavco, No. 1497 at p. 2)

In response to the August 2021 SNOPR and October 2021 NODA, Clayton Homes commented that insulated foam sheathing is not a good option for manufactured homes because it adds a layer of flexible foam product between rigid framing and sheathing materials, which adversely impacts homes transportation performance. (Clayton Homes, No. 1589 at p. 4, 6) Clayton Homes stated that R–21 wall insulation without a continuous insulation should be the benchmark requirement in Climate Zones 2 and 3. (Clayton Homes, No. 1589 at p. 16) MHI stated that the requirement of R–20 in the exterior wall will force the sidewall to 2 x 6 construction resulting in the following: (1) The installation of the exterior insulation will be more costly for manufacturers to install, stemming from the overall cost of the home being higher from the increased material and labor costs; (2) The exterior insulation will also require most plants to re-work their production stations to allow time for this installation; (3) The exterior insulation will also create an additional problem for fastening the exterior finish siding since the siding would now have to be fastened thru the exterior insulation—currently, there are no approved fasteners to penetrate through the 1-inch exterior insulation and the fasteners themselves would also have to support the siding during transportation; (4) Windows and doors will need to be installed on framed extensions to pack out nailing surfaces to the thickness of the continuous R–5 insulation; (5) Continuous flashing may be required at the bottom edge of the rigid insulation layer to protect from exposure to weather and infestation; and (6) The extra thickness of insulation on the exterior wall would either increase the shipping width or decrease the habitable space on the interior. Accordingly, MHI stated that for houses currently designed to maximize the legal shipping width, there is no additional width available on the exterior, and therefore, the space for the exterior insulation on these homes would have to be taken from the interior of the home. (MHI, No. 1592 at p. 8) Further, MHI stated that the use of continuous insulation is problematic due to the required changes in design, associated costs, and need for products that do not exist. Additionally, they stated that the R–20 wall insulation listed in Tier 2 for zones 2 and 3 may not be readily available in roll form, as typically used in production. In addition, they commented that having a continuous insulation on the outside of the studs may become problematic for siding installation due to transportation. Accordingly, MHI recommended revising 20+5 wall R-values to R–21 or R–13+5. Further, they stated it will be difficult to source a material to use as the R–5 continuous exterior insulation that will meet the requirements of the proposed changes as well as the current HUD Code.[46] MHI stated that the perm ratings of the rigid foam may also lead to redundant vapor barriers and stud cavities that may not breathe properly, and therefore this may be a potential area where the proposed changes and the current HUD Code may have a conflict. (MHI, No. 1592 at p. 6, 17, 29); (Clayton Homes, No. 1589 at p. 9, 21)

In response to the January 2022 DEIS, however, Clayton Homes and MHI provided alternative recommendations. They recommended that DOE change the exterior wall insulation R-value for Climate zone 2 to R–13, and for Climate Zone 3 to R–15. In addition, they recommended that DOE change the U-factor alternative for the exterior wall insulation to 0.094 for Climate Zone 2, and 0.076 for Climate Zone 3. (Clayton Homes, No. 1986 at p. 13); (MHI, No. 1990 at p. 16)

MHCC also stated that an R–20+5 exterior wall insulation is neither cost effective or feasible for MH, asserting that implementing continuous exterior wall insulation would negatively impact throughput rates of manufacturers and significantly increase overall costs. (MHCC, No. 1600 at p. 7, 12) Skyline Champion commented that the requirement of continuous R–5 insulation in thermal zones 2 and 3 not only adds significant direct material and labor expense but also adds indirect material and labor costs. Indirect costs

[45] In the energy simulation analysis, DOE considered a 2 x 6 stud for any R-values at or greater than R–19 and a 2 x 4 stud for any R-values less than R–19. Chapter 7, Section 7.4.2 of the August 2021 SNOPR TSD.

[46] Section 3280.504 has requirements for the perm rating of the exterior wall assemblies.

like flashing, window/door installations, jamb extensions, sliding installation changes, soffit and floor width impacts are some of the costs that Skyline Champion argued DOE's analysis may have not properly captured. Skyline Champion recommended holding prescriptive R-values in wall assemblies to R–19 for zones 2 and 3 for tier 2 and adjust overall U-values accordingly. (Skyline Champion, No. 1627 at p. 2); (Champion Home Builders, No. 1639 at p. 2)

In this final rule, DOE is requiring R–21 insulation instead of the August 2021 SNOPR proposed R–20+5 for the prescriptive requirements for Tier 2 climate zone 2 and 3. As presented in the August 2021 SNOPR (and with updated inputs in the October 2021 NODA), both the R–20+5 and R–21 Tier 2 30-year life-cycle cost savings results for the nation are positive. 86 FR 59042, 59048. However, San Francisco resulted in negative Tier 2 30-year LCC savings for R–20+5, which is not the case for R–21. 86 FR 47744, 47802; 86 FR 59042, 59055.

EISA requires consideration of cost-effectiveness of the standards (42 U.S.C. 17071(a) and (b)(1)) and the design and factory construction techniques of manufactured homes (42 U.S.C. 17071(b)(2)). As discussed in section III.A of this document, DOE determined the cost-effectiveness of the standards by considering the LCC savings over the life of the manufactured home not only for the nation, but also for each city analyzed. Therefore considering at least one city during the 30-year analysis in Tier 2 resulted in negative LCC savings with R–20+5 exterior wall insulation, in this final rule, DOE is adopting the next stringent insulation, R–21 for Tier 2. Further, DOE was unable to assess the other implications presented by the stakeholders at this time, including but not limited to the limitations on including R–20+5 with the design of the home. DOE needs to conduct further study on the full implementation of the continuous insulation requirement on manufactured homes, and therefore is not including this requirement at this time. Finally, adopting R–21 instead of R–20+5 also resolves issues regarding shipping width that the stakeholders commented on, which is discussed in a following section. However, DOE is open to receiving further data to consider this requirement in future standards.

DOE notes, however, that requiring R–21 for Tier 2 prescriptive standards does not preclude manufacturers in using R–20+5 to comply with Tier 2 prescriptive standards. Further, the performance method (*i.e., Uo*) allows manufacturers flexibility in using any combination of energy efficiency measures as long as the minimum U_o is met, including, but not limited to, R–20+5.

DOE also received other comments regarding exterior wall insulation. NAIMA commented that the standards should include minimum mandatory wall insulation requirements under 460.102(c) of the regulatory text, consistent with the 2021 IECC, which includes minimum insulation requirements for performance path compliance. They recommended a mandatory minimum wall insulation requirement of R–13 in Tier 1 and Climate Zone 1 Tier 2 homes and R–21 in Climate Zones 2–3 Tier 2 homes when a builder selects the performance path for standards compliance. (NAIMA, No. 1017 at p. 2) The 2021 IECC does not have a U_o-based performance path. However, the 2021 IECC does include a ''Total UA alternative'' requirement in R402.1.5, which is similar in concept to U_o in that the calculation is done using the component U-factor and the component area. As such, R402.1.5 of the 2021 IECC only provides additional requirements for fenestration SHGC and maximum U-factors, and does not include additional requirements for exterior wall insulation. Accordingly, DOE is only including additional requirements for fenestration SHGC and maximum U-factors in 460.102(c)(2)–(4).

ACC FSC requested that the wall U-factors (associated with the prescribed R-values) in Tables 460.102–3 and 460.102–4 be revised (decreased) to be consistent with a typical or ''default'' framing factor of 15 percent and that the U_o values in Tables 460.102–5 and 460.102–6 be adjusted accordingly, as opposed to the 25 percent that was used for the baseline framing for walls. They stated that the U_o approach (and the referenced Battelle Method) provide a default value of 15 percent for typical manufactured housing walls (see also HUD Code Section 3280.509). (ACC FSC, No. 1364 at p. 4) DOE notes that the Battelle Method report cites the 1989 ASHRAE Handbook of Fundamentals (''HoF'') as the source of the 15 percent framing factor for exterior walls with 16″ on center (o.c.). The 1993 edition of the ASHRAE handbook, however, updated the framing factor for exterior walls 16″ o.c. to 25 percent and all successive editions through the 2021 edition of the HoF have included a 25 percent factor. In addition, a 25 percent framing factor was used during the MH working group negotiations. At this time, DOE has not found any data on whether framing factors should be lower for manufactured housing. Therefore, DOE continued to use 25 percent framing factor as part of the analysis.

Tier 2 Exterior Ceiling Insulation Requirement

In the August 2021 SNOPR, for the untiered/Tier 2 standard, DOE proposed R–30 for climate zone 1 and 2, and R–38 for climate zone 3. DOE proposed not to incorporate the minimum ceiling R-value updates from the 2021 IECC given the physical space constraints of manufactured homes. Accordingly, DOE proposed ceiling insulation requirements that were consistent with the June 2016 NOPR requirements (as recommended by the MH working group), updated from four climate zones to three climate zones. 86 FR 47744, 47772. DOE received multiple comments regarding the exterior ceiling insulation requirement.

MHI stated that due to the thicker insulation of R–30 in the ceiling, the proposed standards state that a 5.5-inch truss heel height would be required. This change in the truss profile will affect the overall shipping height of the home unless other conciliatory changes are made. (MHI, No. 1592 at p. 6, 8) Further, MHI stated that for the exterior ceiling insulation as R–38, the depth of insulation will be difficult to achieve on lower sloped roofs and cathedral style truss profiles. (MHI, No. 1592 at p. 8) Skyline Champion stated that requirements for ceiling insulation and heel height will force significant truss re-designs to accommodate energy heels and shipping limitations in many circumstances. Popular design options may be severely limited or eliminated due to increased cavity volume requirements of the truss profiles. Regarding climate zone 3 floor insulation, they suggested that all homes will require increased floor joist sizes to create enough space in joist cavities for additional insulation requirements, leading to additional labor and materials that are likely not properly reflected in cost calculations. (Skyline Champion, No. 1627 at p. 2); (Champion Home Builders, No. 1639 at p. 3)

On the other hand, VEIC stated that they have worked with factory partners that have demonstrated the ability to cost-effectively install insulation levels above R–38 in the ceiling/roof assembly and still maintain overall height requirements of MH. They presented an example of an MH design that allows for a ceiling insulation system that accommodated R–38 uncompressed and continuous insulation over the entire attic with 7.5–8.5′ ceiling height and a 3/12 pitch roof system. They stated that blocking is utilized at the eaves to

ensure that full-height insulation can be a simple low-cost application such as a cardboard product. Accordingly, VEIC suggested that if DOE intends to maintain the R–38 ceiling insulation requirement for zone 3, they recommend the standards also require that R–38 is installed uncompressed at full height over 100 percent of the ceiling or attic area extended over the wall top plate at the eaves, as per 2021 IECC Section R402.2.1. Alternatively, DOE could set higher R-value standards with the allowance for a lower R-value when installed uncompressed over the entire ceiling area. (VEIC, No. 1633 at pp. 3–5)

As discussed previously, DOE took into consideration the range of efficiency measures originally considered by the MH working group that was appropriate for manufactured home design, which included the following: Exterior ceiling R–22 to R–38. DOE notes that ceiling height constraints in manufactured homes limit the amount of ceiling insulation that can be installed without compression. While NEEM and NEEM+ homes require ceiling insulation of R–40 and R–44 respectively, DOE conducted the analysis up to ceiling insulation levels of R–38 based on the recommendations of the MH working group. DOE notes that typical R–30 and R–38 insulation has thicknesses of approximately 9.7″ and 12.3″ respectively. A common MH home truss design is 17″ deep at the marriage line and can accommodate these levels of insulation, except the compression at the eaves. Accordingly, DOE understands that there is enough room in the truss to accommodate higher insulation without having to redesign. Further, DOE confirmed with an industry expert in the Pacific Northwest that almost all manufactured home trusses can accommodate ceiling insulation up to R–40. While DOE did not consider ceiling insulation levels beyond R–38, DOE notes that almost all roof truss designs can accommodate insulation up to R–40, but there is a very small incremental improvement in thermal performance between R–38 and R–40. The MH working group also did not consider the requirements regarding uncompressed insulation in R402.2.1 of the 2015 IECC (which is also included in the 2021 IECC), and therefore did not assess the cost-effective impact as part of this rulemaking. DOE will plan to consider these updates in future rulemakings.

Further, as stated by VEIC, homes are currently being built with insulations at the higher end of the range, with no issues with transportation. In addition, even current ENERGY STAR requirements, under the envelope-only package, require ceiling insulation at R–38.[47] DOE also confirmed that the Northwest Energy-Efficient Manufactured Housing Program (NEEM)+ homes,[48] which go beyond ENERGY STAR and provide ceiling insulation up to R–44, do not deal with transportation issues because of the added insulation.

Finally, DOE notes that manufacturers can also comply with the standards using the performance, Uo, method, which gives manufacturers the flexibility in using any combination of energy efficiency measures as long as the minimum U_o is met. Accordingly, DOE is unpersuaded that the Tier 2 ceiling insulation requirements will significantly limit design options, necessitate changes in truss profiles, or impact transportation of MH models, and therefore DOE maintains the August 2021 SNOPR Tier 2 exterior ceiling insulation requirements in this final rule.

Tier 2 Exterior Floor Insulation Requirement

In the August 2021 SNOPR, for the untiered/Tier 2 standard, DOE proposed R–13 for climate zone 1, R–19 for climate zone 2, and R–30 for climate zone 3. DOE did not identify any updated floor insulation requirements in the 2021 IECC applicable to manufactured homes. Accordingly, DOE proposed floor insulation requirements that were consistent with the June 2016 NOPR requirements (as recommended by the MH working group), updated from four climate zones to three climate zones. 86 FR 47744, 47772. DOE received multiple comments regarding the exterior floor insulation requirements.

Several commenters suggested that for Climate Zone 3, most floors are constructed with 2 x 6 framing but with an R–30 insulation requirement, DOE analysis assumes 2 x 8 floor joist and insulation thicknesses that exceed 5.5-inches, which cannot reasonably be assumed in HUD home construction. Further, they stated that placing more than R–11 blankets under the floor joists cannot be done without offsetting outriggers and providing blocking between joists because compressing more than R–11 insulation between an outrigger and a joist results in noticeable humps in the floor at each outrigger location. (MMHA, No. 995 at p. 2); (Michigan MHA, No. 1012 at p. 1–2); (WHA, No. 1025 at p. 1–2); (PMHA, No. 1165 at p. 1–2); (Westland, No. 1263 at p. 1–2); (Pleasant Valley, No. 1307 at p. 1–2); (American Homestar, No. 1337 at p. 1–2); (Oliver Technologies, No. 1350 at p. 1–2); (KMHA, No. 1368 at p. 1–2); (Adventure Homes, No. 1383 at p. 1–2); (Clayton Homes, No. 1589 at p. 22)

MHI stated that DOE's analysis assumes that the floor joists are 2 x 6 with insulation up to and including R–22, and 2 x 8 floor joists insulated to R–30 and above. They stated that currently, 90 percent of floors produced use 2 x 6 floor joists. They also stated that the 2″ floor joist change will also increase the shipping height. (MHI, No. 1592 at p. 25–26); (Clayton Homes, No. 1589 at p. 16–18, 22); (MHCC, No. 1600 at p. 6) In response to the January 2022 DEIS, MHI recommended that DOE change the exterior floor insulation R-value for Climate zone 3 to R–25. In addition, they recommended that DOE change the *U*-factor alternative for the exterior floor insulation to 0.036 for Climate Zone 3. (Clayton Homes, No. 1986 at p. 11, 13); (MHI, No. 1990 at p. 15, 16)

As previously stated, DOE did not update the Tier 2 exterior floor insulation requirements from those recommended by the MH working group in the term sheet, besides updating the June 2016 NOPR-proposed four climate zones to the August 2021 SNOPR-proposed three HUD zones. NEEM+ homes provide floor insulation at R–33, and do not deal with transportation issues because of the added insulation. Even though the analysis assumes 2 x 8 floor joists for floor insulation above R–30, DOE notes NEEM homes meet R–33 floor insulation by incorporating a combination of R–11 blankets and R–22 in 2 x 6 joists and R–33 belly insulation below joists.[49] Finally, even current ENERGY STAR requirements, under the envelope-only package, require floor insulation in Climate Zone 3 at R–33. Accordingly, considering current techniques can still be implemented, DOE is unpersuaded that the Tier 2 floor insulation requirements will significantly impact shipping height and result in transportation issues.

Finally, DOE notes that manufacturers can also comply with the standards using the performance, *Uo,* method, which gives manufacturers the flexibility to use any combination of energy efficiency measures as long as

[47] Further details on specification can be found here: *www.energystar.gov/newhomes/energy_star_manufactured_homes.*

[48] Further details on specification can be found here: *https://www.neemhomes.com/efficiency-certified/#what-is-neem-plus.*

[49] See Figure 2 on page 10—*https://static1.squarespace.com/static/5b10a91989c172d4391ab016/t/5b45160b2b6a286e299e4ba5/1531254288322/3157.pdf.*

the minimum U_o is met. Accordingly, DOE maintains the August 2021 SNOPR Tier 2 exterior floor insulation requirements in this final rule.

Tier 2 Fenestration Requirements

In the August 2021 SNOPR, for the untiered/Tier 2 standard, DOE proposed the following window U-factors: 0.32 for climate zone 1, 0.30 for climate zone 2, and 0.30 for climate zone 3. In addition, DOE also proposed the following glazed fenestration SHGCs: 0.33 for climate zone 1, 0.25 for climate zone 2, and ''not applicable'' for climate zone 3. DOE proposed window U-factors consistent with the 2021 IECC. For the SHGC, DOE proposed requirements based on the updated window U-factors, and the recommendations by the MH working group. 86 FR 47744, 47772. DOE received multiple comments regarding fenestration requirements.

VEIC stated that the SHGC requirements of the Tier 2/untiered proposal run contrary to best practice, and to IECC requirements. They stated that lower SHGC should be required in warmer climate zones. At minimum, VEIC recommends reversing the SHGC requirements for zone 1 and zone 2. (VEIC, No. 1633 at p. 6, 7) ACEEE stated that the proposed standards have higher (less stringent) SHGC values in Climate Zone 1 than in Climate Zone 2 and none in Climate Zone 3. They stated that this difference is counter to the IECC and to the logic of increased savings where there is increased sunlight and it should be corrected. (ACEEE, No. 1631 at p. 8) RECA also recommended that DOE set the maximum SHGC for both Climate Zones 1 and 2 at 0.25, which is consistent with the 2021 IECC requirement for IECC climate zones 1–3 and has been in the IECC since the 2012 edition. RECA stated there is no reason why HUD Zone 1 should have a higher SHGC than Climate Zone 2. (RECA, No. 1570 at p. 6)

During the MH working group negotiations, to determine the number of climate zones (which at the time was four climate zones), one of the building thermal requirements that DOE analyzed for cost-effectiveness was the window SHGC. For the June 2016 NOPR-proposed Climate Zone 1, DOE analyzed a range of window SHGC from 0.25 to 0.40. DOE proposed the most cost-effective SHGC requirement, which was 0.25. The MH working group agreed on the SHGC for Climate Zone 1 in the term sheet. See Term Sheet at 3. For the June 2016 NOPR-proposed Climate Zone 2, the MH working group recommended that DOE perform a sensitivity analysis of the total cost of ownership to determine the most cost-effective SHGC, rather than recommending a specific SHGC value in the term sheet. See Term Sheet at 3. DOE performed its SHGC sensitivity analysis using SHGC values of 0.25, 0.30, and 0.33. This analysis indicated an SHGC of 0.33 had the greatest total cost of ownership savings; therefore, in the June 2016 NOPR, DOE proposed requiring a SHGC value of 0.33. Except for the SHGC, all other proposed building thermal requirements for the June 2016 NOPR-proposed Climate Zones 1 and 2 were the same. 81 FR 39756, 39772.

In the August 2021 SNOPR, for the Tier 2 standards, DOE mapped the June 2016 NOPR climate zones (based on four climate zones) to the HUD zones (based on three climate zones). DOE used the manufactured home national shipment percentages for each of the cities analyzed,[50] and the corresponding HUD zone and the June 2016 NOPR climate zone identifiers for each of the cities. For HUD Zone 1, the cities identified were in either the June 2016 NOPR-proposed Climate Zones 1 or 2; however, the summed shipment weights per the June 2016 NOPR-proposed climate zone did not provide an obvious indicator as to which of the energy efficiency measures to incorporate for HUD Zone 1. The only difference between the June 2016 NOPR-proposed Climate Zone 1 and Climate Zone 2 energy efficiency measures was the glazed fenestration requirement. Therefore, in the August 2021 SNOPR, DOE proposed to use the less stringent glazed fenestration requirement (0.33 vs. 0.25) to accommodate cost-effective measures that were proposed in the June 2016 NOPR for HUD Zone 2. 86 FR 47744, 47772. This evaluation is consistent with the recommendations from the MH working group.

For this final rule, DOE reassessed the cost-effectiveness of 0.33 vs. 0.25 SHGC for Tier 2 Climate Zone 1. The new analysis continued to conclude that an SHGC of 0.33 is more cost-effective than 0.25. Therefore, consistent with the recommendation to require the more cost-effective measure as part of the standards, DOE maintains the proposed 0.33 SHGC for Tier 2 Climate Zone 1 in this final rule.

DOE also received comments from MHI and Clayton Homes recommending that the prescriptive requirements for window U-factor be changed to 0.5 for Climate Zone 1, 0.35 for Climate Zone 2, and 0.32 for Climate Zone 3, but did not provide any justification for these changes. (MHI, No. 1990 at p. 14, 15); (Clayton Homes, No. 1986 at p. 11) As previously noted, DOE proposed window U-factor requirements consistent with the 2021 IECC. Further, as discussed in section III.A of this document, DOE has determined the adopted Tier 2 requirements are cost-effective based on the resulting positive 30-year LCC savings. Accordingly, DOE is adopting the August 2021 SNOPR proposal Tier 2 window U-factors.

MHI recommended adding the following language to section R402.3.4 of the proposal: ''[R402.3.4] Opaque door exemption. One side-hinged opaque door assembly not greater than 24 square feet (2.22 m^2) in area shall be exempt from the U-factor requirement in Section R402.1.2. This exemption shall not apply to the Total UA alternative in Section R402.1.5.'' (MHI, No. 1592 at p. 18) In the June 2016 NOPR, DOE did not propose adopting this requirement because excluding these types of doors from this proposed rulemaking also would represent the loss of a significant source of home energy conservation. 81 FR 39756, 39773. DOE carried this proposal forward with the August 2021 SNOPR. As such, in this final rule DOE continues to exclude this exemption for the same reason, consistent with what was proposed in the August 2021 SNOPR.

Further, MHI recommended adding the following language to section R402.3.3 of the proposal: ''[R402.3.3] Glazed fenestration exemption. Not greater than 15 square feet (1.4 m^2) of glazed fenestration per dwelling unit shall be exempt from the U-factor and SHGC requirements in Section R402.1.2. This exemption shall not apply to the Total UA alternative in Section R402.1.5.'' (MHI, No. 1592 at p. 26) MHCC also stated that the fenestration exemptions that exist in the 2021 IECC must also be included. (MHCC, No. 1600 at p. 7, 12) DOE notes that this specific requirement was deleted by the MH working group, and instead the recommendation was to supersede this requirement with the term sheet. *See* Term Sheet at 17. DOE discussed in the June 2016 NOPR that DOE did not propose to adopt this requirement because the prescriptive fenestration SHGC and U-factor requirements would apply to all fenestration. Given that 15 square feet represents a large portion of the overall fenestration area that comprises a manufactured home, DOE noted that the adoption of this requirement would potentially exclude from these requirements a significant source of energy conservation. 81 FR 39756, 39773. DOE carried this proposal

[50] DOE used shipments for 2019 from the annual production and shipment data provided by MHI. See Manufactured Home Shipments by Product Mix, Manufactured Housing Institute (2019).

forward with the August 2021 SNOPR. Therefore, in this final rule, DOE continues to exclude this exemption for the same reason consistent with what was proposed in the August 2021 SNOPR.

As noted in the August 2021 SNOPR, based on comments and consistent with the 2015 and 2021 IECC, DOE proposed to remove the maximum ratio of 12 percent for glazed fenestration area to floor area for energy modeling purposes, consistent with the recommendation from the MH working group. MHI and MHCC agreed that DOE should not limit the amount of glazed fenestration. (MHI, No. 1592 at p. 26); (MHCC, No. 1600 at p. 7, 12) As such, DOE is finalizing this proposal in this final rule.

Tier 2 Uo Performance Requirements

MHI stated that the Untiered/Tier 2 standards requirements represent significant changes over the current HUD Code and will be more of a challenge to implement in a cost-effective manner. (MHI, No. 1592 at pp. 7, 9) Clayton Homes and MHI commented that the proposed requirements should be significantly reduced (specifically, they encouraged DOE to lower proposed requirements within Climate Zone 3 to more closely align to IECC Climate Zone 3 requirements). (Clayton Homes, No. 1589 at p. 4, 6); (MHI, No. 1592 at p. 25)

Schulte mentioned that there are already HUD-Code homes which have been designed and constructed to meet the 2009 IECC standards, and ENERGY STAR homes. However, the increase in home prices, especially in Zone 2 is significant and, in this zone, the life-cycle cost savings are relatively slight. Accordingly, they recommended adopting less stringent U_o values as a first action which would reduce the price increases and the impact on affordability, and suggested that the next version of the standards assess the level of state adoption of the 2021 IECC code and address some of the other issues that have been deferred. (Schulte, No. 1028 at p. 19, 23, 26) Specifically, they recommended the following *Uo:* 0.081 for Climate Zone 1; 0.075 for Climate Zone 2, and 0.060 for Climate Zone 3. (Schulte, No. 1028 at p. 13)

MHI and Clayton Homes stated that in Climate Zone 2, based on the calculations MHI performed on the prototypical homes, the proposed Zone 2 requirements would require many changes such as upgraded insulation, 2 x 6 wall construction, upgraded windows, and taller truss heel. For Climate Zone 3, MHI was not able to satisfy the overall U factor requirements using common options that are available to most manufacturers. Upgrading insulation, 2 x 6 exterior walls, deeper trusses, deeper floor joists, and upgraded windows did not lower the overall U-factor enough to meet the proposed requirements. However, for the calculations that MHI performed, they did not evaluate the addition of continuous exterior insulation due to the installation and transportation issues involved with this product. Accordingly, MHI recommended the following changes for the U_o requirements: Change Climate Zone 1 total U_o to 0.093 for single-section and 0.090 for multi-section; change Climate Zone 2 total U_o to 0.081 for single-section and 0.076 for multi-section and the Climate Zone 3 total Uo to 0.065 for single-section and 0.061 for multi-section. (MHI, No. 1990 at p. 17); (Clayton Homes, No. 1986 at p. 13) Clayton Homes had the same recommendations, however instead elected to change the Climate Zone 3 total Uo to 0.064 for multi-section.

On the other hand, NEEA stated that more than half of the manufactured homes in the Northwest are built with a U_o equal to Tier 2 of the August 2021 SNOPR. They stated that they have been applying 2 x 6 frame walls to homes for the past 14 years. (NEEA, No. 1601 at p. 14) Further, NEEA commented that industry and others have made false claims that the incremental cost of a home should be based on internal floor area of the homes, suggesting that increasing framing in Climate Zone 3 from 2 x 4 to 2 x 6 stud walls would increase the cost per square foot of the home. They stated that DOE should avoid this logic as it presumes homes are sold based on interior floor area when in fact the advertised area of a manufactured home is on the exterior frame dimensions of the house. (NEEA, No. 1601 at p. 10)

As discussed previously, in developing the set of Tier 2 energy efficiency measures, DOE's objective was for it to be based on the most recent version of the IECC, with consideration of cost-effectiveness and design and factory construction techniques of manufactured homes. (42 U.S.C. 17071(b)(1); 42 U.S.C. 17071(b)(2)(A)) As such, in the analysis, DOE took into consideration the range of efficiency measures originally considered by the MH working group that was considered appropriate for manufactured home design, which included the following: exterior ceiling R–22 to R–38; exterior wall R–11 to R–21+5; exterior floor R–11 to R–30; window U-factor U–1.08 to U–0.30; and window SHGC 0.7 to 0.25. (See chapter 5 of the final rule TSD) DOE did not consider any energy efficiency measures beyond the ranges considered by the MH working group.

DOE notes that adopted Tier 2 requirements in this final rule will only update the window U-factor requirements for all climate zones compared to the term sheet agreed upon by the MH working group (window U-factor: 0.35 and 0.32; to 0.32 and 0.30 respectively). The window U-factors were updated consistent with the 2021 IECC. Otherwise, the remaining Tier 2 EEMs are consistent with the recommendations from the MH working group, except based on three climate zones (as opposed to the four climate zones recommended in the Term sheet). As discussed in section III.A of this document, DOE has determined that the adopted Tier 2 requirements are cost-effective because of the positive LCC savings over the life of the manufactured home for both the nation, and every city analyzed. As such, Table III.6 presents the amended building thermal envelope prescriptive requirements. DOE used the Battelle Method to determine the associated U_o performance values, which are provided in Table III.9.

Construction and Transportation

DOE received multiple comments that the Tier 2/untiered building thermal envelope requirements will make transportation of manufactured homes incredibly challenging, as many states have height restrictions that will be impossible to meet due to the new design requirements. (MMHA, No. 995 at p. 2); (Michigan MHA, No. 1012 at p. 1–2); (WHA, No. 1025 at p. 1–2); (PMHA, No. 1165 at p. 1–2); (Westland, No. 1263 at p. 1–2); (Pleasant Valley, No. 1307 at p. 1–2); (American Homestar, No. 1337 at p. 1–2); (Oliver Technologies, No. 1350 at p. 1–2); (KMHA, No. 1368 at p. 1–2); (Adventure Homes, No. 1383 at p. 1–2); (Clayton Homes, No. 1589 at p. 22); (IMHA, No. 1453 at p.1)

PMHA commented that their factories are concerned that several of the proposed changes will change the building thermal systems, which in turn will affect the overall shipping height and width of a home. By increasing the truss heel height, increasing floor joist depth and adding insulation outside of the studs, the overall shipping envelope would change and in most cases be significant. They stated that homes built in Pennsylvania are sold throughout the Northeast and Mid-Atlantic (70 percent of production is shipped outside of Pennsylvania) and that the Northeast relies heavily on the Pennsylvania factories for supply. They stated that the Northeast has the most restrictive laws

for transporting manufactured homes. (PMHA, No. 1165 at p. 2) PMHA commented that most of Pennsylvania's market region limits height to 14′6″ when transporting homes, whereas several states such as Connecticut and Massachusetts limit height to 13′6″. They stated that the highways in Connecticut and Massachusetts are vital when shipping homes to homebuyers in Vermont, New Hampshire and Maine. PMHA commented that Pennsylvania would not entertain future efforts to increase the loads beyond 16 feet width. They stated that width restrictions take the body of the home in consideration, in addition to eave overhangs, doorknobs, windowsills, siding, exterior trims etc. (PMHA, No. 1165 at p. 3)

Mississippi MHA stated that the Mississippi Department of Transportation allows width up to 16 feet and 15 feet and 6 inches for height for manufactured homes. Any home that exceeds these dimensions will require a special permit which will cost the customer more in transportation costs. Therefore, they stated that the proposed standards may even prohibit a customer in rural Mississippi from buying a home due to the transporting requirements on rural roads. (Mississippi MHA, No. 1588 at p. 3)

NJMHA commented, having no manufacturers located in New Jersey, that the proposal will directly impact the transportation of manufactured homes and add additional cost for homes delivered to New Jersey. They stated that the added challenge of transporting a manufactured home into New Jersey, coupled with their supply issues, will decrease their ability to supply homes at an affordable price point. (NJMHA, No. 1451 at p. 2)

Clayton Homes and MHI and multiple others stated that the proposed rule fails to take into consideration construction methods, transportation demands, and short on-site completion duration that are unique to manufactured housing. (Campaign Form Letter, Multiple Submissions at p. 1) Clayton Homes and MHI stated that several of the changes in the proposed rule would apply to the building thermal systems which may affect the overall shipping height and width of a home, and by changing various factors, the overall shipping envelope will change. For example, the additional height could prevent shipping a home into an area of the country with low bridges, resulting in consumers having to settle for a different style of home, or, more than likely, being forced out of the housing market due to a lack of affordable housing. Also, additional escorts could add thousands of dollars to the purchase price of the home. Essentially, they stated that by increasing the truss heel height, increasing floor joist depth, and adding insulation outside of the studs, the overall shipping envelope will change. (Clayton Homes, No. 1589 at p. 3, 6); (MHI, No. 1592 at p. 2) MHI also stated that for houses currently designed to maximize the legal shipping width, there is no additional width available on the exterior, and therefore, the space for the exterior insulation (*i.e.,* proposed R–20+5 continuous insulation) on these homes would have to be taken from the interior of the home. (MHI, No. 1592 at p. 8)

On the other hand, NEEA stated that more than half of the manufactured homes in the Northwest are built with a Uo equal to Tier 2 of the August 2021 SNOPR. They stated that they have been applying 2 x 6 frame walls to homes for the past 14 years.[51] (NEEA, No. 1601 at pp. 13–14)

DOE understands the construction and transportation issues that the stakeholders are commenting on relate specifically to the increased insulation for exterior wall, floor and ceiling insulation required by Tier 2 in this final rule. As discussed in the previous sections (which provides further detail, but is summarized here), for Tier 2 exterior wall insulation, DOE is finalizing an R–21 exterior wall insulation for climate zones 2 and 3, which should resolve a number of the width concerns. For Tier 2 exterior ceiling insulation, DOE notes that there is enough room in the truss to accommodate higher insulation without having to redesign. For Tier 2 exterior floor insulation, DOE confirmed that there are homes being built that meet R–33 floor insulation by incorporating a combination of R–11 blankets and R–22 in 2 x 6 joists, and R–33 belly insulation below joists (instead of only using 2 x 8 joists). Accordingly, DOE is unpersuaded with the concerns that amended Tier 2 standards would require changes in exterior home dimensions and cause transportation issues beyond any transportation issues that currently exist.

Additionally, as suggested by NEEA, DOE notes that there are homes that are currently being built with insulation levels at the Tier 2 requirements, with no issues with transportation. Even current ENERGY STAR requirements, under the envelope-only package, require insulation similar to the Tier 2 standards. Finally, DOE confirmed that the Northwest Energy-Efficient Manufactured Housing Program (NEEM)+ homes, which go beyond ENERGY STAR, do not deal with transportation issues because of the added insulation. DOE is acknowledging that changes will be needed to accommodate higher insulation. However, DOE understands that around 53,400 NEEM homes have been transported over the last 20 years without any issues. In addition, the northwest went through the transition in 1990s and Clayton Homes also has models meeting the higher insulation requirements.[52]

Finally, DOE also notes that manufacturers can also comply with the standards using the performance, *Uo,* method, which gives manufacturers the flexibility to use any combination of energy efficiency measures as long as the minimum U_o is met.

Other Efficiency Improvements

Greer suggested that DOE consider light pollution and recommended using downward positioning lighting for the outside of the buildings. (Greer, No. 1443 at p. 1) DOE's authority for this rule is only with regards to establishing energy conservation standards (42 U.S.C. 17071(a) and (b)(1)), which does not encompass light pollution or the position of lighting, and therefore those topics are not addressed in this rule.

VEIC recommends that DOE adopt the IECC R404 requirement for 100 percent high efficacy lighting in permanently installed fixtures and controls. (VEIC, No. 1633 at p. 6) The NPCC stated that the standards should include additional cost-effective energy-saving measures, including equipment, because measures beyond the building shell, including efficient lighting, heating and cooling equipment, water heating equipment, appliances, and ducts could yield large cost-effective energy savings. (NPCC, No. 1567 at p. 2) Next Step also stated the standards should include cost-effective energy-saving measures, including equipment. Next Step also stated the standards should include ventilation and moisture control measures, if needed, to ensure that air sealing improves the health of residents. (Next Step, No. 1617 at p. 10, 11) The Attorneys General urge DOE to include a requirement that manufacturers provide additional energy saving features such as high-efficiency appliances or heating and cooling systems using an ENERGY STAR®-certified heat pump. (Attorneys General, No. 1625 at p. 2, 4, 6)

[51] All frame and related dimensional descriptions (*e.g.,* ''2 x 6'') are denoted in inches.

[52] The NEEM website lists Clayton Homes in CA, ID, NV, OR, UT, and WA as retailers for NEEM-certified homes; *https://www.neemhomes.com/where-to-buy*. NEEM and NEEM+ require insulation levels greater than Tier 2 for ceilings and floors.

Earthjustice and Prosperity Now suggested that several important provisions of the 2021 IECC are absent from DOE's analysis of potential manufactured housing standards, including lighting efficacy requirements found in section R404 of the 2021 IECC. (Earthjustice and Prosperity Now, No. 1637 at p. 7) They stated that in DOE's previous response suggesting that ''the energy efficiency of those products is specifically governed by the comprehensive Appliance Standards program established under [the Energy Policy and Conservation Act (''EPCA'')] (42 U.S.C. 6291–6317)'' DOE cites no authority for the proposition that it can ignore IECC provisions applicable to covered appliances, nor does the Department make any attempt to explain why Congress would have intended to allow DOE to ignore IECC provisions that address the efficiency of regulated appliances. *Id.* In addition, Earthjustice, Prosperity Now, and Sierra Club commented saying that DOE's characterization of its appliance efficiency program as ''comprehensive'' ignores that the Department has long refused to update the standards for some furnaces used in manufactured homes because such standards allegedly could not meet other requirements applicable under EPCA. (Earthjustice, Prosperity Now, and Sierra Club, No. 1992 at p. 8, 9)

While the 2021 IECC does include certain efficiency requirements for HVAC, water heaters, lighting, furnaces, and appliances, DOE is not adopting energy conservation standards for these products in the manufactured home energy conservation standards. As discussed in section III.A of this document, section 413 of EISA requires DOE to *base* the manufactured housing energy conservation standards on the latest version of the IECC, except where not cost-effective or where a more stringent code would be more cost-effective (42 U.S.C. 17071(b)(1)). The use of the phrase ''based on'' readily indicates that Congress anticipated that DOE would need to use its discretion in adapting elements of the IECC's provisions for manufactured housing use. This language does not require the imposition of requirements for manufactured homes that are identical to those of the IECC.

DOE also did not simply ignore the updated provisions of the 2021 IECC related to appliance and product energy efficient requirements that were not included in the 2015 IECC, and therefore not considered by the working group. In the August 2021 SNOPR, DOE addressed the fact that the MH working group evaluated the 2015 IECC, which does not include updated sections of the 2021 IECC, such as comparable provisions to sections R401.2.5 and R408.2 of the 2021 IECC. 86 FR 47773–47774. With respect to those provisions of the 2021 IECC, DOE noted that the MH working group generally did not recommend provisions addressing minimum appliance or equipment efficiencies for manufactured housing, and therefore, DOE declined to adopt such measures consistent with the approach of the working group. *Id.* Accordingly, the performance requirements in the energy conservation standards proposed in the August 2021 SNOPR and adopted in this document are specific to the building thermal envelope only, and do not incorporate any specifications on HVAC or appliance energy efficiency.[53]

The energy efficiency of those products is specifically governed by the comprehensive Appliance Standards program established under EPCA. (42 U.S.C. 6291–6317) Covered products going into newly built manufactured homes will still have to meet the minimum energy conservation standards set by the Appliance Standards program. DOE notes that under this final rule, manufacturers would not be prohibited from installing more efficient appliances than the minimum standards set by the Appliance Standards program into newly manufactured homes.[54]

Insulation Supply and Demand

MHI stated that manufacturers are currently using R–11 for most of the insulation which is predominantly used in the walls and floors for Zones 1 and 2. Further, manufacturers typically prefer to use two layers of R–11 if they need more insulation in the floors. However, they are concerned that the proposed changes do not use R–11, but rather the lowest insulation value used is R–13. Therefore, MHI stated that this may cause a supply issue for the manufacturers that have ramped up to supply large quantities of R–11, and the same supply issue will be present for R–20 and R–19, which is currently not used in large quantities. Further, the availability of R–30 insulation in a blanket style may be an issue in meeting this requirement or force further production changes to accommodate other styles of insulation. (MHI, No. 1592 at pp. 6, 8) Clayton Homes stated that the proposed standards would require manufactured homes to have significantly more insulation, which would cause the demand for fiberglass insulation to overwhelm a market that is already under substantial stress from the current insulation shortage, which is projected to continue for a few more years. (Clayton Homes, No. 1589 at p. 4, 6)

DOE notes that the performance path, *i.e., Uo* method, gives manufacturers the flexibility in using any combination of energy efficiency measures as long as the minimum U_o is met. Manufacturers do not need to meet both the prescriptive and the performance method; rather they have the option to only meet one. As such, manufacturers can continue to use current insulation types and techniques to meet the energy conservation standards. DOE is not restricting the type of insulation being used, as long as the standards (either prescriptive or performance) are met.

Other Remaining Comments

Redwood Energy suggested that DOE adopt an all-electric version of ENERGY STAR as the standards. They suggested that all-electric design is already roughly 50 percent of manufactured housing and produces less net GHGs than natural gas or propane on clean grids. They stated that ENERGY STAR yellow tags show the lowest utility bills only to ENERGY STAR heat pump for HVAC and DHW. They also commented that there was some support from the Director of Business Development of Champion Homes for a California Energy Commission grant, illustrating their willingness to build with a 2 x 6 framed walls, 14″ deep attic insulation and all-electric. (Redwood Energy, No. 1363 at p. 1) The statutory authority for this rulemaking requires DOE to base its standards on the most recent version of the IECC and any supplements to that document, subject to certain exceptions and considerations. (42 U.S.C. 17071(b)(1)) Accordingly, DOE developed the standards based on the requirements in the 2021 IECC.

In addition, regarding NFRC labels, NEEA recommended that the final rule be explicit that the NFRC labels should remain on the windows until the house

[53] Earthjustice and Prosperity Now also stated that DOE's refusal to consider lighting efficacy measures is inconsistent with its rationale for refusing to evaluate the HVAC and water heating equipment requirements in the 2021 IECC because the 2014 working group specifically recommended that DOE include the lighting efficacy provisions from the 2015 IECC in the negotiated manufactured housing standards. Earthjustice, Prosperity Now, and Sierra Club, No. 1992 at p. 7). However, in the June 2016 NOPR, DOE stated that it was not proposing the lighting efficacy requirements from the 2015 IECC recommended by the working group because of DOE's ongoing rulemaking efforts to establish nationwide minimum lamp efficacy standards under EPCA, and requested comment on the sufficiency of DOE's rulemaking efforts for lamp efficacy to achieve lighting efficiency in manufactured homes. *See* 81 FR 39780.

[54] See *http://energy.gov/eere/buildings/standards-and-test-procedures.*

arrives at the site. (NEEA, No. 1601 at pp. 14–15) DOE's authority for this rulemaking is to establish energy conservation standards for manufactured housing as manufactured. (42 U.S.C. 17071(c)) The energy conservation standards are specific only to the building thermal requirements for a manufactured home. However, DOE notes that DOE's energy conservation standards would not prevent industry from pursuing this labeling practice suggested by NEEA.

Schulte stated that setting the U_o values for the home and letting manufacturers decide how to meet these performance standards encourages innovation by allowing manufacturers to choose higher efficiency windows or other changes to achieve the required U_o values. (Schulte, No. 1028 at p. 23) VEIC recommended considering a compliance option using an Energy Rating Index (''ERI'') compliance alternative, which not only allows for prescriptive and total UA compliance approaches, but also provides performance-based compliance based on annual modeled energy costs of the whole-home. (VEIC, No. 1633 at p. 3) Consistent with the recommendations of the MH working group, the performance requirements in the energy conservation standards are specific to the building thermal envelope only, and do not provide for tradeoffs with mechanical equipment such as appliances. DOE does allow tradeoffs between the building thermal envelope components as long as the Uo is met through the performance path. This is similar to the Total UA path in the IECC. Similar to those sections, a U_o calculation gives the manufactured home manufacturer the flexibility to design the manufactured home, as long as the overall U_o is met.

NEEA recommended that the final rule be explicit about what needs to be included in an installation manual, specifically that the multi-section marriage line air seal shall be installed at the factory with proper QA/QC. (NEEA, No. at p. 14, 15) All requirements in this final rule would apply to the manufactured home as manufactured, *i.e.,* the manufacturer of the manufactured home is responsible for ensuring compliance with the requirements. (42 U.S.C. 17071(c)) A manufactured home would have to comply with the requirements, once finalized, prior to being installed in the field. Therefore, DOE has included a clarification in § 460.1 of the regulatory text that the requirements apply to the manufactured home as manufactured at the factory, prior to distribution in commerce for sale or installation in the field.

ACC FSC stated that the proposed standards do not appear to address, amend, or prohibit use of § 3280.508 of the HUD Code which provides for a so-called ''high efficiency heating and cooling equipment credit'', and requested that this loophole be removed to avoid erosion of durable envelope energy efficiency in trade-off for shorter-lived equipment that happens to exceed NAECA minimum efficiency requirements which, in some key cases, have not kept up with the market. They stated that while DOE indicated that equipment trade-offs are ''only allowed within the building thermal envelope, and not HVAC equipment or other appliances'', this issue still remains unclear in the proposed standards and in DOE's documentation. (ACC FSC, No. 1364 at p. 4–5). EISA directs DOE to establish energy conservation standards for manufactured housing. 42 U.S.C. 17071. As such, § 3280.508 is under HUD's authority and not DOE. However, DOE's energy conservation standards are more stringent than the HUD code in a number of key respects, and manufacturers must comply with both HUD and DOE's requirements. Nevertheless, DOE acknowledges this comment and will plan to coordinate with HUD, as needed, on the application of the DOE requirements in relation to the HUD heat loss/heat gain requirements.

MHI and Clayton Homes recommended clarifying the language in § 460.102 paragraphs (b)(1) and (b)(5) of the proposed regulatory text as follows: adding that the applicable R-value for the prescriptive requirements is the ''nominal value of insulation'', specifying the maximum U-factor as ''glazing maximum U-factor'', and adding that compliance with the applicable requirements in paragraph (b)(1) may be determined using the ''maximum component U-factor'' values set forth in § 460.102 of the proposed regulatory text. (Clayton Homes, No. 1986 at p. 11–13); (MHI, No. 1990 at p. 14, 15) DOE views these additions as adding further specificity to the prescriptive requirements, and therefore has adopted the recommendations.

Finally, MHI recommended that DOE delete the entirety of § 460.3 of the regulatory text, as well as paragraph (c)(2) of § 460.3. In addition, MHI also recommended deleting Tables 460.102–1 and 460.102–3 of the regulatory text as proposed in the August 2021 SNOPR. (MHI, No. 1990 at p. 11, 12, 14, 16) DOE understands MHI's recommended deletion in the regulatory text to suggest that MHI does not recommend a tiered standard, but rather an untiered standard albeit with requirements less stringent than those proposed by DOE. As previously discussed in section III.A of this document, in light of affordability and cost-effectiveness concerns, DOE is adopting the tiered standards in this final rule. Therefore, DOE is maintaining the Tier 1 regulatory text requirements. Otherwise, responses to MHI's recommendations for the prescriptive and performance requirements for the tiered standards are already addressed in previous sections.

c. § 460.103 Installation of Insulation

Consistent with the August 2021 SNOPR, in this final rule, DOE is adopting in § 460.103 of the regulatory text, the requirement for manufacturers to install insulation according to both the insulation manufacturer's installation instructions and the instructions set forth in proposed Table 460.103. § 460.103 specifies requirements for the installation of insulation, which is based on the R402 of the 2021 IECC. DOE is also adopting the requirement for manufacturers to comply with the insulation manufacturer's installation instructions to ensure that the intended performance of the insulation is achieved. Further, consistent with the August 2021 SNOPR, DOE is adopting as part of a new Table 460.103 several component installation requirements, including general requirements, and requirements for access hatches, panels and doors, baffles, ceiling or attic, narrow cavities, rim joists, shower or tub adjacent to exterior wall, and walls, and is removing installation requirements for eave vents.

In addition, in response to comments received on the August 2021 SNOPR proposal, DOE is adding clarifying language for the ''baffles'' component as it relates to air-permeable insulation in vented attics and eave venting, and to the ''Access hatches, panels, and doors'' component as it relates to doors. The installation of insulation requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the installation of insulation requirements proposed in the August 2021 SNOPR.

DOE received comments on the August 2021 SNOPR regarding the language used in Table 460.103, particularly the ''baffles'' component. MHCC commented that DOE should clarify that the requirements for baffles in Table 460.103 should apply when the baffles are used in conjunction with eave venting. (MHCC, No. 1600 at p. 8) The 2021 IECC does not include specification that the installation requirements for baffles are only

applicable when the baffles are used in conjunction with eave venting. However, DOE notes that baffles are typically used in conjunction with eave venting. As such, DOE understands MHCC's recommended change to be more of a clarification specific to manufactured housing. Therefore, in this final rule, DOE is adding clarifying language for ''baffles'' to specify that the requirements apply when they are used in conjunction with eave venting, consistent with the recommendation by the MHCC.

MHI commented that DOE should add a statement clarifying that baffles must extend over the top of the attic insulation ''where insulation is restrained from full depth in order to maintain 1-inch minimum air space between insulation and roof decking.'' (MHI, No. 1592 at p. 26, 27); (Clayton Homes, No. 1589 at p. 10, 13, 16); (MHCC, No. 1600 at p. 2, 3) DOE notes that the proposed August 2021 SNOPR requirement is stronger in terms of maintaining the clear path of airflow between the insulation and the eaves in all cases. Specifically, the baffles component in proposed Table 460.103 states that ''baffles must be constructed using a solid material, maintain an opening equal or greater than the size of the vents, and extend over the top of the attic insulation'' ensuring that baffles are always properly installed, and that insulation does not fall into the vents and block the air path. Adding in MHI's recommended language would lead to ambiguity when determining where baffles must be installed over the top of the attic insulation. Therefore, DOE has chosen to maintain the August 2021 SNOPR requirements.

VEIC commented that it is essential that the factories install solid baffles and venting at the eaves to ensure that compliant insulation levels extend to the outside of the exterior wall, and that there is ventilation along the roof sheathing to prevent moisture issues. (VEIC, No. 1633 at p. 4) DOE appreciates the comment and agrees that this is good building practice. This practice is covered in Table 460.103 under the installation requirements for ''baffles'' and therefore DOE maintains the proposed language in the final rule.

DOE received comments regarding the installation requirements for ''eave vents'' in Table 460.103. MHI and MHCC suggested that the language regarding ''eave vents'' be removed, since it is not within the 2021 IECC and is not relevant to manufactured housing. MHI also said that it should be acceptable to use nonpermeable insulation adjacent to ventilated soffits as long as the required free air path is maintained. (MHI, No. 1592 at p. 18, 27); (MHCC, No. 1600 at p. 8) DOE notes that R402.2.3 of 2021 IECC discusses eave vents as it relates to baffles. Specifically, R402.2.3 includes language that ''for air-permeable insulation in vented attics, a baffle shall be installed adjacent to soffit and eave vents.'' As such, consistent with the 2021 IECC, DOE has removed the separate ''eave vents'' row in Table 460.103, and included the same requirements in the ''baffles'' row instead. Further, DOE notes that this requirement only clarifies insulation installation criteria as it relates to air permeable insulation; the requirement is not restricting use of other insulation products.

DOE also requested comment in the August 2021 SNOPR on whether the 2021 IECC updates on the installation criteria for baffles are applicable to manufactured housing and should be considered in this rulemaking. 86 FR 47744, 47781. DOE did not receive any comments regarding the applicability of these requirements to manufactured homes and is therefore not including them in the final rule.

DOE received a comment regarding a language change for the ''Access hatches, panels, and doors'' component of Table 460.103. MHCC suggested that ''doors'' be deleted from Table 460.103 under ''Access hatches, panels, and doors.'' MHCC stated that doors are commonly used for exterior access of utility and water heater room in certain regions of the country, and they are specified by the U-factor requirements already established in § 460.102. (MHCC, No. 1600 at p. 8, 9) In addition, MHI stated that the requirement that access hatches, panels, and doors between conditioned space and unconditioned space must be insulated to a level equivalent to the insulation of the surrounding surface does not seem to be consistent with the discussion around exterior doors in the earlier section of the proposed standards. (MHI, No. 1592 at p. 7)

DOE understands that there is confusion regarding the door U-factor requirements specified in Table 460.102 compared to the door installation of insulation requirements in Table 460.103. In this final rule, DOE is clarifying the requirements in Table 460.102 specifically relate to attic or crawlspace access doors. External doors, which are used to block or allow access to an entrance of a manufactured home, would be required to meet the requirements in Table 460.102. As such, DOE is retaining the door insulation installation requirements and adding the clarification that it applies to attic and crawlspaces in Table 460.102.

DOE received a comment on the August 2021 SNOPR regarding the language used in Table 460.103, particularly the ''walls'' component. ACC FSC commented that Table 460.103 appears to be restrictive of and only addresses ''air permeable'' insulation products, to the exclusion of many others. Specifically, they identified that the proposed installation requirements state that air-permeable insulation must completely fill cavities, and this potentially excludes or disfavors the use of other cavity insulation materials and methods, such as a combination of closed-cell spray foam and fibrous insulation. (ACC FSC, No. 1364 at p. 5) DOE notes that the wall component specifications only clarify the wall insulation installation criteria as it relates to air permeable insulation. The wall component specifications are not restricting use of other insulation products. The MH working group recommended that DOE modify the language of the 2015 IECC requirement with this clarification to account for the unique design of manufactured housing. See 9/23 Working Group Transcript, EERE–2009–BT–BC–0021–0122 at p. 315. The 2021 IECC did not update the wall insulation installation criteria from the 2015 IECC. Accordingly, DOE continues to include this requirement, as recommended by the MH working group, to ensure that wall assemblies in manufactured homes achieve the thermal performance requirements set forth under § 460.102.

Regarding duct insulation, NEEA recommended that all crossover ducts should have *R*-8 insulation. (NEEA, No. 1601 at p. 14, 15) DOE's research indicates that HVAC ducts are generally located between the floor and the insulation and are therefore within the conditioned space. Therefore, because ducts are already located within the conditioned space, and would already be insulated because of the insulation required within the conditioned space, DOE is not adopting any additional insulation for ducts in this final rule.

NEEA also commented that a clearer definition of how a proper air barrier should be designed was needed to make construction requirements more specific, and to establish a single meaning without ambiguity. (NEEA, No. 190 at p. 2). NEEA did not provide further explanation of how the proposed requirements for an air barrier were lacking or present an opportunity for misapplication. As stated earlier in this section, DOE has listed many specific requirements for proper air barrier installation in Table 460.104. These requirements were based on Table R402.4.1.1 of the 2021 IECC and related

recommendations from the MH working group. Further, DOE reviewed the 2021 IECC to make any additional updates to the air barrier criteria (see Table III.14 in the August 2021 SNOPR).

NEEA also recommended adding a clearer statement that, as installed, insulation should contain no voids or compression. (NEEA, No. 1601 at p. 15) DOE requires that insulation must be installed according to the insulation manufacturer's installation instructions. Certain insulation manufacturer's installation instructions specifically state that compression must be avoided when installing insulation, because compression will reduce the *R*-value. Therefore, DOE continues to find that the requirements proposed in § 460.103 of the August 2021 SNOPR are sufficient to prohibit compression and voids, and will adopt these requirements without change, consistent with R303.2 of the 2021 IECC.

In the August 2021 SNOPR, DOE also requested comment on removing the proposed requirement that exterior floor insulation installed must maintain permanent contact with the underside of the rough floor decking over which the finished floor, flooring material, or carpet is laid. 86 FR 47744, 47780. Commenters supported exempting manufactured housing from the requirement that exterior floor insulation installed must maintain permanent contact with the underside of the rough floor decking. They stated that doing this will result in many design changes which will increase shipping height. (MHI, No. 1592 at p. 25–26); (Clayton Homes, No. 1589 at p. 16–18, 22); (MHCC, No. 1600 at p. 6) As such, DOE is finalizing the August 2021 SNOPR proposal in this final rule.

In the August 2021 SNOPR, DOE also requested comment on the proposal to not require that exterior ceiling insulation must have uniform thickness or a uniform density. 86 FR 47744, 47778. NAHB supported DOE's proposal to not require exterior ceiling insulation to have uniform thickness or density. They also agreed that space constraints make several of the insulation requirements in the 2021 IECC not applicable to manufactured housing. (NAHB, No. 1398 at p. 3) MHI, Clayton Homes and MHCC agreed that manufactured homes should not have a uniform thickness of installation requirement. Installing insulation with a non-uniform thickness is required to construct most manufactured homes due to shipping height restrictions and the need to minimize truss heel height. They provided further supporting information to remove this requirement. (MHI, No. 1592 at p. 25–26); (Clayton Homes, No. 1589 at p. 16–18, 22); (MHCC, No. 1600 at p. 6) As such, in this final rule, DOE is not requiring that exterior ceiling insulation must have uniform thickness or a uniform density.

d. § 460.104 Building Thermal Envelope Air Leakage

Consistent with the August 2021 SNOPR, DOE is adopting § 460.104 to require manufacturers to seal manufactured homes against air leakage. Air leakage sealing limits air infiltration through the building thermal envelope, which in turn reduces heating and cooling loads. Section 460.104 would specify both general and specific requirements for sealing a manufactured home to prevent air leakage, all of which are based on Table R402.4.1.1 of the 2021 IECC with modifications based on recommendations from the MH working group. Term Sheet No. 107 at p. 5. The MH working group also recommended prescriptive air leakage sealing requirements that are designed to achieve an overall air exchange rate of five air changes per hour (''ACH'') within a manufactured home. Term Sheet No. 107 at p. 5.

The general requirements in § 460.104 would require that manufacturers seal all joints, seams, and penetrations in the building thermal envelope to establish a continuous air barrier and use appropriate sealing materials to allow for differential expansion and contraction of dissimilar materials. The specific requirements in Table 460.104 include air barrier criteria for ceiling or attic, duct system register boots, electrical box or phone on exterior walls, floors, mating line surfaces, recessed lighting, rim joists, shower or tub adjacent to exterior wall, walls and windows, skylights and doors. In response to comments, however, DOE is adjusting language for the air barrier installation criteria for ''rim joists'' in Table 460.104 based on a recommendation received from MHI, which is discussed below. The adopted building thermal envelope air leakage requirements would apply to both Tier 1 and Tier 2 homes.

In developing its recommendations, the MH working group also identified concerns regarding the potential impacts of the air sealing requirements on the indoor air quality in manufactured homes, but understood indoor air quality to be outside the scope of the working group. (MH Working Group Meeting Transcript No. 115, pp. 95–96) As such, DOE published the January 2022 DEIS to, in part, address the impacts of DOE's proposed standards on indoor air quality. As discussed more in section V.D, DOE received numerous comments on indoor air quality issues in the January 2022 DEIS, and DOE considered all of the information presented in the analyses and comments from the January 2022 DEIS, and the analyses in the final EIS in constructing this final rule.

The following paragraphs discuss comments DOE received regarding the building thermal envelope air leakage requirements proposed in the August 2021 SNOPR.

DOE received a comment regarding a language change in Table 460.104. MHI recommended removing ''to the sill plate and the rim board'' from Table 460.104 in the ''Rim Joists'' section. MHI stated that mud sill plates are not typically used in manufactured housing and, if used, would be installed on-site by others outside the scope of this rule. (MHI, No. 1592 at p. 19) As DOE understands this situation, a sill plate is the board laid directly on top of the foundation wall attached to the foundation wall with anchor bolts. DOE proposed the aforementioned requirements in the August 2021 SNOPR because the 2021 IECC included the update. However, DOE also requested comment on whether the proposed update applies to manufactured home construction. 86 FR 47744, 47784 Therefore, although the 2021 IECC included updates that the junctions of the rim board to the sill plate and the rim board and the subfloor shall be air sealed, based on MHI's comment, DOE has concluded that sill plates and their air leakage installation criteria are not directly applicable to manufactured housing construction in the factories. To be consistent with EISA in considering the design and factory construction techniques for manufactured homes (42 U.S.C. 17071(b)(2)), DOE has removed ''to the sill plate and the rim board'' from the air barrier installation criteria of the ''Rim Joists'' component of Table 460.104 in the final rule.

DOE received a comment regarding duct sealing methodologies. Schulte commented that the requirement that the duct sealing should be done in accordance with the duct manufacturer's instructions is consistent with the approach used for many manufactured housing systems. (Schulte, No. 1028 at p. 25) DOE notes that this is consistent with what was proposed in the August 2021 SNOPR; therefore, DOE maintains the requirement in the final rule.

DOE received a comment regarding sealing exemptions. MHI recommended that holes in the floor, such as under bathtubs and showers, must be exempted from sealing to permit the

installation of p-traps in 2 x 6 floor systems, because these holes do not allow air intrusion from the exterior because the exterior floor air barrier is the bottom board and is not the floor itself. (MHI, No. 1592 at p. 27–28) DOE understands this comment to mean that holes in the floor must not be sealed to allow future installation of plumbing pipe components. However, DOE's research confirms that the holes in the floor around bathtubs and showers are difficult to go back and fix, and need to be sealed correctly the first time. In addition, DOE's requirement is consistent with the air barrier criteria in Table R402.4.1.1 of the 2021 IECC which states that all holes created by wiring, plumbing or other obstructions in the air barrier assembly shall be air sealed. Therefore, DOE maintains the requirement in the final rule to ensure that efficiency standards are being met.

DOE received several comments regarding the requirements for sealing of duct system register boots. MHI and Clayton Homes stated that in manufactured homes with heat ducts installed in the belly of the home, there is no need to seal the duct register and boots to the sub-floor because they are installed within the thermal envelope. (MHI, No. 1592 at p. 6, 7); (Clayton Homes, No. 1589 at p. 8, 10,11, 15, 20) DOE notes that the duct system register boots requirement is consistent with Table R402.4.1.1 of the 2021 IECC, and additionally states that only the HVAC supply and return register booths that penetrate building thermal envelope shall be sealed to the subfloor, wall covering, or ceiling penetrated by the boot. Therefore, this requirement only applies when the duct system penetrates the building thermal envelope. If the duct system does not penetrate the building thermal envelope, this requirement would not apply. Therefore, to ensure proper sealing for when HVAC supply and return register booths penetrate the building thermal envelope, DOE maintains the requirement in the final rule.

DOE received several comments regarding a language clarification in Table 460.104. MHI, Clayton Homes and MHCC stated that the ''shower or tub adjacent to exterior wall'' component of Table 460.104 should be deleted or clarified to apply only when interior wall surface is used as an air barrier. (MHI, No. 1592 at p. 19); (Clayton Homes, No. 1589 at p. 18); (MHCC, No. 1600 at p. 9, 10) Table R402.4.1.1 of the 2021 IECC states, with regards to the shower/tub on exterior wall component, that the air barrier installed at exterior walls adjacent to showers and tubs shall separate the wall from the shower or tub, and that exterior walls adjacent to showers and tubs shall be insulated. This IECC requirement has been both accepted by the MH working group and has been implemented for years, as it was in the 2015 version of the IECC as well. In addition, having an air barrier between the showers/tubs and the exterior wall is necessary to prevent energy loss through these gaps and to prevent the shower or tub enclosures from getting too cold. Therefore, DOE maintains the requirement in the final rule.

DOE received a comment regarding the air barrier criteria for electrical boxes or phone boxes on exterior walls. MHCC stated that the option to provide an air barrier behind junction boxes or seal around the junction boxes should remain as written in Table 460.104. (MHCC, No. 1600 at p. 9) As such, DOE is finalizing the proposed requirement as it relates to the air barrier installation criteria for electrical boxes or phone boxes on exterior walls.

DOE received comments regarding the air leakage rate target. ACC FSC commented that for HUD zones 2 and 3, the air leakage rate target should be set at 3 air changes per hour at 50 Pascals pressure difference between the inside and outside of the home (ACH50). Further, they stated that the IECC requires whole building air leakage testing with the air barrier installation requirements providing minimum practices to achieve the required air leakage control and recommended that whole building air leakage testing be implemented in a manner that provides assurance of the intended performance on a model-by-model basis, not necessarily for every installation of a model. (ACC FSC, No. 1364 at p. 6) VEIC recommended that the air leakage testing requirement as part of the third-party certification process be included in the HUD Code as follows: Maximum air leakage rate of 5 ACH50 for HUD zones 1 and 2, and maximum air leakage rate of 3 ACH50 for HUD zone 3. (VEIC, No. 1633 at p. 6) MHCC stated that in the absence of building leakage testing criteria, it is unrealistic for the MHCC to provide proper feedback, and that there are current requirements and terminology in the proposed rule that do not apply to manufactured homes. (MHCC, No. 1600 at p. 9)

Conversely, DOE received a comment from MHI saying that there is substantial evidence that the prescriptive building thermal envelope air leakage standards incorporated within the rule are adequate to ensure homes achieve an air leakage rate of 5 ACH50. Further, MHI believes that whole house air leakage testing is unnecessary. (MHI, No. 1592 at p. 27)

The requirement of 5 ACH50 was evaluated by the MH working group. Specifically, the requirements set forth in the working group term sheet were intended to provide a prescriptive path for reaching envelope tightness of 5 ACH when pressurized to 50 Pascals. (Term Sheet, No. 107 at p. 5). Therefore, the rule would not establish maximum building thermal envelope air leakage rate requirements. Instead, the MH working group recommended sealing requirements that would ensure that a home can be tightly sealed with techniques that can be visually inspected, thus minimizing the compliance burden on manufacturers. Because the working group agreed upon the requirements to reach an air leakage rate target of 5 ACH50 to minimize burden, DOE is finalizing requirements that meet that leakage rate in this final rule. Further, as discussed previously, this rulemaking only specifies energy conservation standards for manufactured housing and is not addressing a test procedure in this rulemaking.

In the August 2021 SNOPR, DOE requested comments on whether any other air barrier criteria language for recessed lighting, narrow cavities and plumbing from the 2021 IECC are applicable to manufactured housing. 86 FR 47744, 47784. MHI and MHCC stated that no additional language needs to be added for narrow cavities as any such activities are rare in manufactured housing and when they do occur, they generally do not disrupt the air barrier and are insulated or gasketed. Similarly, they stated that additional information does not need to be added for wiring and plumbing as most often these utilities are routed in the floor systems within the thermal envelope and larger vent piping is already caulked and sealed. (MHCC, No. 1600 at p. 10); (MHI, No. 1592 at p. 27) In addition, MHCC stated that they did not find any additional 2021 IECC updates that would be relevant to manufactured housing. (MHCC, No. 1600 at p. 9) MHI and MHCC stated that recessed lighting housings do not need specification on air leakage rates, as these fixtures are usually insulated contact rated and significantly airtight especially when considering that they are buried in the attic and will be sealed at the ceiling penetration. (MHI, No. 1592 at p. 27–28); (MHCC, No. 1600 at p. 9, 10) Therefore, DOE did not add any additional air barrier criteria language for recessed lighting, narrow cavities and plumbing and maintains the proposed language in the final rule.

Finally, DOE received a comment from MHI recommending that DOE delete the recessed lighting requirements in Table 460.104 of the regulatory text without providing any further justification. (MHI, No. 1990 at p. 19) The proposed recessed lighting air barrier criteria requirement is consistent with Section R402.4.5 of the 2021 IECC, therefore DOE has chosen to maintain this requirement in the final rule.

3. Subpart C: HVAC, Service Water Heating, and Equipment Sizing

Subpart C adopts requirements that are applicable to manufactured homes related to ducts; HVAC; service hot water systems; mechanical ventilation fan efficacy; and heating and cooling equipment sizing. Subpart C requirements would be applicable to all manufactured homes. The following sections provide further details regarding Subpart C.

a. § 460.201 Duct System

In this final rule, DOE is adopting the August 2021 SNOPR proposed duct systems requirements, and is including in § 460.201(a) a requirement that manufactured homes equipped with a duct system be designed to limit total air leakage to less than or equal to 4 cubic feet per minute (''cfm'') per 100 square feet of conditioned floor area when ducts are pressurized to 25 Pascals. DOE determined this requirement to be consistent with section R403 of the 2021 IECC. In addition, DOE also will require that building framing cavities not be used as ducts or plenums under § 460.201(a), consistent with the 2021 IECC and the recommendation of the MH working group (Term Sheet, No. 107 at p. 1). Building framing cavities are typically not tightly sealed and do not provide an adequate barrier against foreign bodies for air quality reasons. The use of building framing cavities as ducts and plenums is generally considered to be poor construction practice and is not a typical practice in the manufactured housing industry. The adopted duct system requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the duct system requirements proposed in the August 2021 SNOPR.

DOE received multiple comments regarding duct leakage testing. NEEA recommended that ductless heat pumps or other HVAC systems with all ductwork placed inside the conditioned space not be required to have duct leakage tested. In addition, NEEA recommended that DOE include language requiring pressure testing of supply ducts during construction. (NEEA, No. 1601 at p. 11, 16) MHCC commented that total duct leakage is not an appropriate test for a manufactured home because the majority of duct work in manufactured homes is within the thermal barrier. (MHCC, No. 1600 at p. 10) MHI also stated that with homes where the duct system is installed in the belly, any duct leakage that may occur is still within the thermal envelope of the home, and that the required testing for the duct leakage limitation is not included in the DOE cost analysis. In addition, MHI recommended DOE clarify the testing requirements to ensure supply duct systems maintain a leakage of less than 4 cfm per 100 square feet of conditioned floor area as installed and tested within the building facility. (MHI, No. 1592 at p. 28) MHI also recommended that DOE add language to specify that ''multi-section homes may have each home section isolated and tested separately'' (MHI, No. 1592 at p. 7, 19–20) Finally, Clayton Homes and MHI advocated for the use of a specific rough-in test method to determine the air leakage of the duct systems, where Clayton Homes elects to include the exception for the case where all ducts and air handlers are located entirely within the building (MHI, No. 1592 at p. 19) (Clayton, No. 1986 at p. 15). DOE appreciates the information received regarding testing and compliance. As discussed previously, this rulemaking only specifies energy conservation standards for manufactured housing and is not addressing a test procedure at this time. However, DOE will consider these comments for any potential future rulemaking.

DOE also received comments regarding language adjustments in § 460.201. MHI recommended specifying in the rule that only the supply ducts be sealed to limit total air leakage to less than or equal to 4 cfm per 100 square feet of conditioned floor area. (MHI, No. 1592 at p. 7, 19–20) MHI also recommended adding sealing provisions to this section regarding metal ducts and fittings, glass fiberboard ducts, connections of installed ductwork, and flexible ducts. (MHI, No. 1990 at p. 20) The August 2021 SNOPR proposal did not specify that duct systems must have supply ducts be sealed to the limit total air leakage or any specific sealing provisions; rather, the proposal generally specified that a manufactured home equipped with a duct system be sealed to limit total air leakage. 86 FR 47744, 47784–47785 As such, DOE notes that the proposed requirements already apply to homes with supply ducts and cover all elements of an air distribution system. In addition, although DOE recognizes the extra provisions recommended by MHI as best practices for installation, in this final rule, DOE is being consistent with the 2021 IECC and allowing the manufacturers to use any appropriate sealing provisions as long as the duct leakage limits are met. Therefore, DOE is finalizing the August 2021 SNOPR proposed requirements.

DOE received comments in support of the requirement to limit duct air leakage to 4 cfm per 100 square feet of conditioned floor area when ducts are pressurized to 25 Pascals. Schulte stated that duct leakage can be a source of energy loss and puts more strain on the HVAC equipment, and that this is a reasonable requirement. (Schulte, No. 1028 at p. 25) NEEA strongly supported DOE's inclusion of limiting duct leakage to the exterior to not more than 4 cfm per 100 square feet and preventing the use of building cavities as ductwork. (NEEA, No. 1601 at p. 10) However, NEEA also recommended that ductless heat pumps or other HVAC systems with all ductwork placed inside the conditioned space not be required to comply with the 4 cfm per 100 square foot requirement. *Id.* DOE notes that the duct leakage requirement only applies to manufactured homes equipped with a duct system (not ductless systems). Further, for manufactured homes, DOE understands that it is not always the case that ducts and air handlers are located entirely within the building thermal envelope. As such, the proposed duct leakage specification applies to all manufactured homes and is consistent with the recommendations provided by the MH working group. *See* Term Sheet at p. 5. Therefore, DOE is adopting the proposed requirement in the final rule.

b. § 460.202 Thermostats and Controls

In this final rule, DOE is adopting the August 2021 SNOPR proposed specifications for thermostats in § 460.202(a) of the regulatory text based on the IECC. Section R403.1 of the 2021 IECC specifies that at least one thermostat shall be provided for each separate heating and cooling system. DOE is also adopting specifications for programmable thermostats in § 460.202(b), based on section R403.1.1 of the 2021 IECC. Section R403.1.1 of the 2021 IECC specifies that the thermostat controlling the primary heating or cooling system must be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set

points at different times of the day. In addition, consistent with the August 2021 SNOPR, DOE is including in § 460.202(c) specifications for heat pumps having supplementary heat, based on section R403.1.2 of the 2021 IECC, which identifies specific controls that prevent supplemental heat operation when the heat pump compressor can meet the heating load. The adopted thermostat and control requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the thermostat and controls requirements proposed in the August 2021 SNOPR.

DOE requested comment on DOE's interpretation of section R403.1 of the 2021 IECC, and on whether there were any of the 2021 IECC updates relevant to manufactured housing that should be considered as part of this rulemaking. 86 FR 47744, 47786. Regarding thermostat control, MHI recommended that programmable thermostats should remain an option for the homebuyer, and any pre-program requirements should be part of regulation requirements on thermostat manufacturers if deemed appropriate rather than on home manufacturers. (MHI, No. 1592 at p. 28) MHI also stated they have observed that many of the current homeowners do not use these thermostats correctly or have replaced them with a simpler version, and that the programmable thermostat is not perceived as ''providing value'' to the current consumer and should not be mandated. (MHI, No. 1592 at p. 7) The proposed requirements for programmable thermostats are consistent with the requirements in Section R403.1.1 of the 2021 IECC. Further, these requirements were recommended to be included by the MH working group. See Term Sheet at 1. Finally, DOE notes that programmable thermostats help consumers save energy by providing the capability to reduce energy use automatically during predetermined times (generally times the home is not occupied). Accordingly, DOE is adopting the August 2021 SNOPR language in this final rule without modifications.

DOE also received recommendations regarding language adjustments in § 460.202. MHI recommended revising § 460.202(b)(3) to the following: ''Homeowner manuals should include recommendation that homeowners program thermostat with a heating temperature set point no higher than 70 °F (21 °C) and a cooling temperature set point no lower than 78 °F (26 °C).'' (MHI, No. 1592 at p. 20). The August 2021 SNOPR originally proposed that any thermostat installed by the manufacturer that controls the heating or cooling system must initially be programmed with the previously mentioned heating and cooling temperature set points, without any specification about the homeowner manuals. The initial heating and cooling temperature set points that DOE proposed are consistent with section R403.1.1 of the 2021 IECC and recommendations from the working group. The 2021 IECC does not specify that it is the homeowner's responsibility for this setting; rather that temperatures are programmed initially by the manufacturer. Accordingly, DOE is adopting the August 2021 SNOPR language in this final rule without modifications.

Regarding thermostat control, NEEA recommended that the final rule be explicit that the electric resistance lockout in central heat pump systems when the outdoor air temperature is greater than 40 °F. (NEEA, No. 1601 at p. 14, 15). While section R403.1.2 of the 2021 IECC provides requirements for the shutoff of heat pumps having supplementary electric-resistance heat under certain conditions, the 2021 IECC does not provide any temperature specifications for this shutoff. Therefore, DOE did not consider this requirement in the energy conservation standards.

c. § 460.203 Service Hot Water

In this final rule, DOE is adopting the August 2021 SNOPR proposed specifications for service hot water in § 460.203(a) that requires manufacturers to install service water heating systems according to the service water heating system manufacturer's installation instructions. Section 460.203 would apply to any service water heating system installed by a manufacturer. In addition, § 460.203 would require manufacturers to provide maintenance instructions for the service water heating system with the manufactured home. These requirements would promote the correct installation and maintenance of service water heating equipment and help to ensure that such equipment performs at its intended level of efficiency.

Further, DOE is adopting the requirement in § 460.203(b) that would require any automatic and manual controls, temperature sensors, and pumps associated with service water heating systems to be similarly accessible. This requirement would ensure that homeowners would have adequate control over service water heating equipment in order to achieve the intended level of efficiency contemplated in 10 CFR part 460. This requirement is consistent with the recommendation of the MH working group. Term Sheet, No. 107 at p. 1.

DOE also is adopting specifications for heated water circulation systems in § 460.203(c) based on section R403.5.1.1 of the 2021 IECC, which provides information on heated water circulation and temperature maintenance systems. The specifications include: (1) Requiring heated water circulation systems be provided with a circulation pump, and that the system return pipe be a dedicated return pipe or cold water supply pipe; (2) prohibiting gravity and thermosyphon circulation systems; (3) requiring that controls for heated water circulation system pumps identify a demand for hot water within the home when starting the pump; and (4) requiring the controls to automatically turn off the pump when the water in the circulation loop is at the desired temperature and when there is no demand for hot water.

Finally, DOE is adopting the requirement that all hot water pipes outside conditioned space be required to be insulated to at least *R*-3, and that all hot water pipes from a water heater to a distribution manifold be required to be insulated to at least *R*-3. These requirements are consistent with the recommendations of the MH working group. Term Sheet, No. 107 at p. 6. The adopted service hot water requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the service hot water requirements proposed in the August 2021 SNOPR.

DOE requested comment in the August 2021 SNOPR on whether the circulating hot water system temperature limit should be included as a requirement due to the update in section R403.5.1.1 of the 2021 IECC which states that the controls of the heated water circulation systems shall limit the temperature of the water entering the cold-water piping to not greater than 104°F (40°C). 86 FR 47744, 47786. In response, MHI stated that circulating hot water systems are not typically used in manufactured homes, and that 24 CFR 3280 already has provisions for scald prevention that limit the temperature of hot water, so additional requirements would be redundant and unnecessary. (MHI, No. 1592 at p. 28) Therefore, DOE did not incorporate a circulating hot water system temperature limit into the final rule.

DOE received a comment regarding water heater insulation. An individual commenter stated that water heater jackets have proven effective at reducing

heat loss and improving energy efficiency and believes that the final rule should incorporate water heater insulation provisions. (Individual commenter, No. 1563 at p. 1) DOE acknowledges that water heater jackets and insulating entire water heater systems would result in higher energy efficiency and more savings for homebuyers. However, water heater jackets were not discussed in the 2021 IECC and are not within the scope of this rulemaking. Specifically, DOE is not proposing energy conservation standards for HVAC, water heaters, lighting, and appliances because the energy efficiency of those products is specifically governed by the comprehensive Appliance Standards program established under EPCA. (42 U.S.C. 6291–6317). However, manufacturers would not be prohibited from installing more efficient products and appliances, as long as the energy conservation standards for manufactured housing established in this final rule are met.

DOE received a comment regarding further pipe insulation. NEEA recommended that pipe insulation be required on the hot water main branch and locations where the insulation is not in direct contact with the pipe or underfloor. (NEEA, No. 1601 at p. 5, 16) DOE's requirement of a minimum R-value for all hot water pipes outside conditioned space, and from a service hot water system to a distribution manifold is consistent with the 2021 IECC and the MH working group recommendation. Term Sheet, No. 107 at p. 6. Therefore, DOE is adopting the hot water pipe insulation requirement from the August 2021 SNOPR. DOE notes that its energy conservation standards do not prohibit manufacturers from employing additional insulation beyond DOE's requirements.

DOE also received a comment regarding language adjustments in § 460.203. MHI recommended deleting the proposed provision requiring that, when service hot water systems are installed by the manufacturer, the manufacturer must ensure that any maintenance instructions received from the service hot water system manufacturer are provided with the manufactured home. (MHI, No. 1592 at p. 20); (MHI, No. 1990 at p. 21) DOE understands MHI's rationale for deleting this proposed requirement to be that typical water heater instructions do not include maintenance instructions because they are readily available online, and that this information is already accommodated in 24 CFR part 3280. As discussed in the August 2021 SNOPR, DOE included this requirement as it would promote the correct installation and maintenance of service water heating equipment and help to ensure that such equipment performs at its intended level of efficiency. 86 FR 47744, 47786. Considering the added instruction would ensure correct installation, DOE continues to include in the requirements that maintenance instructions provided by the service hot water manufacturer must be provided with the manufactured home.

d. § 460.204 Mechanical Ventilation Fan Efficacy

In this final rule, DOE is adopting the August 2021 SNOPR proposed mechanical ventilation fan efficacy requirements, based on Table R403.6.2 of the 2021 IECC. This includes minimum fan efficacy requirements for HRV and ERV, and air handlers that are integrated to tested and listed HVAC equipment, in addition to more stringent minimum efficacy requirements for in-line supply or exhaust fans, other exhaust fans (with separate requirements for fans having a minimum airflow rate of <90 cubic feet per minute (''CFM'') and ≥90 CFM). The adopted mechanical ventilation fan efficacy requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the mechanical ventilation fan efficacy requirements proposed in the August 2021 SNOPR.

DOE received comments regarding current ventilation strategies. ACC FSC commented that DOE's intent to rely on a continuously operated whole-house exhaust fan could create issues with maintaining a healthy indoor environment and humidity control depending on the climate and season of the year. (ACC FSC, No. 1364 at p. 6) ACEEE suggested that it appears to be more typical for homes to use a furnace fan for ventilation and to meet the HUD code, the furnace supply system to be in continuous operation in fan-only mode. (ACEEE, No. 1631 at p. 12) On the other hand, MHCC commented that they agree with not including alternative ventilation strategies since the mitigation measures are already addressed in the HUD Manufactured Home Construction and Safety Standards in § 3280.103(b)(1). (MHCC, No. 1600 at p. 11) In the August 2021 SNOPR, DOE estimated the energy use associated with ventilations by modeling a dedicated central exhaust fan for both the base case representing today's manufactured homes and the standards case representing manufactured homes that would comply with the proposed standards. DOE modeled the ventilation system in this manner because it represents the current requirements under the HUD Code as explained previously. The selection of the central exhaust fan for the energy use modeling was based on analysis from the MH Working Group. DOE acknowledges other ventilation strategies exist, and the requirements in this final rule do not preclude the use of other types of ventilation systems as long as the energy conservation standards requirements are met.

DOE requested comment in the August 2021 SNOPR on the proposal to include the 2021 IECC fan efficacy standard requirements, and if any of the fan efficacy requirements were not applicable to manufactured homes. 86 FR 47744, 47787. MHI stated that DOE must clarify that the requirements of the whole-house mechanical ventilation system do not apply to bath fans and range hoods, which are systems MHI does not believe should be included. (MHI, No. 1592 at p. 21) Separately, MHCC stated that the applicability of the increased efficacy standards would be dependent upon the additional costs associated and return of investment of the increased mechanical ventilation requirements. (MHCC, No. 1600 at p. 11)

As discussed in section III.F.1.b of this document, DOE is amending the definition to ''whole house ventilation system'' in response to MHI's comment and to be consistent with the 2021 IECC. As such, the updated definition now specifically includes the term ''to satisfy the whole house ventilation rates''. Otherwise, to maintain consistency with the 2021 IECC, DOE will not be incorporating extra language to exclude bath fans and range hoods from the definition of whole-house mechanical ventilation system.

Schulte separately stated that consumers will prefer quieter rather than louder mechanical devices as they do with many household appliances, and therefore, it does not appear to be necessary to establish a maximum sound level for ventilation fans. (Schulte, No. 1028 at p. 26) DOE did not propose sound level requirements in the August 2021 SNOPR and continues not to in this final rule.

e. § 460.205 Equipment Sizing

In this final rule, DOE is adopting the August 2021 SNOPR proposed specifications for equipment sizing, based on section R403.7 of the 2021 IECC, which sets forth specifications on the appropriate sizing of heating and cooling equipment within a manufactured home. This section of the 2021 IECC requires the use of ACCA Manual S to select appropriately sized

heating and cooling equipment based on building loads calculated using ACCA Manual J. The MH working group recommended the inclusion of this specification in the final rule. Term Sheet, No. 107 at p. 1. The adopted equipment sizing requirements would apply to both Tier 1 and Tier 2 homes.

The following paragraphs discuss comments DOE received regarding the heating and cooling equipment sizing specifications proposed in the August 2021 SNOPR.

DOE received several comments on the August 2021 SNOPR regarding the removal of ACCA Manual J and ACCA Manual S references. MHI commented that the incorporation of these manuals is an example of trying to use a site-built code for manufactured homes and would restrict current sales practices in the industry especially for retailers located near the Zone boundaries, and that the use of Manual J or Manual S software, as proposed, will add additional time and cost for each model plan submission. (MHI, No. 1592 at p. 7, 21, 24); (Clayton Homes, No. 1589 at p. 8, 9, 12, 15–17, 19–20); (MHCC, No. 1600 at p. 10, 11) MHCC commented that incorporating Manual J and Manual S references will complicate the manufacturing process and will also increase the overall cost of the units, approval time, and frequency of approval. (MHCC, No. 1600 at p. 5)

Further, MHI also commented that ACCA Manual J analysis requires knowledge of the orientation of the home with respect to the sun for cooling load analysis, and that the proposed rule must establish a default orientation. MHI also said that the proposed rule must provide the required design parameters to perform an ACCA Manual J analysis within the context of the three thermal zones in the proposed rule, and that the rule must establish a threshold for requiring a revised Manual J or Manual S analysis. (MHI, No. 1592 at p. 7, 21, 24) In addition, MHCC commented that both Manual J and Manual S consider the orientation and site-specific weather for the home, which is unknown at the time of construction of manufactured homes. (MHCC, No. 1600 at p. 5) MHI and Clayton Homes also suggested that the proposed rule must establish alternate criteria for using ACCA Manual S where the design parameters vary within a thermal zone, because the variation in design parameters within a single thermal zone exceeds the sizing limits of ACCA Manual S. (MHI, No. 1592 at p. 7, 21, 24); (Clayton Homes, No. 1589 at p. 12) Alternatively, MHI and Clayton Homes suggested in their comments submitted in response to the January 2022 DEIS that the requirements to use ACCA Manual S and J in regulatory section 460.205 be deleted entirely. (MHI, No. 1990 at p. 22); (Clayton Homes, No. 1986 at p. 16) Clayton Homes also recommended deleting section 460.3 (b)(1) and (b)(2), which lists ACCA Manual J and Manual S as materials incorporated by reference. (Clayton Homes, No. 1986 at p. 9)

On the other hand, Schulte commented that heating and cooling equipment sizing in accordance with ACCA Manuals J and S have been a part of the IECC for many years, and therefore, including these manuals would be consistent with the EISA. In addition, HUD has included the ACCA Manual J calculation for cooling loads for site installed air conditioners, so ACCA Manual J is already a part of the regulatory system in circumstances where the site of placement is known. (Schulte, No. 1028 at p. 11)

Section R403.7 of the 2021 IECC requires the use of ACCA Manual S and J. Further, the same section states that ''Heating and cooling equipment shall be sized in accordance with ACCA Manual S based on building loads calculated in accordance with ACCA Manual J or other approved heating and cooling calculation methodologies.'' DOE notes that Manual J and Manual S calculations require details such as orientation of the building which are unknown for manufactured housing until placed on site, but that these calculations are an important part of the design process. DOE expects that manufacturers already conduct system sizing calculations using best practices based on the load calculation and system sizing methodology specified in the HUD code.[55] Further, DOE understands that Manual J/S calculations are used in the field based on feedback received and also evidenced by plants which already use software to conduct these calculations. This is confirmed by the lookup tables developed by EnergyStar based on Manual J calculations conducted by the Manufactured Housing Research Alliance for typical home configurations and design conditions across the country.[56] Accordingly, DOE is referencing ACCA Manual J and S as they would apply to manufactured housing design, and is allowing further requirements for ACCA Manual J and S to be consistent with current manufacturer specifications and best practices.

G. Crosswalk of Standards With the HUD Code

DOE compared the energy conservation standards in this final rule to the construction and safety standards for manufactured homes established by HUD to confirm that compliance with the requirements would not prohibit a manufacturer from complying with the HUD Code.

Table III.11 lists the energy conservation standards and discusses their relationship to similar requirements contained in the HUD Code.

TABLE III.11—CROSSWALK OF FINAL RULE WITH THE HUD CODE

DOE final rule (10 CFR part 460)	HUD code (24 CFR part 3280)	Notes
Section 460.101 would establish three climate zones, in line with HUD, delineated by state boundaries. Further, there would be different U_o performance requirements for single- and multi-section homes.	Section 3280.506 establishes three zones delineated by state boundaries. The HUD Code establishes one standard for homes of all sizes within a zone.	

[55] *See* 24 CFR 3280.508.

[56] EnergyStar lookup tables *https://www.energystar.gov/ia/partners/bldrs_lenders_raters/downloads/SizingGuidelines.pdf?59f6-4ecc.*

TABLE III.11—CROSSWALK OF FINAL RULE WITH THE HUD CODE—Continued

DOE final rule (10 CFR part 460)	HUD code (24 CFR part 3280)	Notes
Section 460.102(a) would establish building thermal envelope prescriptive and performance compliance requirements.	Section 3280.506 establishes a performance approach.	Both DOE and HUD performance requirements are based on maximum U_o requirement per zone for the building thermal envelope. DOE, however, established separate U_o requirements per climate zone for single- and multi-section homes, whereas HUD only establishes one U_o requirement, regardless of home size, per zone.
Section 460.102(b) would set forth the prescriptive option for compliance with the building thermal envelope requirements.	Section 3280.506 establishes a performance approach only.	The Battelle Method is used to determine performance standards (in terms of U_o) from prescriptive standards. The DOE performance standards would be prescribed in § 460.102(c)(1).
Section 460.102(b)(2) would establish a minimum truss heel height.	No corresponding requirement.	
Section 460.102(b)(3) would establish an acceptable batt and blanket insulation combination for compliance with the floor insulation requirement in Tier 2 Climate Zone 3.	No corresponding requirement.	
Section 460.102(b)(4) would identify certain skylights not subject to SHGC requirements.	No corresponding requirements.	
Section 460.102(b)(5) would establish *U*-factor alternatives for the *R*-value requirements under 460.102(b)(1).	No corresponding requirements.	
Section 460.102(c)(1) would establish maximum building thermal envelope U_o requirements.	Section 3280.506(a) establishes maximum building thermal envelope U_o requirements by zone.	DOE's maximum building thermal envelope U_o requirements are lower than the corresponding maximum U_o requirements under § 3280.506(a). Compliance with the DOE U_o requirements achieve compliance with the U_o requirements under the HUD Code.
Section 460.102(c)(2) would establish maximum area-weighted vertical fenestration *U*-factor requirements in climate zones 2 and 3.	No corresponding requirements.	
Section 460.102(c)(3) would establish maximum area-weighted average skylight *U*-factor requirements in climate zones 2 and 3.	No corresponding requirements.	
Section 460.102(c)(4) would authorize windows, skylights and doors containing more than 50 percent glazing by area to satisfy the SHGC requirements of § 460.102(a) on the basis of an area-weighted average.	No corresponding requirements.	
Section 460.102(e)(1) would establish a method of determining U_o using the Overall *U*-values and Heating/Cooling Loads—Manufactured Homes, or the Battelle Method.	Section 3280.508(a) and (b) reference the Overall *U*-values and Heating/Cooling Loads—Manufactured Homes, or the Battelle Method.	
Section 460.103 would require insulating materials to be installed according to the manufacturer installation instructions and the prescriptive requirements of Table 460.103.	No corresponding requirements.	
Section 460.103 would establish requirements for the installation of batt, blanket, loose fill, and sprayed insulation materials.	No corresponding requirements.	
Section 460.104 would require manufactured homes to be sealed against air leakage at all joints, seams, and penetrations associated with the building thermal envelope in accordance with the manufacturer's installation instructions and the requirements set forth in Table 460.104.	Section 3280.505 establishes air sealing requirements of building thermal envelope penetrations and joints.	
Section 460.201(a) would require each manufactured home to be equipped with a duct system that must be sealed to limit total air leakage to less than or equal to 4 cfm per 100 square feet of floor area and specify that building framing cavities are not to be used as ducts or plenums when directly connected to mechanical systems.	Section 3280.715(a)(4) establishes requirements for airtightness of supply air duct systems.	

TABLE III.11—CROSSWALK OF FINAL RULE WITH THE HUD CODE—Continued

DOE final rule (10 CFR part 460)	HUD code (24 CFR part 3280)	Notes
Section 460.202(a) would require at least one thermostat to be provided for each separate heating and cooling system installed by the manufacturer.	Section 3280.707(e) requires that each space heating, cooling, or combination heating and cooling system be provided with at least one adjustable automatic control for regulation of living space temperature.	Both DOE's rule and the HUD Code require the installation of at least one thermostat that is capable of maintaining zone temperatures.
Section 460.202(b) would require that installed thermostats controlling the primary heating or cooling system be capable of maintaining different set temperatures at different times of day and different days of the week.	No corresponding requirements.	
Section 460.202(c) would require heat pumps with supplementary electric resistance heat to be provided with controls that, except during defrost, prevent supplemental heat operation when the pump compressor can meet the heating load.	Section 3280.714(a)(1)(ii) requires heat pumps to be certified to comply with ARI Standard 210/240–89, heat pumps with supplemental electrical resistance heat to be sized to provide by compression at least 60 percent of the calculated annual heating requirements of the manufactured home, and that a control be provided and set to prevent operation of supplemental electrical resistance heat at outdoor temperatures above 40°F.	Both DOE's rule and the HUD Code require heat pumps with supplemental electric resistance heat to prevent supplemental heat operation when the heat pump compressor can meet the heating load of the manufactured home.
Section 460.203(a) would establish requirements for the installation of service hot water systems.	No corresponding requirements.	
Section 460.203(b) would require any automatic and manual controls, temperature sensors, pumps associated with service hot water systems to be accessible.	No corresponding requirement.	
Section 460.203(c) would establish requirements for heated water circulation systems.	No corresponding requirements.	
Section 460.203(d) would establish requirement for the insulation of hot water pipes.	No corresponding requirements.	
Section 460.204 would establish requirements for mechanical ventilation system fan efficacy.	Section 3280.103(b) establishes whole-house ventilation requirements.	HUD requirements at § 3280.103(b) do not overlap with DOE's rule. DOE's requirement is for fan electrical efficiency, while HUD requirements specify minimum and maximum air flow rates.
Section 460.205 would establish requirements for heating and cooling equipment sizing.	No corresponding requirements.	

IV. Discussion and Results of the Economic Impact and Energy Savings

A. Economic Impacts on Individual Purchasers of Manufactured Homes

DOE conducted LCC and PBP analyses to evaluate the economic impacts on individual consumers of energy conservation standards for manufactured housing. The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

- The LCC is the total consumer expense of a manufactured home over the life of that home, consisting of total installed cost plus total operating costs. To compute the total operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product (or another specified period).
- The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient manufactured home through lower operating costs.

The LCC of a manufactured home refers to the total homeowner expense over the life of the manufactured home (30 years), consisting of purchase expenses (*e.g.,* loan or cash purchase) and operating costs (*e.g.,* energy costs). To compute the operating costs, DOE discounted future operating costs to the time of purchase and summed them over the 30-year lifetime of the home used for the purpose of analyzing this rulemaking. A 10-year LCC was also calculated to reflect the cost of ownership over the tenure of the first homebuyer based on recommendations from the MH working group. First homebuyer tenancy is estimated to be 13 years; however, DOE did not do a 13-year analysis, and instead approximates first tenancy with the 10-year analysis at the recommendation of the MH working group. DOE calculated the PBP by dividing the incremental increase in purchase cost by the reduction in average annual operating costs that would result from this rule.

In the August 2021 SNOPR and the October 2021 NODA, the LCC analysis demonstrated that increased purchase prices due to the proposed EEMs would be offset by the benefits manufactured home homeowners would experience via operating cost savings. DOE evaluated these projected impacts on individual manufactured home homeowners by analyzing the potential impacts to LCC, energy savings, and purchase price of manufactured homes under the proposed rule. DOE compared the purchase price and LCC for manufactured homes built in accordance with the proposed rule relative to a baseline manufactured home built-in compliance with the minimum requirements of the HUD Code. Specifically, DOE performed

energy simulations on manufactured homes located in 19 geographically diverse locations across the United States, accounting for five common heating fuel/system types and two typical industry sizes of manufactured homes (single-section and double-section manufactured homes).[57] 86 FR 47744, 47790–47805; 86 FR 59042, 59043.

DOE received a number of comments regarding several aspects of the economic impacts on individual consumers described in the August 2021 SNOPR and October 2021 NODA. DOE also received comments pertaining to the methodology and assumptions used in the economic analysis conducted. For this final rule, DOE conducted similar LCC and PBP analyses for the requirements adopted in this final rule. The changes made from the analyses performed for the August 2021 SNOPR and October 2021 NODA are discussed in the following sections, including any changes that DOE has made in the methodology and assumptions, along with a discussion of the submitted comments.

1. Discussion of Comments and Analysis Updates

a. General

UC Law School stated that DOE failed to analyze the findings and relevant information from the 2021 CFPB report and the 2020 U.S. Census Manufactured Housing Survey, thereby risking a finding that its action was arbitrary and capricious. They stated that these documents have relevant information that should be taken into account for the rulemaking process, especially for the financial implications of the proposed rule. (UC Law School, No. 1634 at p. 6, 7, 10) DOE reviewed the updates to the 2021 CFPB and the 2020 MHS in the October 2021 NODA and provided updated analysis results. 86 FR 59042. DOE is incorporating the same updates in this final rule.

Schulte stated that loans made for used homes are likely to be much smaller than for new home loans. Table 4 of the 2021 CPFB report shows a median chattel loan amount is $58,672. Schulte also mentioned that there is currently no government-sponsored enterprise (''GSE'') secondary market for the purchase of chattel manufactured home loans, and that, until private financing sources decide to purchase chattel loan pools or the GSE's move into the chattel loan market, limited lender choice and higher loan rates are likely to persist with regards to purchasing new manufactured homes. (Schulte, No. 1028 at pp. 6, 20) DOE appreciates the comment. As previously mentioned, DOE has updated the analysis to consider the 2021 CFPB. As such, the loan interest rates DOE is using (5 percent for consumers using real estate loans, 9 percent for consumers using chattel or personal property loans) is consistent with the rates used in the 2021 CFPB report (4.6 percent for mortgage/real estate loans and 8.6 percent for chattel loans).

b. Analysis Period for LCC

In the August 2021 SNOPR and the October 2021 NODA, DOE analyzed a 10-year LCC to represent the first ownership period and cost to the first homebuyer, and a 30-year LCC to represent the lifetime of the manufactured home and associated costs, which would represent the total costs and benefits for all occupants over the life of the manufactured home. The 30-year lifetime was selected as a typical length that EEMs last in the aggregate. DOE assumed that the energy efficiency measures (*e.g.,* thicker insulation) had a lifetime of 30 years before requiring replacement. In addition, DOE assumed that the monetary value of those energy efficiency measures depreciated linearly over time to having no value at the end of its lifetime; however, DOE assumed that the effectiveness of these measures does not decrease over time. As noted in the TSD, EEMs may have a shorter lifespan than the home if the measures reduce in efficacy over the 30-year lifetime; to the extent that this is the case, the energy savings presented in IV.D may be reduced. At the end of this 30-year lifetime, the EEMs would have no monetary value. DOE received comments on the analysis period used.

Based on MHI's industry data, they stated that buyers usually sell their homes within seven to ten years of purchase, and therefore it is unlikely that a manufactured homebuyer financing the purchase of a new manufactured home being proposed would even recover these upfront costs at a future sale. (MHI, No. 1592 at p. 4) They stated that at the efficiency levels proposed by DOE, MHI's survey of manufacturers found that it is unlikely that a buyer purchasing a new home and financing 90 percent of the purchase price would even recover these upfront costs at a future sale. *Id*

On the other hand, Schulte stated that the average tenancy for a manufactured home is 14 years, which supports a longer period for the LCC analysis. (Schulte, No. 1028 at pp. 6, 20) NASEO stated that DOE should not consider the benefits of only 10 years for determining cost effectiveness, because it is inconsistent with DOE's previous positions on the average 30 to 40-year lifetime of manufactured homes and an average ownership period of 13 years. They stated that the lifetime of a manufactured home averages 30 years as found by DOE in the June 2016 NOPR, and corroborated by DOE's own findings which indicate that many manufactured homeowners live in their homes for 40 or more years. Furthermore, they commented that DOE's proposed benefit analysis indicates an ''average ownership period of 13 years'' for new homes and states ''62 percent of all homeowners anticipate living in their homes for more than 10 years and that 38 percent of homeowners do not anticipate ever selling their home.'' Accordingly, they stated that DOE should account for the ''total life-cycle construction and operating costs'', as required by EISA. (NASEO, No. 1565 at p. 2)

Next Step commented that HUD's affordability compliance requirements for new housing production are up to 30 years. (Next Step, No. 1617 at p. 7–9) They also stated that two of the most prominent affordable housing, new construction programs (the HOME Program and the Low-Income Housing Tax Credit Program), require affordability compliance periods for 30 years for rental new construction. Accordingly, they recommended that the federal government considers the long-term affordability of this housing stock, and the same principles should be applied to manufactured housing. (Next Step, No. 1617 at p. 5) Further, they stated that the consideration for LCC costs for manufactured homes should be based on 30 years. (Next Step, No. 1617 at p. 6) Schulte also stated that the current HUD thermal standards were based on the useful life of the home (33 years). Manufactured homes once sited are not often moved unless required to do because of a loan default or for other reasons. (Schulte, No. 1028 at p. 17)

DOE appreciates the information provided by these organizations regarding the potential tenure period for the occupants of manufactured homes. Based on a review of the 2019 AHS, the mean year that the householder (owner and renter) moved to a manufactured home is 2008, which equates to 11 years living in the home in 2019. When separating owner and renter, the mean year was 2006 for the owner (equating to 13 years living in the home in 2019) and 2014 for the renter (equating to 5

[57] Double-section manufactured homes were used to represent all multi-section homes. Double-section manufactured homes have the largest market share by shipments (about 98 percent) of all multi-section homes.

years living in the home in 2019). Further, based on the nationally representative housing sample data in the 2019 AHS, the maximum duration for a householder living in the home is 49 years. Separately, a 2012 study conducted by Foremost Insurance Group found that 40 percent of manufactured home homeowners do not anticipate ever selling their manufactured home.[58] Furthermore, a 2021 manufactured housing industry overview fact sheet developed by MHI suggests that 62 percent of all homeowners anticipate living in their homes for more than 10 years and that 38 percent of homeowners do not anticipate ever selling their home.[59] Therefore, there are many factors that may affect the duration of time that a manufactured home remains under a given homeowner and similarly many factors that DOE must consider in developing its analysis. Considering the MH working group agreed on the 30-year and 10-year analysis periods, and analysis conducted by other organizations, including HUD, and the Low-Income Housing Tax Credit Program also conduct their analyses based on a 30-year analysis period, DOE is maintaining both the 30-year and the 10-year analyses.

EISA directs DOE to base the standards on the most recent version of the IECC considering, among other things, the total life-cycle construction and operating costs. (42 U.S.C. 17071(b)(1)) Therefore, based on DOE's reasoning and the comments discussed previously, DOE continued to perform the 30-year analysis to determine the economic impacts, as well as the cumulative benefits over the lifetime of the manufactured home. As such, DOE is considering the total life-cycle costs and operating costs of the standards over a 30-year period in this final rule. Separately, for the purposes of this analysis and based on the range of time periods provided in the comments discussed previously, DOE continues to rely on the 10-year time period as a reasonable representation of the ownership period of the first homebuyer for the overall manufactured housing market as it falls within the middle ground of the ranges described in the 2019 AHS and the comments provided.

c. LCC Methodology

DOE received a number of comments regarding the LCC methodology to capture potential savings related to the rulemaking.

Several commenters stated that using DOE's cost analysis assumptions and the average tenure of a manufactured homeowner, the changes recommended by DOE will actually cost homebuyers money that they will never recoup with energy savings. (MMHA, No. 995 at p. 1–2); (Michigan MHA, No. 1012 at p. 1–2); (WHA, No. 1025 at p. 1–2); (PMHA, No. 1165 at p. 1–2); (Westland, No. 1263 at p. 1–2); (Pleasant Valley, No. 1307 at p. 1); (American Homestar, No. 1337 at p. 1); (Oliver Technologies, No. 1350 at p. 1); (KMHA, No. 1368 at p. 1); (Adventure Homes, No. 1383 at p. 1–2); (NJMHA, No. 1451 at p. 2); (WMA, No. 1452 at p. 1–2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 2); (Skyline Champion, No. 1499 at p.1); (Mississippi MHA, No. 1588 at p. 2) ; (Skyline Champion, No. 1612 at p.2); (Cavco, No. 1622 at p. 2); (VAMMHA, No. 1624 at p. 2)

MHI stated that DOE's analysis uses improper calculations and methodologies. They stated that the proper way to do the cost-benefit analysis is by examining each incremental improvement in efficiency, individually, which DOE did not do, even though DOE developed and promotes a Building Energy Optimization Tool that uses this incremental approach to find the optimum investment. MHI stated that, by combining all the energy measures together into a single figure, the slim benefits of adding the last, least cost-efficient measures, is subsumed in and masked by the benefits of adding the first, most cost-effective measures. (MHI, No. 1592 at p. 4) Further, MHI also commented that many of the locations selected by the DOE for its analysis are not locations where manufactured housing is prevalent. (MHI, No. 1592 at p. 5) Accordingly, MHI performed their own analysis using a down-payment of 10 percent, an interest rate of 9 percent—which MHI stated is at the high end of mortgage rates today—a loan term of 20 years, and a tenancy period of 10 years, MHI's cost-benefit analysis found that the DOE's proposal would result in a net loss for single- and multi-section homes depending on location. (MHI, No. 1592 at p. 4) Cavco commented that the cost benefit analysis should begin at the HUD Code minimum requirements and increase incrementally, taking into account the actual cost and potential savings until the elements are found to produce negative paybacks over a reasonable time period. (Cavco, No. 1622 at p. 3)

Generally, NRDC stated that while the costs of energy efficiency improvements are borne by the first-time owner, the value is reaped by all residents of the product, including renters and the purchasers of existing homes. They stated that neither of these actors has any say in determining energy efficiency unless they choose to perform retrofits, which are much less cost effective than building in the efficiency from the factory. (NRDC, No. 1599 at p. 2)

ACEEE recommended that DOE update the LCC analyses to also include renters. Based on their analysis, they stated that 25 percent of residents in manufactured homes are renters and 29 percent of residents are in homes less than ten years old. For low-income residents, 29 percent are renters (33 percent of those in homes less than ten years old). ACEEE also commented that the analyses should fully include owners with no debt—the percentage of owners (not including renters) with no home loan increases from 30 percent of owners of homes less than 4 years old to 38 percent of homes up to 10 years, 57 percent of homes 11–20 years, 76 percent of homes 21–30 years, and 87 percent of those 31–70 years old. They stated that 82 percent of low-income owners have no debt so, assuming low-income owners disproportionately purchase homes for under $63,000, the percentage of owners with no debt is likely higher for the cheapest homes. (ACEEE, No. 1631 at p. 8–10)

Accordingly, ACEEE referenced a separate white paper they conducted,[60] which suggested the following updates to the DOE LCC analysis. First, ACEEE noted that affordability concerns are greatest for low-income households, only 3 percent of whom own homes that are less than ten years old; these residents tend to rent or to own older homes. If DOE chooses also to do 10-year LCC analyses, ACEEE recommended looking at all types of residents in years 1–10, 11–20, and 21–30 of a home to gain a better understanding of the impact on all residents. They stated that while these residents are roughly included in the 30-year LCC analyses, DOE should either blend these residents into the 10-year LCC analyses or do additional 10-year analyses to consider the impacts on these residents. Second, although income data are limited, ACEEE stated that there is no evidence that taking out

[58] Foremost Insurance Group. 2012 Mobile Home Market Facts.

[59] Manufactured Housing Institute. 2021 Manufactured Housing Facts: Industry Overview.

[60] Bell-Pasht, A., and L. Ungar. 2021. Strong Universal Energy Efficiency Standards Will Make Manufactured Homes More Affordable. Washington, DC: American Council for an Energy-Efficient Economy. *https://www.aceee.org/white-paper/2022/01/strong-universal-energy-efficiency-standards-manufactured-homes.*

chattel loans varies significantly by income level. They stated that median income of borrowers is almost the same for mortgages and chattel loans, per the 2021 CFPB Report. Therefore, ACEEE recommended that residents of single-section (or Tier 1) homes and lower-income residents have the same mix of financing as other residents and that they did not all pay higher interest rates. Third, ACEEE stressed that the EEM costs were too high and so it recommended updating cost estimates for what they claim are ''more recent'' estimates. Finally, ACEEE noted that incorporation of a heat pump water heater as an ''additional efficiency package'' option should be included. In addition, ACEEE performed some modifications to the LCC spreadsheet, including the following: (1) Correcting the property cash flow payments to be in nominal dollars, such that the discounting used for the LCC calculation is consistent; (2) adjusting the incremental property tax payments to decline annually consistent with the residual value assumptions; and (3) adjusting the assumed chattel loan term from 15 to 23 years.

With the updates suggested, ACEEE's study found that a standard at the untiered/Tier 2 level would generate about $900 more in net life-cycle cost savings in the average single-section home than would the weaker standard. Their projected savings are significant in each climate zone, but they are especially striking in the South (Climate Zone 1), which has been the center of affordability concerns. Further, they estimated significantly higher LCC savings than DOE predicted because of the updated financing assumptions and updated cost assumptions. They also performed a 10-year LCC analysis, which suggested that while the first 10 years provides modest savings for the untiered/Tier 2 standards (consistent with DOE's analysis), the net savings from the untiered/Tier 2 standards surpass Tier 1 in the second and especially the third decade, as the energy cost savings continue and the cost (residual value) of the measures decreases. (See A. Bell-Pasht and L. Ungar study).

NEEA also stated that DOE's assumption that Tier 1 MH are only purchased by low-income households and financed by chattel loans is not accurate. (NEEA, No. 1601 at p. 6–9) Joint commenters also stated that the standards and analysis should take into account both the construction costs and the full energy costs for those who can buy new homes, for renters, and for owners of older homes. They commented that only 3 percent of low-income residents of manufactured homes own homes that are less than ten years old, and only 13 percent of low-income residents owe loan debt for their homes (including mortgages and chattel loans). (Joint Comments, No. 1630 at p. 1) Next Step recommended DOE consider that the energy savings should not be calculated based on a simple payback for the first home buyer, but also subsequent purchasers who will benefit over the 40-year life expectancy of the home. (Next Step, No. 1617 at p. 7)

EISA requires that DOE establish energy conservation standards for manufactured housing with consideration of the cost-effectiveness as related to the purchase price and total life-cycle construction and operating costs generally. (42 U.S.C. 17071(b)(1)) As such, the LCC analysis addresses this requirement by incorporating the total homeowner expense over the life of the manufactured home, consisting of purchase expenses (*e.g.,* loan or cash purchase) and operating costs (*e.g.,* energy costs). Further, the LCC analysis focuses primarily on the effects of the rule on the individual consumers of manufactured homes. Finally, the LCC analysis applies to all consumers, regardless of whether they purchase the home from a commercial retailer or an onsite community operator.

DOE used the LCC and PBP analyses developed during the MH working group negotiations to inform the development of the rule based on the economic impacts on individual purchasers of manufactured homes. This includes the locations identified in the analysis—the MH working group selected nineteen cities located throughout each of the IECC climate zones. DOE updated the inputs to the LCC and PBP analyses based on updated references, including Annual Energy Outlook 2021 (''AEO 2021''), 2021 CFPB and the latest U.S. Energy Information Administration (''EIA'') prices. In performing this analysis, DOE analyzed the costs and benefits to consumers over a 10-year analysis period and a 30-year analysis period. The 10-year analysis period represented the cost of ownership over the tenure of the first homebuyer, and the 30-year analysis period reflected the total cost of ownership over the lifetime of the manufactured home. Further discussion on analysis period is provided in IV.A.1.b.

In reviewing the general comments regarding the LCC methodology, DOE agrees with ACEEE and has made the following updates: (1) Correcting all property cash flow payments to be in nominal dollars, such that the discounting used for the LCC calculation is consistent; and (2) adjusting the assumed chattel loan term from 15 to 23 years (per the 2021 CFPB Report). DOE notes that the chattel loan term was adjusted in the October 2021 NODA. 86 FR 59042, 59044. DOE is maintaining the conservative assumption that incremental property tax payments should be held constant, as this was an assumption used by the MH working group, and because property tax is not just based on the value of the home, but also on the home location. Further, DOE is not including any requirements for the additional energy efficiency packages in this final rule, including heat pumps, as discussed in section III.F.2.b of this document. Finally, section IV.A.1.e addresses all comments regarding updating the incremental costs.

As acknowledged by ACEEE, the 30-year LCC analysis roughly includes all residents of manufactured homes, regardless of whether they are a homeowner or a renter. DOE believes the likely effect to renters is that the landlord would pass on their added purchase costs, financing costs and property taxes to the renters, but the renters would reap the same energy savings benefits as already presented in the 10- and 30-year analyses. In addition, as discussed in section IV.A.1.b of this document, DOE is maintaining the 30-year analysis period as a reasonable representation of the total cost of ownership over the lifetime of the manufactured home.

Regarding the 10-year analysis, DOE acknowledges comments that there are all types of residents of manufactured homes, not just the homeowners. Further, DOE acknowledges that including other residents could show additional savings than what was presented in the August 2021 SNOPR and October 2021 NODA. However, the 10-year analysis was included in addition to the 30-year analysis specifically to represent the cost of ownership period over the tenure of the first homebuyer, per the MH Working Group (See page 343 at EERE–2009–BT–BC–0021–0120). To address affordability and the potential adverse impacts on price-sensitive, low-income purchasers of manufactured homes from the imposition of energy conservation standards, DOE maintains the 10-year analysis to continue to represent the first homebuyer only, consistent with the analysis conducted by the MH Working Group.

Further, DOE analyzed Tier 1 considering only personal property (*i.e.,* chattel) loans. 86 FR 47744, 47798. Although the 2021 CFPB presents that

the median income of borrowers of chattel loans is not significantly different than that of mortgage loans ($52,000 vs. $53,000; See Table 7 of the 2021 CFPB), it also notes that borrowers who own their land can either finance their home purchase with a chattel loan or a mortgage, whereas those who do not own their land are typically only able to finance with a chattel loan (see page 33). Therefore, DOE understands that the chattel loan median income in Table 7 of the 2021 CFPB could include both borrowers who own their land and borrowers who do not. However, DOE notes that the Tier 1 analysis represents price-sensitive low-income purchasers, most if not all of whom would be unable to own land. DOE also notes that data presented in 2021 CFPB show that the median chattel loan amount for MH is $58,672 (versus a median amount of $127,056 for MH mortgages). These median loan amounts reflect the price differential between the median single-section and multi-section MH as reported in the MHS PUF 2020 ($57,233 and $108,583, respectively), which supports DOE's choice to use chattel loan rates for all Tier 1 homes (*i.e.,* single-section homes). See Table III.1. Further, as acknowledged by ACEEE, income data as it relates to chattel vs. mortgage loans is limited. As such, DOE maintains the conservative consideration that the Tier 1 analysis would apply only to personal property or chattel loans.

Separately, MHARR stated that the October 2021 NODA assumes a lower inflation rate going forward than the August 2021 SNOPR. However, they suggested that current inflation easily exceeds both numbers cited by DOE and is increasing at a rapid pace. They stated that actual inflation is more than two times the rate estimated by DOE and has increased drastically since the beginning of 2021. They suggested that the latest cost data show that the purchase price impact of the DOE proposed rule would be even greater going forward than projected by the August 2021 SNOPR, and would undermine the inherent affordability of manufactured housing contrary to law. (MHARR, No. 1640 at p. 6, 7)

DOE understands that there may be uncertainties regarding inflation rates and future prices of energy. In the August 2021 SNOPR, the inputs used in the LCC analysis, including inflation rates, energy prices and their escalation rates, were based on the *AEO 2020* and Short-Term Energy Outlook studies, prepared by the U.S. EIA. In the October 2021 NODA, DOE updated the AEO source to the latest version, which is *AEO 2021*.[61] Further, DOE updated the electricity prices from the EIA *Short-Term Energy Outlook*.[62]

The *AEO* presents long-term annual projections of energy supply, demand, and prices. The projections, focused on U.S. energy markets, are based on results from EIA's National Energy Modeling System (''NEMS''). NEMS enables EIA to make projections under internally consistent sets of assumptions. DOE has determined these studies are the best current and future estimates of inflation, energy prices and escalation rates and uses these studies in support of all of its energy conservation standard rulemakings. In the final rule, DOE proposes to maintain the same source for establishing inflation rates, energy prices and escalation rates as the October 2021 NODA, which was *AEO 2021.*

d. Payback Periods

DOE also received several comments regarding PBP results relating to the LCC and homeownership periods.

NAHB supported a 10-year simple payback as a primary standard for evaluating the cost effectiveness of energy saving measures. They stated that their policy of a 10-year simple payback for mandatory energy measures is based on consumer preferences as determined and confirmed over many years through consumer surveys conducted by its Economics Department and suggested that regulations that exceed a 10-year simple payback should be supported by incentives and voluntary programs. NAHB also identified that 12 out of 19 cities would see paybacks over 10 years for single-section and multi-section homes. Accordingly, they strongly encouraged that DOE re-consider the impact that the Tier 2 and an untiered approach would have on the ability for hundreds of thousands of Americans to be able to afford these homes. (NAHB, No. 1398 at p. 2)

TMHA believed that payback periods across the climate zones should be no longer than four years for all homes. (TMHA, No. 1628 at p. 3) NRECA commented that the payback period in the SNOPR for adhering to the 2021 IECC standard is over 10 years, which is too long for price-sensitive consumers. (NRECA, No. 1406 at p. 5) Further, NRECA commented that any new costs added to the manufactured home will impact the monthly financing payment for the home and thus will impact what the consumer chooses. Therefore, they suggested increasing that cost per month because of efficiency upgrades must have a quick payback to appropriately balance affordability issues. (NRECA, No. 1406 at p. 4)

On the other hand, Schulte stated because the current HUD thermal standards were based on the useful life of the home (33 years), a payback period of 6–8 years would substantially understate the benefits of the proposed energy standards and is inconsistent with life-cycle methodologies adopted by DOE and HUD. (Schulte, No. 1028 at p. 17, 18) Next Step stated that according to the National Association of Realtors, as of 2018, the median duration of homeownership in the U.S. is 13 years. In addition, they stated that according to MHI, 62 percent of all residents anticipate living in their homes for more than 10 years, and 38 percent do not expect to sell their homes. (Next Step, No. 1617 at p. 7)

Table IV.7 provides the results for DOE's simple payback period analysis for the rule, broken out by climate zone for Tier 1 (single-section) and Tier 2 (multi-section) homes. These resulting simple payback periods indicate that the first homeowner would gain a net benefit and would realize positive net savings from the proposed energy standards prior to the 10-year mark. As previously discussed, based on the 2019 AHS, the mean homeowner duration is 13 years. The national average simple payback period of a Tier 1 standard is 3.7 years for single-section homes, and for a Tier 2 standard is 8.9 years for multi-section homes, although these results vary by location. The Tier 2 standard simple PBP exceeds 13 years for one city, San Francisco.

e. Incremental Cost

In the August 2021 SNOPR, DOE determined the incremental cost to the consumer (*i.e.,* incremental purchase price) by calculating the difference in the EEM costs of DOE-compliant and minimally-compliant HUD homes. These incremental costs correspond to the purchase prices seen by the homeowner, and thus account for manufacturer and retail markups. DOE based the incremental costs on those costs provided and agreed to by the MH working group. ASRAC Cost Analysis Data, EERE–2009–BT–BC–0021–0091.

DOE received a comment indicating that the cost of labor, overhead, and profit has been underestimated in DOE's cost analysis. MMHA suggested that DOE should be accounting for the costs of additional labor or the additional

[61] Energy Information Administration. Annual Energy Outlook 2021 with Projections to 2050. (2021).

[62] Energy Information Administration. Short-Term Energy Outlook: Real Prices Viewer. Available at: *www.eia.gov/forecasts/steo/realprices/.*

overhead and profit that would be associated with the higher home cost. In addition, MMHA stated that they conducted an independent cost-benefit analysis using DOE's assumptions of cost and location and concluded that the proposal would add at a minimum of almost $1,000 to the cost of a new single-section home and up to $5,500 to the cost of a multi-section home depending on location. (MMHA, No. 995 at p. 3) MHI stated that DOE's proposal is based on improper calculations and methodologies, including underestimating the current cost of homes and the costs of the new materials to construct them. (MHI, No. 1592 at p. 4–6, 25) Earthjustice and Prosperity Now commented that the costs used in the analysis are no longer relevant but did not provide any updated costs. (Earthjustice and Prosperity Now, No. 1637 at p. 8) MHARR stated that DOE failed to consider the most recent cost data. (MHARR, No. 1640 at p. 2–4) TMHA commented that the pricing data that DOE uses has a tremendous amount of lag. (TMHA, No. 1628 at p. 2) RECA also comments that Tier 1 appears to be based on cost information submitted by one or more manufacturers with no real connection to the model energy codes. (RECA, No. 1570 at p. 2, 7)

DOE also received several comments about additional construction costs. Multiple organizations commented that the DOE analysis assumes that the floor joists are 2 x 6 with insulation up to and including R–22, and 2 x 8 floor joists insulated to R–30 and above. However, according to these commenters, currently, 90 percent of floors produced use 2 x 6 floor joists. Therefore, the commenters stated that the increased joists depth (*i.e.,* going to 2 x 8 floor joists) will add approximately a 33 percent material cost increase which will be around $200 per 14 x 76 floor. The commenters also stated that this 2-inch floor joist change will also increase the shipping height. (MHI, No. 1592 at p. 25–26); (Clayton Homes, No. 1589 at p. 16–18, 22); (MHCC, No. 1600 at p. 6) MMHA and many other organizations raised similar concerns, questioning if DOE considered the cost of changing from 2 x 6 to 2 x 8 floor joists. They also stated that placing more than R–11 blankets under the floor joists cannot be done without offsetting outriggers and providing blocking between joists because compressing more than R–11 insulation between an outrigger and a joist results in noticeable humps in the floor at each outrigger location, and questioned whether DOE accounted for these additional costs in the analysis. (MMHA, No. 995 at p. 2); (Michigan MHA, No. 1012 at p. 1–2); (WHA, No. 1025 at p. 1–2); (PMHA, No. 1165 at p. 1–2); (Westland, No. 1263 at p. 1–2); (Pleasant Valley, No. 1307 at p. 1–2); (American Homestar, No. 1337 at p. 1–2); (Oliver Technologies, No. 1350 at p. 1–2); (KMHA, No. 1368 at p. 1–2); (Adventure Homes, No. 1383 at p. 1–2); (Clayton Homes, No. 1589 at p. 22). Additionally, NAHB encouraged DOE to work directly with the producers of manufactured homes to validate the construction cost numbers used in the cost effectiveness analysis because costs have increased substantially over the last two years. (NAHB, No. 1398 at p. 2)

DOE also received multiple comments on the cost of testing and compliance. Multiple commenters stated that DOE underestimated the costs of new materials to construct homes and did not consider the cost of testing and compliance in the analysis. (MMHA, No. 995 at p. 1–2); (Michigan MHA, No. 1012 at p. 1–2); (WHA, No. 1025 at p. 1–2); (PMHA, No. 1165 at p. 1–2); (Westland, No. 1263 at p. 1–2); (Pleasant Valley, No. 1307 at p. 1); (American Homestar, No. 1337 at p. 1); (Oliver Technologies, No. 1350 at p. 1); (KMHA, No. 1368 at p. 1); (Adventure Homes, No. 1383 at p. 1–2); (NJMHA, No. 1451 at p. 2); (WMA, No. 1452 at p. 1–2); (IMHA/RVIC, No. 1466 at p. 2); (Cavco, No. 1497 at p. 2); (Skyline Champion, No. 1499 at p.1); (Mississippi MHA, No. 1588 at p. 2); (Skyline Champion, No. 1612 at p.2); (Cavco, No. 1622 at p. 2); (VAMMHA, No. 1624 at p. 2) MHARR claimed that, in DOE's cost-benefit analysis, DOE does not include estimated costs for testing, enforcement, regulatory compliance, or costs related to regular changes to the IECC, therefore making DOE's cost analysis invalid. (MHARR, No. 1640 at pp. 7, 8) In addition, NAHB stated that the insulation requirements in the 2021 IECC greatly increase the cost compared to the 2018 IECC, specifically mentioning the ceiling insulation. (NAHB, No. 1398 at p. 3) In addition, Skyline Champion suggested that expenses associated with design package updates, truss re-designs, structural and thermal calculation revisions, quality process updates, manufacturing process changes, and procurement modifications will contribute significantly to costs associated with implementation and compliance requirements. (Skyline Champion, No. 1612 at p. 2)

Conversely, ACEEE conducted its own research and concluded that DOE overestimated the material and incremental costs in its cost analysis. ACEEE recommended that DOE reconsider the cost of continuous insulation since there is evidence the price at scale will be lower than what DOE estimated, and suggested that DOE should estimate the costs for widespread implementation under a standard. DOE used an installed cost of $0.98/sf from RS Means 2020 construction cost estimating software. With an opaque wall area of 1,053 square feet (''sf'') for single-section homes and 1,036 sf for double-section homes, as in DOE's SNOPR analysis, ACEEE suggested that this would correspond to a price of about $1,000. They stated that this is confirmed in the previously mentioned study by E. Levy et al.,[63] which for adding foam sheathing (wall insulation from House B to House C in Table 39) found a cost of $936. (ACEEE, No. 1631 at p. 10–11) In addition, ACEEE recommended reconsidering the cost of windows. ACEEE stated the Environmental Protection Agency conducted field research on current prices for windows (for a 12-window replacement project in site-built homes) and estimated that the price difference per 15 sf window from low-e (U-factor 0.32–0.35) to add argon (0.28–0.31) is $6, to lower SHGC is $7.5, and for two coatings with argon (0.24–0.26) is $29 per window (with much lower component costs), which corresponded to a total price difference of roughly $44 for a single-section home or $75 for a double-section home to add argon, and $214 or $363 for windows (based on 111 and 188 sf of windows respectively). They stated that Faithful + Gould's 2012 report to PNNL[64] estimated a $4.18/sf difference for 0.50 vs 1.2, $0.89/sf difference for 0.35 vs 0.5, $0.18/sf for 0.32 vs 0.35, and $1.15/sf for 0.3 vs 0.32, and this corresponded to a single-section cost for Tier 2 of $583 in Climate Zone 1 and $99 in Climate Zone 2 in 2011 dollars (not including the cost of adding argon and improving SHGC in Climate Zone 2, which per ENERGY STAR data might add $100). They stated that the E. Levy et al. study found a cost for a single-section home of $1,382 for single-pane +storm (U-value 0.47/SHGC 0.73), $218 more for double-pane low-e (0.31/0.33), and $600 for advanced argon-filled (0.30/0.23). ACEEE stated that, while not consistent, these costs are all much lower than in DOE's current analysis, and after adjusting to 2023 dollars, ACEEE found that with the EPA report, estimates

[63] *See, e.g.,* costs and savings in E. Levy, et al., Field Evaluation of Advances in Energy Efficiency Practices for Manufactured Homes (DOE, 2016), *https://www.nrel.gov/docs/fy16osti/65436.pdf.*

[64] Faithful+Gould, Residential Energy Efficiency Measures: Prototype Estimate and Cost Data, Revision 6.0 (2012), Tables 5.2.1 and 2.5.

would reduce the estimated initial cost of Tier 2 by $900 to $1,500 for single-section homes and $1,500 to $2,100 for multi-section homes, depending on climate zone. (ACEEE, No. 1631 at p. 11–12)

Separately, NEEA also commented that the cost considerations used in the SNOPR analysis should be revaluated because they are too high, resulting in an underestimation of cost effectiveness of a more stringent energy code. NEEA provided information based on factory experience in the Northwest reflecting fully operationalized cost, claiming that if DOE uses these values, payback periods would be reduced by up to 42 percent. NEEA elaborated, stating that manufacturers will have lower cost at scale, especially if DOE employs an options table that enables trade-offs with house size and mechanical equipment. (NEEA, No. 1601 at p. 6–9) NEEA also states that the incremental costs experienced in the Northwest are substantially lower than the values DOE used because manufactured homes are value engineered to cut costs. They stated factories find ways to achieve U_o values using building science to reduce heat transfer paths. (NEEA, No. 1601 at p. 7–8) Further, NEEA stated that in the Northwest housing market, manufactured homes built to HUD Code use 2x6 frame construction rather than 2x4 construction, and if cost per square foot was based on interior floor area, then homes built to the HUD Code in the Northwest would logically use 2x4 frame construction. *Id.* NRDC recommended that DOE take note that the ASHRAE standard allows manufacturers to take credit for compliance for several other measures, such as higher HVAC and water efficiency, ductless heat pumps, high-efficiency appliances and plumbing fixtures, etc. NRDC stated that these new options will decrease costs of various energy efficiency measures. (NRDC, No. 1599 at p. 5–6)

In the August 2021 SNOPR, DOE discussed that the incremental costs used were based on those provided by the MH working group, which represented small, medium and large manufacturers. Further, to corroborate that the costs were still relevant, DOE reviewed the RS Means 2020 and concluded that the estimates by the MH working group continued to remain mostly relevant. 86 FR 47744, 47794. For this final rule, DOE conducted another review of the cost analysis of the different energy efficiency measures to be employed as a result of this rule (ceiling, wall, floor, and window insulation). For this evaluation, DOE used the costs provided by the stakeholders in response to the August 2021 SNOPR and the October 2021 NODA, as summarized previously, in addition to costs available through RS Means 2020, the 2021 IECC,[65] ASHRAE,[66] and costs provided in response to the June 2016 NOPR that DOE evaluated in the August 2021 SNOPR. From this analysis, DOE again concluded that the cost data DOE used in the analysis relating to wall, floor, and window insulation are all within the range of values from the different sources reviewed. For the cost of ceiling insulation, however, DOE notes that the cost data DOE used is slightly higher than the information provided by the stakeholders, although not unreasonable. Accordingly, DOE concludes that the incremental costs evaluated for the rule are reasonable when compared to the range of cost values provided by stakeholders and determined through other references, as previously discussed. With regards to labor costs, DOE notes that the incremental costs provided by the MH working group were costs relative to the purchase prices made available to the home buyer, which includes labor costs as well as markups to account for manufacturer overhead and profits. As such, the incremental costs should already accommodate costs beyond just the manufacturer production cost. Further, DOE discusses in section III.F.2.b of this document that the amended standards would not require changes in exterior home dimensions and can be accommodated using current home construction techniques. Therefore, the amended standards would primarily require choosing the appropriate EEMs to meet the adopted prescriptive or performance requirements. Finally, DOE performed an MIA to estimate the potential financial impact of energy conservation standards on manufacturers of manufactured homes, which is discussed further in section IV.B. of this document.

As discussed in sections III.D and III.E of this document, DOE is not addressing test procedure or compliance issues in this rulemaking, and therefore has not incorporated any of those attendant costs in the analysis at this time. As noted previously, many of the requirements in the standards would require minimal compliance efforts (*e.g.,* documenting the use of materials subject to separate Federal or industry standards, such as the R-value of insulation or U-factor values for fenestration), and therefore such efforts would result in minimal additional costs to manufacturers. Moreover, DOE continues to work with HUD on potential approaches for testing, compliance, enforcement and labeling that may leverage the existing HUD inspection and enforcement process to ensure manufacturer compliance with the standards in a manner that is not overly burdensome or costly to manufacturers.

DOE also received a comment mentioning the costs of truss redesign, testing, and approval. MHCC stated that getting a truss tested and approved for use in accordance with the HUD standard could cost upwards of $2,500 per design. In addition, any modifications to the heel height would create additional cost and transportation issues that were not considered by DOE, and any increase in the shipping height of a home would lead to additional costs such as rerouting units, pilot vehicles, and/or redesign of units. (MHCC, No. 1600 at pp. 7, 12–13) As discussed in section III.F.2.b of this document, DOE remains unconvinced that truss redesigns are needed to comply with the amended energy conservation standards. Further, DOE is no longer including the exterior wall continuous insulation requirement, which should resolve a number of issues related to shipping width of the home. In addition, DOE notes that the standards developed take into consideration the dimensional limitations of the home and consider the design and factory construction techniques of manufactured homes, as well as the associated incremental costs. As noted previously in section III.F.2.b, DOE has concluded that the amended standards would not require changes in exterior home dimensions and cause transportation issues. Finally, to the extent redesigns are necessary, DOE addresses the costs associated with model plan updates for the standards as part of the MIA.

DOE also received a comment regarding the cost of insulation installation practices. Schulte said that there appears to be a lack of current research about the individual costs and benefits of the items noted in Table 460.103 and their application to manufactured homes. (Schulte, No. 1038 at pp. 6, 12, 23) DOE does not anticipate any incremental costs associated with the proper building practices of correctly installing insulation as listed in Table 460.103, as these installation practices have been

[65] National Cost Effectiveness of the Residential Provisions of the 2021 IECC: Available at *https://www.energycodes.gov/sites/default/files/2021-07/2021IECC_CostEffectiveness_Final_Residential.pdf.*

[66] Available at *https://www.ashrae.org/file%20library/technical%20resources/research/ashrae-d-rp1481-20090630.pdf.*

widely accepted by industry for many years.

2. Results

This section provides the results for the projected economic impacts on individuals, including the LCC and PBP.

DOE also used different loan parameters for the tiered standard. This is because the Tier 1 and Tier 2 standards each would apply to a portion of all manufactured homes. Specifically, the Tier 1 standard would apply to single-section manufactured homes and would be applicable to price-sensitive, low-income purchasers. This is consistent with data presented in 2021 CFPB, which show that the median chattel loan amount for MH is $58,672 (versus a median amount of $127,056 for MH mortgages).[67] These median loan amounts reflect the price differential between the median single-section and multi-section MH as reported in the MHS PUF 2020 ($57,233 and $108,583, respectively). See Table III.1. Further, the 2021 CFPB notes that those who do not own their land are typically only able to finance with a chattel loan. Therefore, DOE considered only personal property loans for the Tier 1 standard analysis. For the Tier 2 standard, DOE recalculated the loan percentages such that the sales-weighted Tier 1 and Tier 2 standard loan percentages would equate to the overall loan percentages agreed upon by the MH working group. See Table IV.1 for details on the loan parameter percentages used for the analyses.

TABLE IV.1—LOAN PARAMETER PERCENTAGES

	Personal property (%)	Real estate (%)	Cash (%)
Tier 1 Standard	100.0	0.0	0.0
Tier 2 Standard	39.5	20.5	40.0
Overall	54.6	15.4	30.0

The LCC analysis allowed DOE to analyze the effects of the energy conservation standards on both the individual consumer, as well as the aggregate benefits at the national level. Table IV.2 and Table IV.3 provide the average purchase price increases to manufactured homes associated with the HUD zones.

TABLE IV.2—NATIONAL AVERAGE MANUFACTURED HOUSING PURCHASE PRICE (AND PERCENTAGE) INCREASES UNDER TIER 1 STANDARD

[2020$]

	Tier 1 standard	
	$	%
Climate Zone 1	$627	1.1
Climate Zone 2	627	1.1
Climate Zone 3	719	1.3
National Average	660	1.2

TABLE IV.3—NATIONAL AVERAGE MANUFACTURED HOUSING PURCHASE PRICE (AND PERCENTAGE) INCREASES UNDER TIER 2 STANDARD

[2020$]

	Tier 2 standard	
	$	%
Climate Zone 1	$4,131	3.8
Climate Zone 2	4,438	4.1
Climate Zone 3	4,111	3.8
National Average	4,222	3.9

Figure IV.1 illustrates the average annual energy cost savings for space heating and air conditioning for the first year of occupation by geographic location under the standards based on the estimated fuel costs provided in chapter 8 of the Final rule TSD.

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[67] CFPB report, 2021. *https://files.consumerfinance.gov/f/documents/cfpb_manufactured-housing-finance-new-insights-hmda_report_2021-05.pdf.*

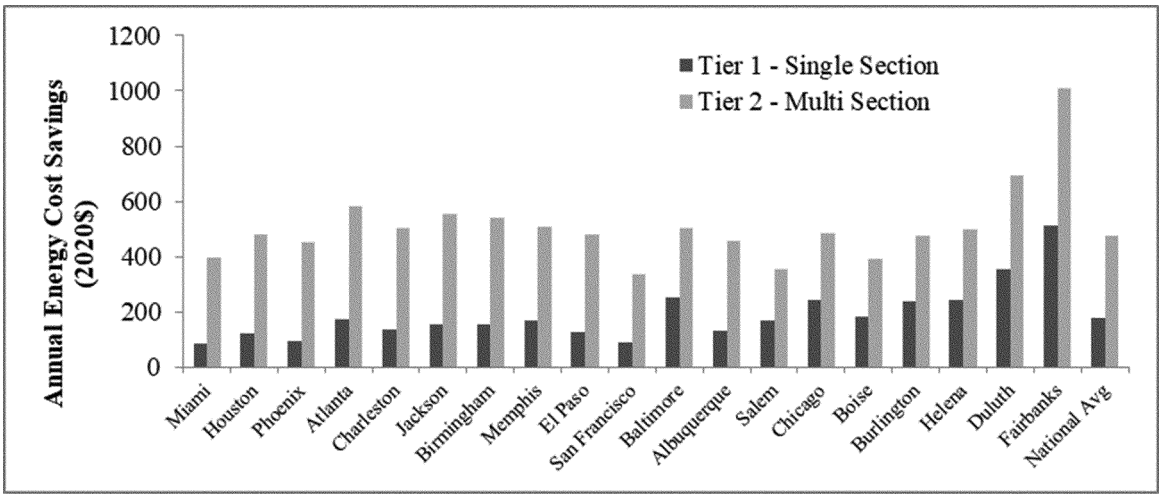

Figure IV.1 Annual Energy Cost Savings under the Standard

Table IV.4, and Figure IV.2 illustrate the average 30-year LCC savings by geographic location (averaged across the five different heating fuel/system types) associated with both single-section and multi-section manufactured homes. As discussed in detail in chapter 8 of the final rule TSD, the results presented account for LCC savings and impacts over a 30-year period of analysis, including energy cost savings and chattel loans or conventional mortgage payment increases discounted to a present value using the discount rates discussed in chapter 4 of the final rule TSD.

TABLE IV.4—AVERAGE MANUFACTURED HOME LCC SAVINGS (30 YEARS) UNDER THE TIER 1 AND TIER 2 STANDARDS BY CLIMATE ZONE

[2020$]

	Single-section (Tier 1)	Multi-section (Tier 2)
Climate Zone 1	$1,020	$3,698
Climate Zone 2	1,123	3,060
Climate Zone 3	2,565	3,960
National Average	1,594	3,573

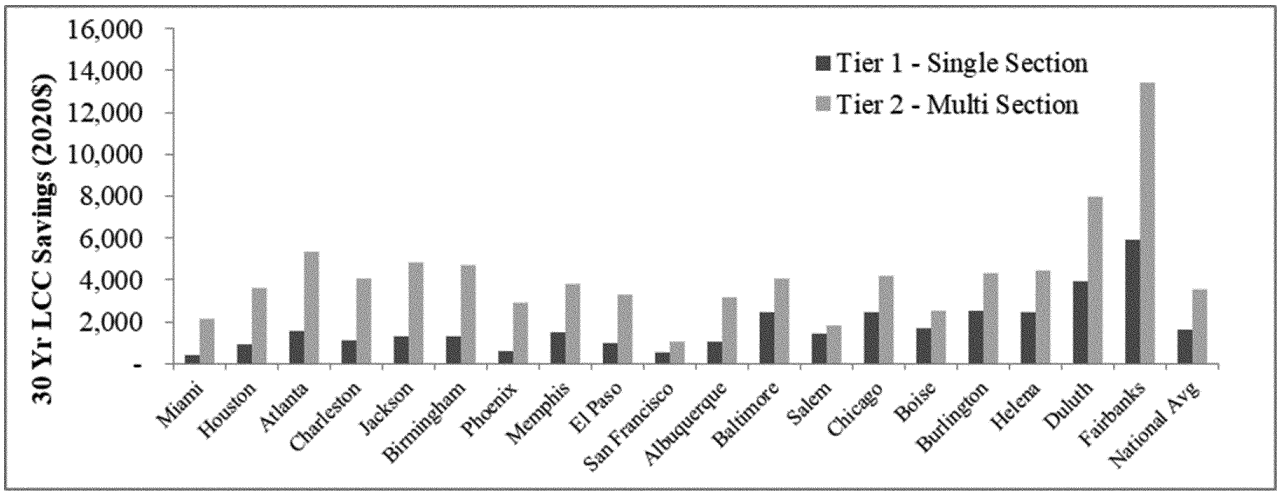

Figure IV.2 Thirty-Year Life-cycle Cost Savings under the Standard

Table IV.5, and Figure IV.3 illustrate the average 10-year LCC savings by geographic location (averaged across the five different heating fuel/system types) associated with both single-section and multi-section manufactured homes.[68]

TABLE IV.5—AVERAGE MANUFACTURED HOME LCC SAVINGS (10 YEARS) UNDER THE TIER 1 AND TIER 2 STANDARDS BY CLIMATE ZONE

[2020$]

	Single-section (Tier 1)	Multi-section (Tier 2)
Climate Zone 1	$427	$863
Climate Zone 2	480	477
Climate Zone 3	1,217	873
National Average	720	743

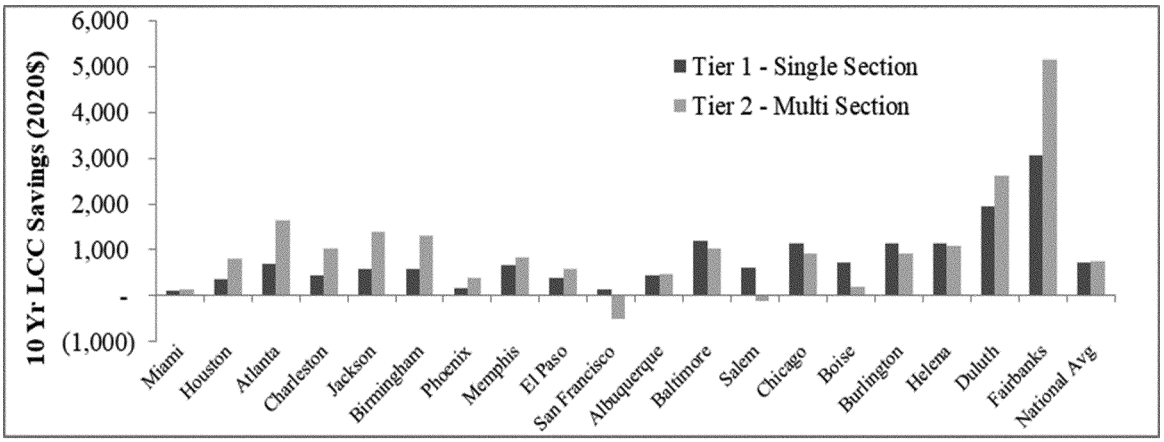

Figure IV.3 Ten-Year Life-cycle Cost Savings under the Standard

The estimated LCC impacts under Figure IV vary by location for three primary reasons. First, each geographic location analyzed is situated in one of three climate zones and therefore would be subject to different energy conservation requirements. Second, geographic locations within the same climate zone would experience different levels of energy savings. Finally, the level of energy cost savings depends on the type of heating system installed and fuel type used in a manufactured home. As discussed in chapter 8 of the final rule TSD, DOE has accounted for regional differences in heating systems and fuel types commonly installed in manufactured housing.

Table IV.6 provides the national average LCC savings and annual energy cost savings associated with the standards for space heating and air conditioning (and percentage reduction in space heating and cooling costs), both of which are measured against a baseline manufactured home constructed in accordance with the HUD Code. As discussed in further detail in chapter 8 of the final rule TSD, each geographic location has been determined to result in positive 30-year LCC savings and energy savings.

TABLE IV.6—NATIONAL AVERAGE PER-HOME COST SAVINGS UNDER THE FINAL RULE

	Tier 1 standard (single-section)	Tier 2 standard (multi-section)
Life-Cycle Cost Savings (30 Years)	$1,594	$3,573
Annual Energy Cost Savings (2020$)	177	475

Table IV.7, and Figure IV.3 illustrate the nationwide average simple payback period (purchase price increase divided by first year energy cost savings) under the energy conservation standards. The estimated simple payback periods vary by geographic location based on the different climate zone requirements for manufactured housing, geographic climatic differences within climate zones, type of heating system installed, and fuel type used in a manufactured home.

[68] Although Tier 2 homes (multi-section) in climate zone 2 and 3 on average show positive LCC savings, San Francisco (in climate zone 2) and Salem (in climate zone 3) result in negative LCC savings.

TABLE IV.7—AVERAGE MANUFACTURED HOME SIMPLE PAYBACK PERIOD UNDER THE TIER 1 AND TIER 2 STANDARDS BY CLIMATE ZONE

	Single-section (Tier 1)	Multi-section (Tier 2)
Climate Zone 1	4.7	8.5
Climate Zone 2	4.5	9.6
Climate Zone 3	2.9	8.6
National Average	3.7	8.9

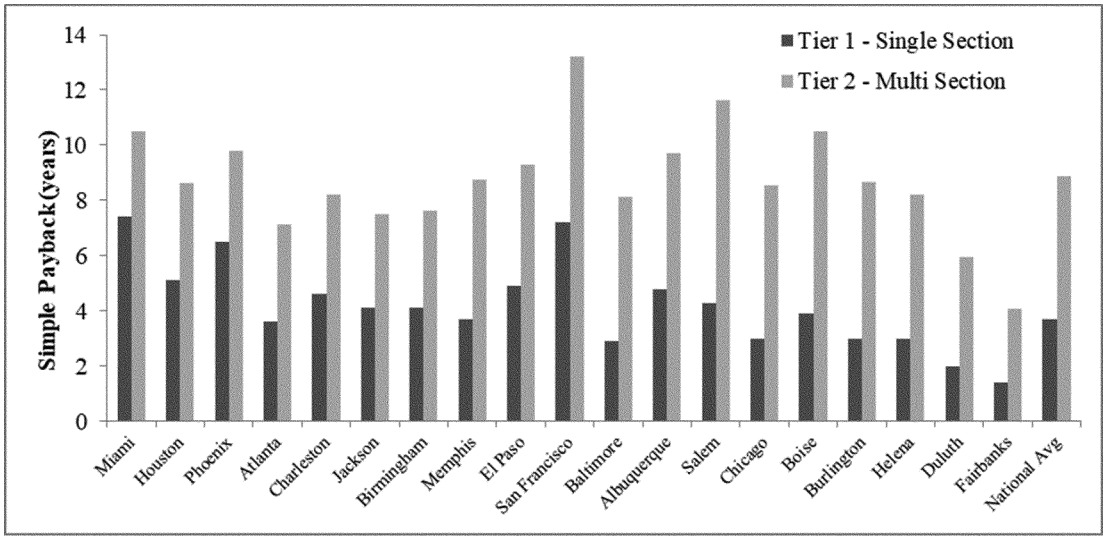

Figure IV.3 Simple Payback Period under the Standard

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B. Manufacturer Impacts

DOE performed an MIA to estimate the potential financial impact of energy conservation standards on manufacturers of manufactured homes. The MIA relied on the Government Regulatory Impact Model (''GRIM''), an industry cash-flow model used to estimate changes in industry value as a result of energy conservation standards. The key GRIM inputs are: industry financial metrics, manufacturer production cost estimates, shipments forecasts, conversion costs, and manufacturer markups. The primary output of the GRIM is industry net present value (''INPV''), which is the sum of industry annual cash flows over the analysis period (2022–2052), discounted using the industry average discount rate. The GRIM has a slightly different analysis period than the NIA and LCC since it accounts for the conversion period, the time between the announcement of the standards and the compliance date of the standards, because manufacturers may need to make upfront investments to bring their manufactured homes into compliance ahead of the standards going into effect. DOE used an industry average discount rate of 9.2 percent for the final rule analysis, which is consistent with the discount rate in the August 2021 SNOPR. This rate was based on SEC filings for public manufacturers of manufactured homes.

The GRIM estimates the impacts of more-stringent energy conservation standards on a given industry by comparing changes in INPV between the no-standards case and the standards cases. The GRIM estimates a range of possible impacts under different manufacturer markup scenarios to capture the uncertainty relating to manufacturer pricing strategy following new standards. Additional detail on the GRIM can be found in chapter 12 of the final rule TSD.

1. Discussion of Comments and Analysis Updates

a. Conversion Costs

DOE received a number of comments regarding the potential conversion costs necessitated by the adopted standard. Conversion costs are the one-time, upfront investments manufacturers would need to make to comply with energy conservation standards. These upfront investments include product conversion costs and capital conversion costs. Product conversion costs are one-time expenses in research, development, engineering time, and other costs necessary to make product designs comply with energy conservation standards. Capital conversion costs are one-time investments in property, plant, and equipment to adapt or change existing production lines to fabricate and assemble new product designs that comply with the energy conservation standards.

MHCC raised concerns about the cost on industry to update model plans. MHCC estimated engineering and third-party review time required for each model plan would be 10–12 hours. MHCC suggest that the number of model plans could range from 300 to 3,000, depending on the size of manufacturer and number of production plants. Skyline Champion noted that the company has thousands of model plans. Skyline Champion went on to note that design choices could lead to assembly changes and capital expenditures, such as jig and station adjustments. (MHCC, No. 1600 at pp. 12, 14); (Skyline Champion, No. 1612 at pp. 2–3)

For the final rule, DOE attempted to take into account stakeholder comments on conversion costs by integrating numeric values, where provided. Specifically, DOE updated its conversion costs to include an average of 10 hours to review each model plan; updated its wage calculation to reflect

2020 fully burdened rates for mechanical engineering time; increased its estimate of the number of model plans in the industry to approximately 40,800 based on 136 production plants in the industry [69] and 300 plans per plant; and incorporated expenditures manufacturing lines adjustments at all production plants. Industry conversion costs total $29.5 million for the final rule. As discussed in detail in section III.E.2.b of this document, DOE remains unconvinced that truss profile updates are necessitated by the standards and truss redesign costs have not been incorporated into the estimate of manufacturer impacts. Additional detail can be found in Chapter 12 of the final rule TSD.

b. Higher Standards

Schulte suggested that adopting higher U_o standards based on currently approved designs for ENERGY STAR homes already in production may prevent manufacturing disruptions due to the unavailability of higher energy efficiency components. (Schulte, No. 1028 at p. 14).

The structure of the DOE energy conservation standards for manufactured homes enables manufacturers to choose either prescriptive or performance options for compliance, thereby providing the industry with flexibility for compliance. If manufacturers have established supply chains for ENERGY STAR-certified designs or find it more cost effective to streamline designs around a higher U_o value, this final rule does not prevent manufacturers from pursuing those options. Accordingly, DOE did not adopt higher U_o values as suggested by the commenter for this final rule or the accompanying analyses.

2. Results

a. Manufacturer Production Costs and Markups

DOE analyzed the effect the standards would have on manufacturer production costs. DOE derived these costs from purchase price information and the markup factor, which is the product of the manufacturer markup, the retail markup, and sales tax. DOE used data from the U.S. Census Bureau to obtain HUD minimum purchase price data by state for single-section and multi-section manufactured homes in 2020.[70] DOE used a shipment-weighted average to convert the average purchase price by state to an average purchase price for each of 19 representative cities.

DOE added incremental purchase prices to the HUD minimum purchase prices to calculate the purchase price for manufactured homes built in compliance with the proposed standard levels. The incremental purchase prices were negotiated during MH working group meetings and discussed further in section IV.A.1.e. of this document.

To calculate MPCs from purchase prices for homes at the baseline level and at the proposed standard levels, DOE divided the purchase prices by the markup factor. The markup factor is the product of the manufacturer markup, retail markup, and the sales tax factor. Consistent with the August 2021 SNOPR, DOE used a baseline manufacturer markup of 1.72, a retail markup of 1.30, and a sales tax factor of 1.03 in its modeling of impacts of manufacturers.

b. Manufacturer Markup Scenarios

DOE modeled two standard case manufacturer markup scenarios that reflect changes in the manufacturer's ability to pass on their upfront investments and increases in production costs to the consumer. The manufacturer markup scenarios represent the uncertainty regarding prices and profitability for manufactured home manufacturers following the implementation of the rule. DOE modeled a high and a low scenario for manufacturers' ability to pass on their increased costs to the consumer: (1) A preservation of gross margin percentage markup scenario; and (2) a preservation of operating profit markup scenario. These scenarios lead to different manufacturer markup values that result in varying revenue and cash flow impacts to the manufacturer when applied to the inputted manufacturer production costs.

Under the preservation of gross margin percentage scenario, manufacturers maintain their current average markup of 1.72 even as production costs increase. Manufacturers are able to maintain the same amount of profit as a percentage of revenues, suggesting that they are able to recover conversion costs and pass the costs of compliance to their consumers. DOE considers this scenario the upper bound to industry profitability.

In the preservation of operating profit scenario, manufacturer markups are set so that the per-unit operating profit in the standards case equals the per-unit operating profit in the no-standards case one year after the compliance date of the new energy conservation standard. Under this scenario, as the costs of production increase under a standards case, manufacturers are required to reduce their markups. The implicit assumption behind this manufacturer markup scenario is that the industry can only maintain its existing per-unit operating profit in absolute dollars after compliance with the new standards is required. Therefore, the operating margin is reduced between the no-standards case and standards case. Under this scenario, manufacturers are not able to recover the conversion period investments made to comply with the standard. This manufacturer markup scenario represents a lower bound to industry profitability under a new energy conservation standard.

c. Cash-Flow and INPV Results

DOE compares the INPV of the no-standards case to that of the standards level. The difference between INPV in the no-standards case and INPV in the standards case is an estimate of the economic impacts on the industry.

TABLE IV.8—INPV RESULTS: PRESERVATION OF GROSS MARGIN PERCENTAGE SCENARIO *

	Single-section	Multi-section
No-standards case INPV million 2020$	4,489.2	10,492.0
Standards Case INPV million 2020$	4,506.9	10,671.7
Change in INPV million 2020$	17.7	179.8
Change in INPV %	0.4	1.7
Total Conversion Costs million 2020$	9.1	20.4

* Values in parentheses are negative values.

[69] MHI reports there are 136 manufacturing plants in the Unites States for manufactured housing in 2021. *www.manufacturedhousing.org/wp-content/uploads/2021/05/2021–MHI-Quick-Facts-updated-05--2021.pdf.*

[70] U.S. Census Bureau. Manufactured Housing Survey. (2020). Available at: *www.census.gov/data/datasets/2020/econ/mhs/puf.html* (Last accessed March 1, 2022).

TABLE IV.9—INPV RESULTS: PRESERVATION OF OPERATING PROFIT MARKUP SCENARIO *

	Single-section	Multi-section
No-standards case INPV million 2020$	4,489.2	10,492.0
Standards Case INPV million 2020$	4,459	10,313.4
Change in INPV million 2020$	(29.3)	(178.5)
Change in INPV %	(0.7)	(1.7)
Total Conversion Costs million 2020$	9.1	20.4

* Values in parentheses are negative values.

For single-section homes, the no-standards case INPV is $4.5 billion. The standards level could result in a change of industry value ranging from –0.7 percent to 0.4 percent, or a change of −$29.3 million to $17.7 million, for single-section units. For multi-section units, the no-standards case INPV is $10.5 billion. The standards level could result in a change of industry value ranging from –1.7 percent to 1.7 percent, or a change of −$178.5 million to $179.8 million. For the entire industry, the no-standards case INPV is $15.0 billion. The standards level could result in a change in INPV of –1.4 percent to 1.3 percent, or a change of −$207.8 million to $197.5 million. Industry conversion costs total $29.5 million. In the lower-bound INPV scenario, the potential decrease in INPV is less than 2%, which suggests adopted standards will not significantly alter the valuation and structure of the manufactured housing industry.

C. Nationwide Impacts

The national impact analysis (NIA) assesses the national energy savings (NES) and the national net present value (NPV) from a national perspective of total consumer costs and savings that would be expected to result from new standards. ''Consumer'' in this context refers to consumers of the product being regulated. DOE calculates the NES and NPV based on projections of annual product shipments, along with the annual energy consumption and total incremental cost data from the LCC analyses.

In the August 2021 SNOPR and October 2021 NODA, DOE's NIA projected a net benefit to the nation as a whole as a result of the proposed rule in terms of NES and the NPV of total consumer costs and savings that would be expected as a result of the proposed standards in comparison with the minimum requirements of the HUD Code. DOE presented national savings to only accrue to projected no-standards case shipments that are not ENERGY STAR-certified. DOE calculated the NES and NPV based on annual energy consumption and total construction and life-cycle cost data from the LCC analysis (developed during the MH working group negotiation process), and shipment projections. DOE projected the energy savings, operating cost savings, equipment costs, and NPV of consumer benefits sold in a 30-year period from 2023 through 2052. The analysis also accounted for costs and savings for a manufactured home lifetime of 30 years. 86 FR 47744, 47808–47814; 86 FR 59042, 59043.

In the October 2021 NODA, DOE updated the inputs to the August 2021 SNOPR and developed a shipments model to forecast the shipments of manufactured homes during the analysis period. DOE first gathered historical shipments spanning 1990–2020 from a report developed and written by the Institute for Building Technology and Safety and published by the Manufactured Housing Institute.[71] Then, using the growth rate (0.42 percent) in new residential housing starts from the *AEO 2021,* DOE projected the number of manufactured housing shipments from 2023 through 2052 in the no-standards case (no new standards adopted by DOE). For the standards case shipments, DOE used this same growth rate estimate (0.42 percent), but also applied an estimate for price elasticity of demand. Price elasticity of demand (price elasticity) is an economic concept that describes the change of the quantity demanded in response to a change in price. DOE used the price elasticity value of –0.48 (a 10-percent price increase would translate to a 4.8-percent reduction in manufactured home shipments) based on a study published in the Journal of Housing Economics by Marshall and Marsh for estimating standards case shipments.[72] 86 FR 59042, 59045–59047.

DOE developed shipments for each of the tiers using the MHS 2020 PUF data.[73] First, DOE estimated that manufactured homes in Census regions (the U.S. Census Bureau divides the country into four census regions) 1, 2 and 4 combined were representative of HUD zone 3 and manufactured homes in Census region 3 were representative of HUD zones 1 and 2. Second, DOE considered that a percentage of manufactured homes placed/sold would shift to less stringent standards, *i.e.,* a percentage of homes from Tier 2 would shift to Tier 1. The inclusion of this shift in the market is to more accurately estimate energy savings (and other downstream results) if the proposed tiered standards are finalized. For the analysis, DOE applied a ''substitution effect'' of 20 percent to homes within $1,000 of the price threshold ($63,001–$64,000 in the October 2021 NODA). DOE chose a higher-end estimate of 20 percent based on reports that were reviewed for the energy conservation standards rulemaking for residential furnaces. The reports reviewed included estimates for direct rebound effects of household heating as it relates to more efficient products used more intensively. While the concept of ''rebound effect'' for the residential furnaces rulemaking is different than the ''substitution effect'' that is being considered in this rulemaking, with the lack of any data specific to the rebound effect for manufactured homes, DOE determined that 20 percent is a reasonable proxy. 86 FR 59042, 59045.

DOE received a number of comments regarding several aspects of the nationwide impacts described in the August 2021 SNOPR and October 2021 NODA. The following sections provide a discussion of each of the submitted comments as well as updates to the NIA conducted for this final rule.

1. Discussion of Comments and Analysis Updates

a. Shipments Analysis

ACEEE stated that the Tier 2 standards are well above ENERGY STAR levels. In addition, ENERGY STAR will revise its criteria to exceed the new standard. Thus, they stated that one can expect similar savings for those homes, and they should be included in the analysis. (ACEEE, No. 1631 at p. 13)

[71] See Manufactured Home Shipments by Product Mix (1990–2020), Manufactured Housing Institute.

[72] See Marshall, M.I. & Marsh, T.L. Consumer and investment demand for manufactured housing units. *J. Hous. Econ.* 16, 59–71 (2007).

[73] Manufactured Housing Survey, Public Use File (PUF) 2020. *https://www.census.gov/data/datasets/2019/econ/mhs/puf.html.*

As discussed previously, DOE's national impact analysis calculates savings in comparison with the minimum requirements of the HUD Code. In response to the June 2016 NOPR, NEEA had commented about how a portion of the Pacific Northwest homes are already built to meet ENERGY STAR levels. 86 FR 47744, 47808. Because ENERGY STAR-certified manufactured homes are more efficient than minimally HUD Code-compliant homes, DOE did not account for ENERGY STAR-certified homes in the no-standard shipments and national impact analyses, so as to avoid overestimating energy savings and NPV benefits to the consumer. As a result, the national savings in the August 2021 SNOPR and October 2021 NODA only accrue to projected no-standards case shipments that are not ENERGY STAR-certified.

In reviewing the ENERGY STAR envelope-only package U_o requirements (see Table IV.10), DOE notes that depending on the climate zone, ENERGY STAR-certified homes either meet the Tier 2 DOE U_o requirements or are slightly below that level. While DOE does acknowledge there are some possible energy savings associated with ENERGY STAR-certified homes having to now meet the DOE standard, which includes other requirements beyond U_o, DOE considers these estimated savings to be minimal compared to the energy savings associated with HUD Code-compliant homes having to meet the Tier 2 DOE requirements. As such, in this final rule, DOE continues to not account for ENERGY STAR-certified homes in the national impact analyses, so as to avoid overestimating energy savings and benefits to the consumer.

TABLE IV.10—U_o COMPARISON

Climate zone	Energy Star (U_o)	Tier 2 (U_o)
	Multi-section	Multi-section
1	0.071	0.082
2	0.064	0.066
3	0.056	0.055

ACEEE also suggested that the assumption that only 20 percent of homes within $1,000 of the price threshold will shift to Tier 1 seems highly optimistic. They stated that the list price could be cut without changing actual prices by adding on fees or by pricing a stripped-down home to which customers add options. Therefore, they suggested that such pricing adjustments could shift the list price by thousands of dollars with no physical changes to most homes, and manufacturers could redesign others with cheaper components to avoid the first cost of the standard. Accordingly, ACEEE emphasized this is another reason why DOE should not set tiers. (ACEEE, No. 1631 at p. 5) ACEEE stated that manufacturers may shift an even larger fraction of homes within perhaps $10,000 of the threshold to Tier 1 with little change in the actual homes. (ACEEE, No. 1631 at p. 13) As discussed in section III.B of this document, DOE is finalizing a size-based tier threshold in this final rule. Specifically, the Tier 1 standard would apply to all single-section homes, and the Tier 2 standard would apply to all multi-section homes. As such, DOE is no longer considering the retail list price threshold shift. Table IV.11 presents the updated shipments breakdown using the MHS 2020 PUF data set, which DOE had also presented in the October 2021 NODA. 86 FR 59042, 59052–59053.

TABLE IV.11—SHIPMENT BREAKDOWN BASED ON TIER

	All climate zones		
	Single-section (%)	Multi-section (%)	Total (%)
Tier 1 Standard	100	0	45
Tier 2 Standard	0	100	55
Total	100	100	100

MHARR noted that for potential purchasers excluded from the HUD-code manufactured home market, there would be no ''savings'' because they wouldn't be able to buy a home in the first place. As a result, they commented that the January 2022 DEIS is materially skewed toward showing alleged benefits attributable to the proposed standards. (MHARR, No. 1974 at p. 10, 11) DOE notes that the NES does not account for the energy savings for the people who do not buy a manufactured home under the standards case because they are price-sensitive (using price elasticity of demand discussion in the next section). As such, NES only accounts for savings for those that are able to purchase a manufactured home. The NES is calculated based on the same number of homes purchased under both the standards and no standards case (using price elasticity of demand) such that there are no energy savings attributed to less homes purchased.

b. Price Elasticity of Demand

Price elasticity of demand (price elasticity) is an economic concept that describes the change of the quantity demanded in response to a change in price. Price elasticity is typically represented as a ratio of the percentage change in quantity relative to a percentage change in price. It allows DOE to assess the extent to which consumers and retailers are unable or unwilling to purchase new homes as a result of the increased costs. In the August 2021 SNOPR and the October 2021 NODA, DOE used a price elasticity value of -0.48 to estimate the effect of the proposed rule on manufactured home shipments. This value was sourced from a study by Marshall and

Marsh.[74] DOE received several comments regarding the price elasticity that was used.

TMHA stated that it is inappropriate for the finalized rule to have any projected decrease in the number of MH's that will ultimately be produced. Many TMHA manufacturers had previously built modular homes in Texas, but after the Texas Department of Licensing and Regulation adopted the 2015 IECC in August of 2017 the number of homes built in the state dropped by 35 percent in the subsequent 2018 fiscal year due to the cost of compliance and the inability to source the materials necessary to meet the new standards from upstream suppliers. TMHA asked that DOE do everything they can to ensure that any new rule does not decrease production. (TMHA, No. 1628 at pp. 3, 4) Clayton Homes commented that very few homes are produced at the Tier 1 level and it is unlikely that additional homes will be manufactured at that level. Instead, Clayton Homes expects an overall reduction in the manufacturing and purchase of manufactured homes across the board. (Clayton Homes, No. 1589 at p. 21)

On the other hand, ACEEE stated that the shipment estimates likely overstate the sales impact of the standard. ACEEE stated that the price elasticity used for the analysis (-0.48 and –2.4) are based on data before a significant decline in shipments of manufactured homes after 2007, and thus reflect volatility of a different market. In addition, ACEEE stated that the price elasticity only predicts changes in demand in response to changes in initial purchase price, and not to changes in the underlying value and quality of the home, including reduced energy bills, increased comfort and health, and improved longevity. They stated that under these assumptions any improvement to the homes reduces sales. (ACEEE, No. 1631 at p. 13) NEEA stated that manufactured homes purchased by park owners for rent-to-own or rental will not be impacted by the increase in cost because rental prices are based on market rates, not the purchase price of the home. NEEA stated that rental rates are higher than mortgage rates that a landlord would pay and therefore price elasticity will be near zero for the fraction of the manufactured homes sold to park owners. NEEA stated that manufactured homes remain the low-cost affordable housing option in the Northwest and there is no evidence that higher efficiency has negatively impacted homeownership. (NEEA, No. 1601 at pp. 8, 13)

The Marshall and Marsh study,[75] which DOE used to analyze the –0.48 price elasticity, uses the number of new manufactured homes placed for residential use as a proxy for consumer demand and also separated short-term consumer behavior from long-term influences. As part of their paper, Marshall and Marsh reviewed all previous studies to determine the inputs into their model. They used national level data for their consumer demand model. Marshall and Marsh estimated the price elasticity of demand for manufactured homes at –0.48 using a two-stage regression model and concluded that consumers in general are not so price sensitive and are likely willing to accept incremental higher prices for improvements in cost efficiency. The paper claimed that this is especially true because the cost of a manufactured home is still significantly lower than the cost of a site-built home and low- and moderate-income families have few low-cost choices for home ownership. Accordingly, for the NIA, DOE determined the Marshall and Marsh study is still the most recent and accurate estimate of consumer demand based on price changes for manufactured housing and therefore, DOE maintains use of the -0.48 elasticity value. DOE notes that for the tiered standard, DOE estimates that Tier 1 would have 0.55 percent reduction in demand and availability, which is essentially no reduction.

c. Deadweight Loss

In the August 2021 SNOPR, DOE also estimated the deadweight loss associated with the proposed rule stemming from the reduced shipments in the standards case scenario. Deadweight loss is a cost to society as a whole generated by shifting the market away from the no-standards case equilibrium. If the supply curve is perfectly elastic, then the deadweight loss of energy conservation standards is entirely borne by consumers and not producers. The deadweight loss is equivalent to one-half the incremental price multiplied by the reduction in total shipments, discounted over the 30-year analysis. If, however, the supply curve's slope near equilibrium is similar in magnitude to the demand curve, then the deadweight loss is equivalent to the incremental price multiplied by the reduction in total shipments, discounted over the 30-year analysis.

DOE did not have data on the supply curve elasticity but estimated the deadweight loss for the proposed standards using a price elasticity of -0.48. DOE tentatively estimated that the discounted total deadweight loss for the standards based on Tier 1 would range from $0.8 to $1.5 million (2020$, discounted at 3 percent) and $0.4 to $0.9 million (2020$, discounted at 7 percent). DOE tentatively estimated that the discounted total deadweight loss for the standards based on Tier 2 would range from $75.4 to $150.9 million (2020$, discounted at 3 percent) and $43.9 to $87.8 million (2020$, discounted at 7 percent). DOE tentatively estimated that the discounted total deadweight loss for the untiered standards would range from $103.1 to $206.2 million (2020$, discounted at 3 percent) and $60 to $120 million (2020$, discounted at 7 percent). 86 FR 47744, 47813.

MHCC stated that deadweight loss would be significantly higher than DOE's estimate as many potential consumers will be priced out of the market. For example, they referenced an NAHB published study in 2021 (NAHB Priced-Out Estimates for 2021), which estimated that a $1,000 increase in the median new home price ($346,757) would price 153,967 households out of the market. The MHCC stated that an increase of $1,000 would have a more significant impact on manufactured housing. (MHCC, No. 1600 at p. 13); (NAHB, No. 1398 at p. 3) MHI stated that deadweight loss will increase as a result of the proposal, as many potential consumers will be priced out of purchasing a manufactured home. (MHI, No. 1592 at p. 30)

On the other hand, ACEEE stated that the use of deadweight loss is misapplied and not appropriate in this context. They commented that textbook treatments of deadweight loss are limited to analyzing the effects of taxes, trade tariffs, monopoly market power, or other price distortions on demand, all else equal. However, implementing up-to-date efficiency standards for manufactured homes is not tantamount to a price distortion, but instead materially alters the quality and value of the home. They stated that revised standards will reduce energy bills, improve resident comfort, and likely increase the longevity and residual value of the home, none of which are incorporated into DOE's analysis of the deadweight loss (nor captured in its price scenario analysis). ACEEE argued that there could be a possible substitution toward newer homes that

[74] See Marshall, M.I. & Marsh, T.L. Consumer and investment demand for manufactured housing units. *J. Hous. Econ.* 16, 59–71 (2007).

[75] See Marshall, M.I. & Marsh, T.L. Consumer and investment demand for manufactured housing units. *J. Hous. Econ.* 16, 59–71 (2007).

become more attractive compared to homes subject to codes nearly 30 years out of date. Further, they commented that even if updated standards were to be considered as a price distortion, estimating deadweight loss requires a complex general equilibrium model, including both a supply and demand curve, which DOE did not have appropriate data to develop. ACEEE commented that estimating deadweight loss is unprecedented and inappropriate for the evaluation of the societal impacts of efficiency standards. (ACEEE, No. 1631 at pp. 13–14)

DOE agrees with ACEEE that the application of deadweight loss for this rulemaking is complex and DOE does not have sufficient data to provide a thorough analysis. Further, the 2021 NAHB report estimates reduction in buyers assuming all American households intend to buy a home, whereas the DOE analysis considers the number of households no longer able to purchase a manufactured home from the pool of households planning to purchase a manufactured home (which is much smaller than the total number of American households). Finally, as discussed in section IV.C.1.b of this document, the Marshall and Marsh study concludes that manufactured home consumers are not as price sensitive because the cost of a manufactured home is still significantly lower than the cost of a site-built home. Therefore, at this time, DOE is not estimating deadweight loss for this rule. However, DOE continues to accept any data regarding this analysis and may consider deadweight loss in future iterations of this rule.

d. Net Present Value

DOE received a comment concerning the discount rates used to calculate the NPV. MHI stated that DOE's analysis is incorrect in using a discount rate ranging from three to seven percent for computation of future projected energy savings. Using that discount rate, they commented that DOE significantly overstates the net savings. They recommended that DOE should use much higher discount rates, around 10 percent, for personal property/chattel loans. (MHI, No. 1592 at p. 11) On the other hand, UCB stated that the discount rates used in the DOE's analysis are much too high compared to historical and projected values. They commented that the Institute for Policy Integrity found the median value of proposed constant discount rates, excluding outliers, was 2%. They also found that many experts do not agree that a constant discount rate should even be used, and that either a declining rate or a rate calibrated with ''ethical parameters'' should be used instead. (UCB, No. 1618 at pp. 15–16) They also mentioned that high discount rates mean that future costs and benefits are undervalued. (UCB, No. 1405 at p. 2)

DOE generally uses real discount rates of 3 percent and 7 percent to discount future costs and savings to present values.[76] The 3- and 7-percent discount rates are based on Circular A–4 issued by the Office of Management and Budget (OMB) as guidance on the development of regulatory analysis as required by Executive Order (''E.O.'') 12866.[77] The 7-percent rate is the established estimate of the average rate of return, before taxes, to private capital in the U.S. economy. The 3-percent rate is called the ''social rate of time preference,'' which is the rate at which society discounts future consumption flows to their present value.[78] These real discount rates are used to calculate annualized benefits and costs in DOE rulemakings in order to perform cross-industry comparisons in a standardized manner. For these reasons, in the final rule, DOE maintains discount rates of 3 percent and 7 percent for the NPV and the annualized benefits and costs. Additionally, DOE uses a discount rate based on the chattel loan interest rate in the LCC analysis.

2. Results

This section provides the results for the projected nationwide impact analyses, including the NES and NPV. In this final rule, DOE based all inputs to the NES and NPV using *AEO 2021*. This includes the housing starts growth rate, inflation rates, energy prices, energy prices growth rates, and full-fuel cycle energy factors, consistent with what was presented in the October 2021 NODA. In addition, DOE's shipment analysis includes the latest 2020 MHI shipments and excludes any ENERGY STAR shipments to avoid overestimating energy savings. Further details on the inputs are discussed in chapters 8, 10, and 11 of the final rule TSD.

DOE notes that the NES does not account for the energy savings for those individuals who do not buy a manufactured home under the standards case because they are price-sensitive. As such, NES only accounts for savings for those individuals who are able and who purchase a manufactured home. The NES is calculated based on the same number of homes purchased under both the standards and no standards case such that there are no energy savings attributed to less homes purchased.

Table IV.12 reflects the NES results over a 30-year analysis period on a primary energy savings basis. Primary energy savings apply a factor to account for losses associated with generation, transmission, and distribution of electricity. Primary energy savings differ among the different climate zones because of differing energy conservation requirements in each climate zone and different shipment projections in each climate zone.

TABLE IV.12—CUMULATIVE NATIONAL ENERGY SAVINGS OF MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	Single-section (quads)	Multi-section (quads)	Total (quads)
Climate Zone 1	0.118	0.522	0.640
Climate Zone 2	0.096	0.443	0.538
Climate Zone 3	0.222	0.381	0.603
Total	0.436	1.346	1.782

Table IV.13 illustrates the cumulative NES over the 30-year analysis period on an FFC energy savings basis. FFC energy savings apply a factor to account for losses associated with generation, transmission, and distribution of

[76] DOE relies on a range of discount rates in monetizing emission reductions as discussed in section IV.D.2 of this document.

[77] *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A4/a-4.pdf.*

[78] Office of Management and Budget, Circular A–4, September 2003.

electricity, and the energy consumed in extracting, processing, and transporting or distributing primary fuels. NES values differ among the different climate zones because of differing energy efficiency requirements in each climate zone and different shipment projections in each climate zone.

TABLE IV.13—CUMULATIVE NATIONAL ENERGY SAVINGS, INCLUDING FULL-FUEL-CYCLE OF MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	Single-section (quads)	Multi-section (quads)	Total (quads)
Climate Zone 1	0.123	0.542	0.665
Climate Zone 2	0.100	0.463	0.563
Climate Zone 3	0.239	0.408	0.648
Total	0.462	1.414	1.876

Table IV.14 and Table IV.15 illustrate the NPV of consumer benefits over the 30-year analysis period for a discount rate of 7 percent and 3 percent, respectively. The consumer NPV of manufactured homeowner benefits differ among the different climate zones because there are different upfront costs and operating cost savings associated with each climate zone and different shipment projections in each climate zone. For the standard being adopted in this final rule, all climate zones have a positive consumer NPV for both discount rates.

TABLE IV.14—CONSUMER NET PRESENT VALUE OF MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME AT A 7% DISCOUNT RATE

	Single-section (billion 2020$)	Multi-section (billion 2020$)	Total (billion 2020$)
Climate Zone 1	$0.15	$0.31	$0.46
Climate Zone 2	0.13	0.20	0.33
Climate Zone 3	0.40	0.32	0.73
Total	0.68	0.84	1.52

TABLE IV.15—CONSUMER NET PRESENT VALUE OF MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME AT A 3% DISCOUNT RATE

h	Single-section (billion 2020$)	Multi-section (billion 2020$)	Total (billion 2020$)
Climate Zone 1	$0.40	$1.17	$1.58
Climate Zone 2	0.35	0.89	1.24
Climate Zone 3	1.10	1.15	2.25
Total	1.85	3.21	5.06

Table IV.16 shows the projected benefits and costs to the manufactured homeowner associated with the final rule, expressed in terms of annualized values.

TABLE IV.16—ANNUALIZED BENEFITS AND COSTS TO MANUFACTURED HOME HOMEOWNERS

	Discount rate (%)	Monetized (million 2020$/year)		
		Primary estimate**	Low estimate**	High estimate**
Benefits:*				
Operating (Energy) Cost	7	361	322	402
Savings	3	551	478	627
Costs:*				
Incremental Purchase	7	221	213	231
Price Increase	3	277	255	294
Net Benefits/Costs:*				
	7	140	109	171
	3	274	223	333

* The benefits and costs are calculated for homes shipped in 2023–2052.

** The Primary, Low, and High Estimates utilize forecasts of energy prices from the *AEO 2021* Reference case, Low Economic Growth case, and High Economic Growth case, respectively.

Further, DOE considered two sensitivity analyses relating to shipments, consistent with the August 2021 SNOPR. First, DOE considered a shipment scenario in which the growth rate is 6.5 percent (instead of 0.42 percent) based on the trend in actual manufactured home shipments from 2011 to 2014. This growth rate applies to both the no-standards case and standards case shipments. DOE's primary scenario is based on the residential housing start data from *AEO 2021.* The sensitivity analysis calculates the increase in NES and NPV associated with a much larger future market for manufactured homes. Table IV.17 summarizes the results of the sensitivity analysis. A detailed description of the scenario analysis is provided in appendix 11A of the final rule TSD.

TABLE IV.17—SHIPMENTS GROWTH RATE SENSITIVITY ANALYSIS NES AND NPV RESULTS

	National energy savings (full fuel cycle quads)	Net present value 3% discount rate (billion 2020$)	Net present value 7% discount rate (billion 2020$)
0.42% Shipment Growth (primary scenario)	1.88	$5.06	$1.52
6.5% Shipment Growth	6.05	14.59	3.73

In a second scenario analysis, DOE considered a standards case shipment scenario in which the price elasticity is −2.4 (instead of −0.48). HUD has used an estimate of −2.4 in analyses of revisions to its regulations [79] promulgated at 24 CFR part 3282 based on a 1992 paper written by Carol Meeks.[80] (See further discussion of this estimate in Appendix 11A.) DOE's primary scenario is based on a study published in 2007 in the *Journal of Housing Economics.* The scenario analysis calculates the decrease in NES and NPV associated with a larger decrease in shipments resulting from a more elastic value. See Table IV.18 for results of the sensitivity analysis. A description of the scenario analysis is provided in appendix 11A of the final rule TSD. Further, a detailed discussion on the corresponding change in shipments is provided in section 10.4 of chapter 10 of the final rule TSD.

TABLE IV.18—PRICE ELASTICITY OF DEMAND SCENARIO ANALYSIS NES AND NPV RESULTS

	National energy savings (full-fuel cycle quads)	Net present value 3% discount rate (billion 2020$)	Net present value 7% discount rate (billion 2020$)
−0.48 Price Elasticity (primary scenario)	1.88	$5.06	$1.52
−2.4 Price Elasticity	1.76	4.77	1.44

D. Nationwide Energy Savings and Emissions Benefits

1. Emissions Analysis

DOE estimates environmental benefits in the form of reduced emissions of air pollutants and greenhouse gases associated with electricity production. DOE bases these estimates on a 30-year analysis period of manufactured home shipments, accounting for a 30-year home lifetime. DOE's analysis estimates reductions in emissions of six pollutants associated with energy savings: carbon dioxide (CO_2), mercury (Hg), nitric oxide and nitrogen dioxide (NO_X), sulfur dioxide (SO_2), methane (CH_4), and nitrous oxide (N_2O). These reductions are referred to as ''site'' emissions reductions. Furthermore, DOE estimates reductions due to ''upstream'' activities in the fuel production chain. These upstream activities comprise extraction, processing, and transporting fuels to the site of combustion. Together, site emissions reductions and upstream emissions reductions account for the FFC.

As in the August 2021 SNOPR and October 2021 NODA, DOE estimated emissions reductions based on emission factors for each pollutant, which depend on the type of fuel associated with energy savings (electricity, natural gas, liquefied petroleum gas, fuel oil). The analysis of power sector emissions of CO_2, NO_X, SO_2, and Hg uses marginal emissions factors that were derived from data in *AEO 2020* for the August 2021 SNOPR, updated to *AEO 2021* for the October 2021 NODA. Full details of this methodology are described in chapter 13 of the final rule TSD.

Because the on-site operation of manufactured homes may require combustion of fossil fuels and results in emissions of CO_2, NO_X, and SO_2 at the manufactured home sites where this combustion occurs, DOE also accounted for the reduction in these site emissions and the associated upstream emissions due to the standards. Site emissions of the above gases were estimated using emissions intensity factors from an EPA publication.[81] The emissions intensity factors are expressed in terms of physical units per MWh or MMBtu of site energy savings. Total emissions reductions are estimated using the energy savings calculated in the national impact analysis. As discussed previously in section IV.C.2 of this document, the energy savings calculated does not account for the energy savings for the people who do not buy a manufactured home under the standards case because they are price-sensitive, but only accounts for savings for those that are able to purchase a manufactured home. The energy savings is calculated based on the same number of homes purchased under both the standards and no standards case such that there are no energy savings attributed to less homes purchased. After calculating the total reduction of emissions, DOE estimated the monetized value associated with the reduction of these emissions, as

[79] For example, see *http://www.regulations.gov/#!documentDetail;D=HUD-2014-0033-0001.*

[80] Meeks, C., 1992, Price Elasticity of Demand for Manufactured Homes: 1961 to 1989.

[81] U.S. Environmental Protection Agency. External Combustion Sources. In *Compilation of Air Pollutant Emission Factors.* AP–42. Fifth Edition. Volume I: Stationary Point and Area Sources. Chapter 1. Available at *https://www.epa.gov/aiR-emissions-factors-and-quantification/ap-42-compilation-aiR-emissions-factors.*

discussed in section IV.D.2 of this document.

2. Monetizing Emissions Impacts

As part of the analysis of the impacts of this final rule, DOE considered the estimated monetary climate and health benefits from the reduced emissions of CO_2, CH_4, N_2O, NO_X and SO_2 that are expected to result from the standards. In order to make this calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the projection period for the standards. This section summarizes the basis for the values used for monetizing the emissions benefits in this final rule.

C2ES et al. stated that DOE operates from the premise that the manufactured homes purchased after the proposed standards go into effect have 30-year lifetimes, which means that any manufactured housing purchased later than 2023 would exist—and provide value—past 2052. However, DOE's cost-benefit analysis only presents costs and benefits for the initial 30-year period, thus failing to clearly identify future costs and benefits beyond that timeframe. Instead, C2ES et al. recommended that DOE should project and disclose all costs and benefits, including benefits from avoided climate damages, out beyond the year 2052. DOE should identify how far into the future it believes the proposed manufactured housing energy conversation standards will continue to generate significant costs or benefits. If the standards will have significant effects after 2052, DOE should either extend its timeframe or else state its reasons for not doing so. If DOE lacks sufficient data to fully project costs and benefits beyond 2052, it should explain the data limitations. (C2ES et al., No. 1399 at p. 35) As previously described, DOE projected the energy savings, operating cost savings, equipment costs, and NPV of consumer benefits sold in a 30-year period from 2023 through 2052, in addition to accounting for costs and savings for a manufactured home lifetime of 30 years. Further, in order to make the emissions reduction calculation analogous to the calculation of the NPV of consumer benefit, DOE considered the reduced emissions expected to result over the lifetime of products shipped in the projection period for the standards (through 2082).

DOE notes that the analysis of the monetized climate and health benefits was performed in support of the cost-benefit analyses required by Executive Order 12866, and is provided to inform the public of the impacts of emissions reductions resulting from this final rule. The monetized climate and health benefits were not factored into DOE's determination of whether the final rule is cost-effective under section 413 of EISA 2007.

a. Monetization of Greenhouse Gas Emissions

In the August 2021 SNOPR and October 2021 NODA DOE presented estimates of the monetized benefits of the reductions in emissions of CO_2, CH_4, and N_2O by using a measure of the social cost (SC) of each pollutant (*e.g.,* SC–CO2). 86 FR 47744, 47814—47122; 86 FR 59042. DOE relied on SC–GHG estimates developed by an interagency working group (IWG) that included DOE, the EPA and other executive branch agencies and offices using three integrated assessment models to develop the SC–CO_2 estimates. 86 FR 47744, 47815. For purposes of reflecting a range of modeling assumptions and capturing the uncertainties involved in estimating climate risks, including the risk of greater-than-expected damages, DOE determined it was appropriate to include the four sets of SC–CO_2 values as recommended by the IWG. *Id.* DOE emphasized that the SC–GHG analysis presented in the August 2021 SNOPR was performed in support of the cost-benefit analyses required by Executive Order 12866, and was provided to inform the public of the impacts of emissions reductions resulting from this proposed rule. 86 FR 47744, 47817. DOE further emphasized that the SC–GHG estimates were not factored into DOE's determination of whether the proposed rule could be cost-effective under section 413 of EISA 2007. *Id.*

The APGA commented that the interim SC–GHG values developed by the IWG still require additional modifications before they are appropriate for use in federal agency rulemakings or policy decisions and provided a copy of comments previously submitted in response to a NODA published by the Office of Management and Budget on May 7, 2021, requesting comment on the ''Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates Under Executive Order 13990'' (86 FR 24669). (APGA, No. 1636 at p. 2) C2ES et al. recommended that DOE expand upon its rationale for adopting a global damages valuation and for the range of discount rates it applied to climate effects, and presented potential legal, economic, and policy justifications for the methodological approach presented in the August 2021 SNOPR. (*See* generally, C2ES et al., No. 1399)

MHARR called on DOE to withdraw the proposed standards entirely as a result of the preliminary injunction issued on February 11, 2022, in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.), saying that DOE is prohibited from adopting, employing, treating as binding, or relying upon any Social Cost of Greenhouse Gas estimates based on global effects or that otherwise fails to comply with applicable law. (MHARR, No. 1848 at p. 2); (MHARR, No. 1974 at p. 2–5)

On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

DOE estimates the monetized benefits of the reductions in emissions of CO_2, CH_4, and N_2O by using a measure of the SC of each pollutant (*e.g.,* SC–CO_2). These estimates represent the monetary value of the net harm to society associated with a marginal increase in emissions of these pollutants in a given year, or the benefit of avoiding that increase. These estimates are intended to include (but are not limited to) climate-change-related changes in net agricultural productivity, human health, property damages from increased flood risk, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services.

DOE exercises its own judgment in presenting monetized climate benefits as recommended by applicable Executive orders, and DOE would reach the same conclusion presented in this document in the absence of the social cost of greenhouse gases, including the February 2021 Interim Estimates presented by the Interagency Working Group on the Social Cost of Greenhouse

Gases. DOE estimated the global social benefits of CO_2, CH_4, and N_2O reductions (*i.e.,* SC–GHGs) using the estimates presented in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 published in February 2021 by the Interagency Working Group on the Social Cost of Greenhouse Gases (IWG) (IWG, 2021). The SC–GHGs is the monetary value of the net harm to society associated with a marginal increase in emissions in a given year, or the benefit of avoiding that increase. In principle, SC–GHGs includes the value of all climate change impacts, including (but not limited to) changes in net agricultural productivity, human health effects, property damage from increased flood risk and natural disasters, disruption of energy systems, risk of conflict, environmental migration, and the value of ecosystem services. The SC–GHGs therefore, reflects the societal value of reducing emissions of the gas in question by one metric ton. The SC–GHGs is the theoretically appropriate value to use in conducting benefit-cost analyses of policies that affect CO_2, N_2O and CH_4 emissions. As a member of the IWG involved in the development of the February 2021 SC–GHG TSD), DOE agrees that the interim SC–GHG estimates represent the most appropriate estimate of the SC–GHG until revised estimates have been developed reflecting the latest, peer-reviewed science.

The SC–GHGs estimates presented here were developed over many years, using transparent process, peer reviewed methodologies, the best science available at the time of that process, and with input from the public. Specifically, in 2009, an IWG that included the DOE and other executive branch agencies and offices was established to ensure that agencies were using the best available science and to promote consistency in the social cost of carbon (SC–CO2) values used across agencies. The IWG published SC–CO_2 estimates in 2010 that were developed from an ensemble of three widely cited integrated assessment models (IAMs) that estimate global climate damages using highly aggregated representations of climate processes and the global economy combined into a single modeling framework. The three IAMs were run using a common set of input assumptions in each model for future population, economic, and CO_2 emissions growth, as well as equilibrium climate sensitivity (ECS)—a measure of the globally averaged temperature response to increased atmospheric CO_2 concentrations. These estimates were updated in 2013 based on new versions of each IAM. In August 2016 the IWG published estimates of the social cost of methane (SC–CH_4) and nitrous oxide (SC–N_2O) using methodologies that are consistent with the methodology underlying the SC–CO_2 estimates. The modeling approach that extends the IWG SC–CO_2 methodology to non-CO_2 GHGs has undergone multiple stages of peer review. The SC–CH_4 and SC–N_2O estimates were developed by Marten *et al.* (2015) and underwent a standard double-blind peer review process prior to journal publication. In 2015, as part of the response to public comments received to a 2013 solicitation for comments on the SC–CO_2 estimates, the IWG announced a National Academies of Sciences, Engineering, and Medicine review of the SC–CO_2 estimates to offer advice on how to approach future updates to ensure that the estimates continue to reflect the best available science and methodologies. In January 2017, the National Academies released their final report, Valuing Climate Damages: Updating Estimation of the Social Cost of Carbon Dioxide, and recommended specific criteria for future updates to the SC–CO_2 estimates, a modeling framework to satisfy the specified criteria, and both near-term updates and longer-term research needs pertaining to various components of the estimation process (National Academies, 2017). Shortly thereafter, in March 2017, President Trump issued Executive Order 13783, which disbanded the IWG, withdrew the previous TSDs, and directed agencies to ensure SC–CO_2 estimates used in regulatory analyses are consistent with the guidance contained in OMB's Circular A–4, ''including with respect to the consideration of domestic versus international impacts and the consideration of appropriate discount rates'' (E.O. 13783, Section 5(c)). Benefit-cost analyses following E.O. 13783 used SC–GHG estimates that attempted to focus on the U.S.-specific share of climate change damages as estimated by the models and were calculated using two discount rates recommended by Circular A–4, 3 percent and 7 percent. All other methodological decisions and model versions used in SC–GHG calculations remained the same as those used by the IWG in 2010 and 2013, respectively.

On January 20, 2021, President Biden issued Executive Order 13990, which reestablished the IWG and directed it to ensure that the U.S. Government's estimates of the social cost of carbon and other greenhouse gases reflect the best available science and the recommendations of the National Academies (2017). The IWG was tasked with first reviewing the SC–GHG estimates currently used in Federal analyses and publishing interim estimates within 30 days of the E.O. that reflect the full impact of GHG emissions, including by taking global damages into account. The interim SC–GHG estimates published in February 2021 are used here to estimate the climate benefits for this final rule. The E.O. instructs the IWG to undertake a fuller update of the SC– GHG estimates by January 2022 that takes into consideration the advice of the National Academies (2017) and other recent scientific literature. The February 2021 SC–GHG TSD provides a complete discussion of the IWG's initial review conducted under E.O. 13990. In particular, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to reflect the full impact of GHG emissions in multiple ways.

First, the IWG found that the SC–GHG estimates used under E.O. 13783 fail to fully capture many climate impacts that affect the welfare of U.S. citizens and residents, and those impacts are better reflected by global measures of the SC–GHG. Examples of effects omitted from the E.O. 13783 estimates include direct effects on U.S. citizens, assets, and investments located abroad, supply chains, U.S. military assets and interests abroad, and tourism, and spillover pathways such as economic and political destabilization and global migration that can lead to adverse impacts on U.S. national security, public health, and humanitarian concerns. In addition, assessing the benefits of U.S. GHG mitigation activities requires consideration of how those actions may affect mitigation activities by other countries, as those international mitigation actions will provide a benefit to U.S. citizens and residents by mitigating climate impacts that affect U.S. citizens and residents. A wide range of scientific and economic experts have emphasized the issue of reciprocity as support for considering global damages of GHG emissions. If the United States does not consider impacts on other countries, it is difficult to convince other countries to consider the impacts of their emissions on the United States. The only way to achieve an efficient allocation of resources for emissions reduction on a global basis—and so benefit the U.S. and its citizens—is for all countries to base their policies on global estimates of damages. As a member of the IWG involved in the

development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and, therefore, in this final rule, DOE centers attention on a global measure of SC–GHG. This approach is the same as that taken in DOE regulatory analyses from 2012 through 2016. A robust estimate of climate damages to U.S. citizens and residents does not currently exist in the literature. As explained in the February 2021 TSD, existing estimates are both incomplete and an underestimate of total damages that accrue to the citizens and residents of the U.S. because they do not fully capture the regional interactions and spillovers discussed above, nor do they include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature. As noted in the February 2021 SC–GHG TSD, the IWG will continue to review developments in the literature, including more robust methodologies for estimating a U.S.-specific SC–GHG value, and explore ways to better inform the public of the full range of carbon impacts. As a member of the IWG, DOE will continue to follow developments in the literature pertaining to this issue.

Second, the IWG found that the use of the social rate of return on capital (7 percent under current OMB Circular A–4 guidance) to discount the future benefits of reducing GHG emissions inappropriately underestimates the impacts of climate change for the purposes of estimating the SC–GHG. Consistent with the findings of the National Academies (2017) and the economic literature, the IWG continued to conclude that the consumption rate of interest is the theoretically appropriate discount rate in an intergenerational context (IWG 2010, 2013, 2016a, 2016b), and recommended that discount rate uncertainty and relevant aspects of intergenerational ethical considerations be accounted for in selecting future discount rates.

Furthermore, the damage estimates developed for use in the SC–GHG are estimated in consumption-equivalent terms, and so an application of OMB Circular A–4's guidance for regulatory analysis would then use the consumption discount rate to calculate the SC–GHG. DOE agrees with this assessment and will continue to follow developments in the literature pertaining to this issue. DOE also notes that while OMB Circular A–4, as published in 2003, recommends using 3% and 7% discount rates as ''default'' values, Circular A–4 also reminds agencies that ''different regulations may call for different emphases in the analysis, depending on the nature and complexity of the regulatory issues and the sensitivity of the benefit and cost estimates to the key assumptions.'' On discounting, Circular A–4 recognizes that ''special ethical considerations arise when comparing benefits and costs across generations,'' and Circular A–4 acknowledges that analyses may appropriately ''discount future costs and consumption benefits . . . at a lower rate than for intragenerational analysis.'' In the 2015 Response to Comments on the Social Cost of Carbon for Regulatory Impact Analysis, OMB, DOE, and the other IWG members recognized that ''Circular A–4 is a living document'' and ''the use of 7 percent is not considered appropriate for intergenerational discounting. There is wide support for this view in the academic literature, and it is recognized in Circular A–4 itself.'' Thus, DOE concludes that a 7% discount rate is not appropriate to apply to value the social cost of greenhouse gases in the analysis presented in this analysis. In this analysis, to calculate the present and annualized values of climate benefits, DOE uses the same discount rate as the rate used to discount the value of damages from future GHG emissions, for internal consistency. That approach to discounting follows the same approach that the February 2021 TSD recommends ''to ensure internal consistency—*i.e.,* future damages from climate change using the SC–GHG at 2.5 percent should be discounted to the base year of the analysis using the same 2.5 percent rate.'' DOE has also consulted the National Academies' 2017 recommendations on how SC–GHG estimates can ''be combined in RIAs with other cost and benefits estimates that may use different discount rates.'' The National Academies reviewed ''several options,'' including ''presenting all discount rate combinations of other costs and benefits with [SC–GHG] estimates.''

As a member of the IWG involved in the development of the February 2021 SC–GHG TSD, DOE agrees with this assessment and will continue to follow developments in the literature pertaining to this issue. While the IWG works to assess how best to incorporate the latest, peer reviewed science to develop an updated set of SC–GHG estimates, it set the interim estimates to be the most recent estimates developed by the IWG prior to the group being disbanded in 2017. The estimates rely on the same models and harmonized inputs and are calculated using a range of discount rates. As explained in the February 2021 SC–GHG TSD, the IWG has recommended that agencies to revert to the same set of four values drawn from the SC–GHG distributions based on three discount rates as were used in regulatory analyses between 2010 and 2016 and subject to public comment. For each discount rate, the IWG combined the distributions across models and socioeconomic emissions scenarios (applying equal weight to each) and then selected a set of four values recommended for use in benefit-cost analyses: An average value resulting from the model runs for each of three discount rates (2.5 percent, 3 percent, and 5 percent), plus a fourth value, selected as the 95th percentile of estimates based on a 3 percent discount rate. The fourth value was included to provide information on potentially higher-than-expected economic impacts from climate change. As explained in the February 2021 SC–GHG TSD, and DOE agrees, this update reflects the immediate need to have an operational SC–GHG for use in regulatory benefit-cost analyses and other applications that was developed using a transparent process, peer-reviewed methodologies, and the science available at the time of that process. Those estimates were subject to public comment in the context of dozens of proposed rulemakings as well as in a dedicated public comment period in 2013.

There are a number of limitations and uncertainties associated with the SC–GHG estimates. First, the current scientific and economic understanding of discounting approaches suggests discount rates appropriate for intergenerational analysis in the context of climate change are likely to be less than 3 percent, near 2 percent or lower.[82] Second, the IAMs used to produce these interim estimates do not include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature and the science underlying their ''damage functions''—*i.e.,* the core parts of the IAMs that map global mean temperature changes and other physical impacts of climate change into economic (both market and nonmarket) damages—lags behind the most recent research. For example, limitations include the incomplete treatment of catastrophic and non-catastrophic impacts in the integrated assessment models, their

[82] Interagency Working Group on Social Cost of Greenhouse Gases (IWG). 2021. Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990. February. United States Government. Available at: *<https://www.whitehouse.gov/briefing-room/blog/2021/02/26/a-return-to-science-evidence-based-estimates-of-the-benefits-of-reducing-climate-pollution/.*

incomplete treatment of adaptation and technological change, the incomplete way in which inter-regional and intersectoral linkages are modeled, uncertainty in the extrapolation of damages to high temperatures, and inadequate representation of the relationship between the discount rate and uncertainty in economic growth over long time horizons. Likewise, the socioeconomic and emissions scenarios used as inputs to the models do not reflect new information from the last decade of scenario generation or the full range of projections. The modeling limitations do not all work in the same direction in terms of their influence on the SC–CO_2 estimates. However, as discussed in the February 2021 TSD, the IWG has recommended that, taken together, the limitations suggest that the interim SC–GHG estimates used in this final rule likely underestimate the damages from GHG emissions. DOE concurs with this assessment.

DOE's derivations of the SC–CO_2, SC–N_2O, and SC–CH_4 values used for this final rule are discussed in the following paragraphs, and the results of DOE's analyses estimating the benefits of the reductions in emissions of these pollutants are presented in section IV.D.3.b of this document.

Social Cost of Carbon

The SC–CO_2 values used for this final rule were generated using the values presented in the 2021 update from the IWG. Table IV.19 shows the updated sets of SC–CO_2 estimates from the latest interagency update in 5-year increments from 2020 to 2050. The full set of annual values used is presented in Appendix 14–A of the final rule TSD. For purposes of capturing the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of SC–CO_2 values, as recommended by the IWG.[83]

TABLE IV.19—ANNUAL SC–CO_2 VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per metric ton CO_2]

Year	Discount rate			
	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile
2020	14	51	76	152
2025	17	56	83	169
2030	19	62	89	187
2035	22	67	96	206
2040	25	73	103	225
2045	28	79	110	242
2050	32	85	116	260

In calculating the potential global benefits resulting from reduced CO_2 emissions, DOE used the values from the February 2021 TSD, adjusted to 2020$ using the implicit price deflator for gross domestic product (GDP) from the Bureau of Economic Analysis. DOE derived values from 2051 to 2070 based on estimates published by EPA.[84] These estimates are based on methods, assumptions, and parameters identical to the 2020–2050 estimates published by the IWG. DOE derived values after 2070 based on the trend in 2060–2070 in each of the four cases (see appendix 14A).

DOE multiplied the CO_2 emissions reduction estimated for each year by the SC–CO_2 value for that year in each of the four cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the four cases using the specific discount rate that had been used to obtain the SC–CO_2 values in each case.

Social Cost of Methane and Nitrous Oxide

The SC–CH_4 and SC–N_2O values used for this final rule were generated using the values presented in the February 2021 TSD. Table IV.20 shows the updated sets of SC–CH_4 and SC–N_2O estimates from the latest interagency update in 5-year increments from 2020 to 2050. The full set of annual values used is presented in Appendix 14–A of the final rule TSD. To capture the uncertainties involved in regulatory impact analysis, DOE has determined it is appropriate to include all four sets of SC–CH_4 and SC–N_2O values, as recommended by the IWG. DOE derived values after 2050 using the approach described above for the SC–CO_2.

TABLE IV.20—ANNUAL SC–CH_4 AND SC–N_2O VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050

[2020$ per metric ton]

Year	SC–CH_4				SC–N_2O			
	Discount rate and statistic				Discount rate and statistic			
	5%	3%	2.5%	3%	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile	Average	Average	Average	95th percentile
2020	670	1500	2000	3900	5800	18000	27000	48000
2025	800	1700	2200	4500	6800	21000	30000	54000
2030	940	2000	2500	5200	7800	23000	33000	60000

[83] For example, the TSD discusses how the understanding of discounting approaches suggests that discount rates appropriate for intergenerational analysis in the context of climate change may be lower than 3 percent.

[84] See EPA, Revised 2023 and Later Model Year Light-Duty Vehicle GHG Emissions Standards: Regulatory Impact Analysis, Washington, DC, December 2021. Available at: *www.epa.gov/system/files/documents/2021-12/420r21028.pdf* (last accessed January 13, 2022).

TABLE IV.20—ANNUAL SC–CH_4 AND SC–N_2O VALUES FROM 2021 INTERAGENCY UPDATE, 2020–2050—Continued
[2020$ per metric ton]

Year	SC–CH_4				SC–N_2O			
	Discount rate and statistic				Discount rate and statistic			
	5%	3%	2.5%	3%	5%	3%	2.5%	3%
	Average	Average	Average	95th percentile	Average	Average	Average	95th percentile
2035	1100	2200	2800	6000	9000	25000	36000	67000
2040	1300	2500	3100	6700	10000	28000	39000	74000
2045	1500	2800	3500	7500	12000	30000	42000	81000
2050	1700	3100	3800	8200	13000	33000	45000	88000

DOE multiplied the CH_4 and N_2O emissions reduction estimated for each year by the SC–CH_4 and SC–N_2O estimates for that year in each of the cases. To calculate a present value of the stream of monetary values, DOE discounted the values in each of the cases using the specific discount rate that had been used to obtain the SC–CH_4 and SC–N_2O estimates in each case.

b. Monetization of Other Air Pollutants

For this final rule, DOE also estimated the monetized value of NO_X and SO_2 emissions reductions from electricity generation using benefit per ton estimates based on air quality modeling and concentration-response functions conducted for the Clean Power Plan final rule. EPA values for $PM_{2.5}$-related benefits associated with NO_X and SO_2 and for ozone-related benefits for 2025, 2030, 2035 and 2040, calculated with discount rates of 3 percent and 7 percent. For this analysis DOE used linear interpolation to define values for the years not given in the 2025 to 2040 range; for years beyond 2040 the value is held constant.

DOE estimated the monetized value of NO_X and SO_2 emissions reductions from site use of gas in manufactured homes using benefit per ton estimates from the EPA's ''Technical Support Document Estimating the Benefit per Ton of Reducing $PM_{2.5}$ Precursors from 17 Sectors'' (''EPA TSD''). Although none of the sectors refers specifically to residential and commercial buildings, the sector called ''area sources'' would be a reasonable proxy for residential and commercial buildings. ''Area sources'' represents all emission sources for which states do not have exact (point) locations in their emissions inventories. Because exact locations would tend to be associated with larger sources, ''area sources'' would be fairly representative of small dispersed sources like homes and businesses. The EPA TSD provides high and low estimates for 2016, 2020, 2025, and 2030 at 3- and 7-percent discount rates. DOE primarily relied on the low estimates to be conservative. DOE multiplied the emissions reduction (in tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate.

3. Results

a. Emissions Analysis

In this final rule, DOE utilized emission factors derived from data in the *AEO 2021*.[85] The *AEO* incorporates the projected impacts of existing air quality regulations on emissions. *AEO 2021* generally represents current legislation and environmental regulations, including recent government actions, for which implementing regulations were available at the time of preparation of *AEO 2021,* including the emissions control programs discussed in the following paragraphs.[86]

SO_2 emissions from affected electric generating units (''EGUs'') are subject to nationwide and regional emissions cap-and-trade programs. Title IV of the Clean Air Act sets an annual emissions cap on SO_2 for affected EGUs in the 48 contiguous States and the District of Columbia (DC). (42 U.S.C. 7651 *et seq.*) SO_2 emissions from numerous eastern States and DC are also limited under the Cross-State Air Pollution Rule (''CSAPR''), which created an allowance-based trading program that operates along with the Title IV program in those States and DC. 76 FR 48208 (Aug. 8, 2011). CSAPR requires these States to reduce certain emissions, including annual SO_2 emissions, and went into effect as of January 1, 2015.[87] *AEO 2021* incorporates implementation of CSAPR, including the update to the CSAPR ozone season program emission budgets and target dates issued in 2016, 81 FR 74504 (Oct. 26, 2016).[88] Compliance with CSAPR is flexible among EGUs and is enforced through the use of tradable emissions allowances. Under existing EPA regulations, for states subject to SO_2 emissions limits under CSAPR, any excess SO_2 emissions allowances resulting from the lower electricity demand caused by the adoption of efficiency standards could be used to permit offsetting increases in SO_2 emissions by another regulated EGU.

However, beginning in 2016, SO_2 emissions began to fall as a result of implementation of the Mercury and Air Toxics Standards (''MATS'') for power plants. 77 FR 9304 (Feb. 16, 2012). In the MATS final rule, EPA established a standard for hydrogen chloride as a surrogate for acid gas hazardous air pollutants (''HAP''), and also established a standard for SO_2 (a non-HAP acid gas) as an alternative equivalent surrogate standard for acid gas HAP. The same controls are used to reduce HAP and non-HAP acid gas; thus, SO_2 emissions are being reduced as a result of the control technologies installed on coal-fired power plants to

[85] *See* Energy Information Administration, Annual Energy Outlook 2020 with Projections to 2050 (2021).

[86] For further information, see the Assumptions to *AEO2021* report that sets forth the major assumptions used to generate the projections in the Annual Energy Outlook. Available at *www.eia.gov/outlooks/aeo/assumptions/* (last accessed July 6, 2020).

[87] CSAPR requires states to address annual emissions of SO_2 and NO_X, precursors to the formation of fine particulate matter (''$PM_{2.5}$'') pollution, in order to address the interstate transport of pollution with respect to the 1997 and 2006 $PM_{2.5}$ National Ambient Air Quality Standards (''NAAQS''). CSAPR also requires certain states to address the ozone season (May–September) emissions of NO_X, a precursor to the formation of ozone pollution, in order to address the interstate transport of ozone pollution with respect to the 1997 ozone NAAQS. 76 FR 48208 (Aug. 8, 2011). EPA subsequently issued a supplemental rule that included an additional five states in the CSAPR ozone season program; 76 FR 80760 (Dec. 27, 2011) (Supplemental Rule), and EPA issued the CSAPR Update for the 2008 ozone NAAQS. 81 FR 74504 (Oct. 26, 2016).

[88] In Sept. 2019, the DC Court of Appeals remanded the 2016 CSAPR Update to EPA. In April 2021, EPA finalized the 2021 CSAPR Update which resolved the interstate transport obligations of 21 states for the 2008 ozone NAAQS. 86 FR 23054 (April 30, 2021); *see also,* 86 FR 29948 (June 4, 2021) (correction to preamble). The 2021 CSAPR Update became effective on June 29, 2021. The release of AEO2021 in February 2021 predated the 2021 CSAPR Update.

comply with the MATS requirements for acid gas. To continue operating, coal plants must have either flue gas desulfurization or dry sorbent injection systems installed. Both technologies, which are used to reduce acid gas emissions, also reduce SO_2 emissions. Because of the emissions reductions under the MATS, it is unlikely that excess SO_2 emissions allowances resulting from the lower electricity demand would be needed or used to permit offsetting increases in SO_2 emissions by another regulated EGU. Therefore, energy conservation standards that decrease electricity generation will generally reduce SO_2 emissions.

CSAPR also established limits on NO_X emissions for numerous States in the eastern half of the United States. Energy conservation standards would have little effect on NO_X emissions in those States covered by CSAPR emissions limits if excess NO_X emissions allowances resulting from the lower electricity demand could be used to permit offsetting increases in NO_X emissions from other EGUs. In such a case, NO_X emissions would remain near the limit even if electricity generation goes down. A different case could possibly result, depending on the configuration of the power sector in the different regions and the need for allowances, such that NO_X emissions might not remain at the limit in the case of lower electricity demand. In this case, energy conservation standards might reduce NOx emissions in covered States. Despite this possibility, DOE has chosen to be conservative in its analysis and has maintained the assumption that energy conservation standards will not reduce NO_X emissions in States covered by CSAPR. Energy conservation standards would be expected to reduce NO_X emissions in the States not covered by CSAPR. DOE used *AEO 2021* data to derive NO_X emissions factors for the group of States not covered by CSAPR.

The MATS limit mercury emissions from power plants, but they do not include emissions caps and as such, DOE's energy conservation standards would be expected to slightly reduce Hg emissions. DOE estimated mercury emissions reduction using emissions factors based on *AEO 2021,* which incorporates the MATS.[89]

Combustion emissions of CH_4 and N_2O are estimated using emissions intensity factors published by the EPA.[90] The FFC upstream emissions are estimated based on the methodology described in chapter 13 of the final rule TSD. The upstream emissions include both emissions from fuel combustion during extraction, processing, and transportation of fuel, and ''fugitive'' emissions (direct leakage to the atmosphere) of CH_4 and CO_2.

Table IV.21 reflects the emissions reductions for both single-section and multi-section manufactured homes.

TABLE IV.21—EMISSIONS REDUCTIONS AS A RESULT OF THE FINAL RULE

Pollutant	Single-section	Multi-section	Total
Site Emissions Reductions			
CO_2 (million metric tons)	19.5	53.8	73.3
Hg (metric tons)	2.92E–02	9.60E–02	1.25E–01
NO_X (thousand metric tons)	10.9	26.6	37.5
SO_2 (thousand metric tons)	7.2	20.4	27.6
CH_4 (thousand metric tons)	1.03	3.11	4.14
N_2O (thousand metric tons)	0.21	0.57	0.78
Upstream Emissions Reductions			
CO_2 (million metric tons)	2.01	5.05	7.06
Hg (metric tons)	1.48E–04	4.45E–04	5.93E–04
NO_X (thousand metric tons)	25.4	64.8	90.2
SO_2 (thousand metric tons)	0.21	0.47	0.67
CH_4 (thousand metric tons)	127	354	481
N_2O (thousand metric tons)	0.011	0.026	0.037
Total Emissions Reductions			
CO_2 (million metric tons)	21.5	58.9	80.4
Hg (metric tons)	2.93E–02	9.64E–02	0.13
NO_X (thousand metric tons)	36.3	91.4	127.7
SO_2 (thousand metric tons)	7.44	20.9	28.3
CH_4 (thousand metric tons)	128	357	485
N_2O (thousand metric tons)	0.23	0.59	0.82

b. Monetization of Emissions

DOE estimated the global social benefits of GHG emission reductions expected from this final rule using the SC–GHG estimates presented in the Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990 (IWG 2021) that would be expected to result from the final rule as discussed in IV.D.2. DOE has determined that the estimates from the February 2021 TSD are based upon sound analysis and provide well-founded estimates for DOE's analysis of the impacts of GHG related to the reductions of emissions resulting from this final rule. Table IV.22 presents the global values of the CO_2 emissions reduction.

[89] DOE has not included the monetary impacts of the reduction of Hg for this rule. DOE is evaluating the appropriate monetization of these emissions for energy conservation standards rulemakings.

[90] Available at *www2.epa.gov/climateleadership/centeR-corporate-climate-leadership-ghg-emission-factors-hub.*

TABLE IV.22—PRESENT MONETIZED VALUE OF CO_2 EMISSIONS REDUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	SC–CO_2 case			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
	million 2020$			
Single Section	160.1	723.4	1,211.5	2,228.5
Multi Section	439.8	1,985.3	3,323.0	6,115.3
Total	599.9	2,708.7	4,534.4	8,343.7

Similarly, DOE has updated the quantified total climate benefits to estimate monetary benefits likely to result from the reduced emissions of CH_4 and N_2O, consistent with the interim estimates in the February 2021 TSD. DOE multiplied the CH_4 and N_2O emissions reduction estimated for each year by the SC–CH_4 and SC–N_2O estimates for that year in each of the two cases.

Table IV.23 presents the value of the CH_4 emissions reduction, and Table IV.24 presents the value of the N_2O emissions reduction.

TABLE IV.23—PRESENT MONETIZED VALUE OF METHANE EMISSIONS REDUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	SC–CH_4 case			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
	million 2020$			
Single Section	47.7	154.9	230.1	412.5
Multi Section	133.3	432.8	643.0	1,152.6
Total	181.0	587.6	873.2	1,565.1

TABLE IV.24—PRESENT MONETIZED VALUE OF NITROUS OXIDE EMISSIONS REDUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	SC–N_2O case			
	5% discount rate, average	3% discount rate, average	2.5% discount rate, average	3% discount rate, 95th percentile
	million 2020$			
Single Section	0.68	3.00	4.95	7.99
Multi Section	1.80	7.89	13.01	21.03
Total	2.48	10.89	17.97	29.02

DOE updated the monetization of NO_X and SO_2 emissions reductions from both electricity generation and direct use from manufactured homes. For this analysis, DOE used linear interpolation to define values for the years not given in the 2025 to 2040 range; for years beyond 2040 the value is held constant. Full details of this methodology are described in chapter 14 of the final rule TSD. DOE multiplied the NO_X and SO_2 emissions reduction (in tons) in each year by the associated $/ton values, and then discounted each series using discount rates of 3 percent and 7 percent as appropriate. Table IV.25 and Table IV.26 presents the results.

TABLE IV.25—PRESENT MONETIZED VALUE OF NO_X EMISSIONS REDUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	3% discount rate (high)	7% discount rate (high)	3% discount rate (low)	7% discount rate (low)
	million 2020$			
Single Section	1,220.1	410.2	1,170.8	393.5
Multi Section	3,208.7	1,082.0	3,110.6	1,048.9
Total	4,428.8	1,492.2	4,281.4	1,442.4

TABLE IV.26—PRESENT MONETIZED VALUE OF SO_2 EMISSIONS REDUCTION FOR MANUFACTURED HOMES PURCHASED 2023–2052 WITH A 30-YEAR LIFETIME

	3% discount rate (high)	7% discount rate (high)	3% discount rate (low)	7% discount rate (low)
	million 2020$			
Single Section	452.9	152.4	332.7	114.6
Multi Section	1,227.2	416.0	977.6	337.4
Total	1,680.1	568.3	1,310.3	452.0

DOE has not considered the monetary benefits of the reduction of Hg for this final rule. Not all the public health and environmental benefits from the reduction of greenhouse gases, NOx, and SO_2 are captured in the values above, and additional unquantified benefits from the reductions of those pollutants as well as from the reduction of Hg, direct PM, and other co-pollutants may be significant.

DOE emphasizes that the emissions analysis, including the SC–GHG analysis, presented in this final rule and TSD was performed in support of the cost-benefit analyses required by Executive Order 12866, and is provided to inform the public of the impacts of emissions reductions resulting from this final rule. The emissions estimates were not factored into DOE's determination of whether the final rule is cost-effective under section 413 of EISA 2007.

E. Total Benefits and Costs

DOE has determined that under the standards the benefits to the Nation of the standards (energy savings, consumer LCC savings, positive NPV of consumer benefit, energy security benefits, and emission reductions) outweigh the burdens (loss of INPV, and LCC increases for some homeowners of manufactured housing). The projected total benefits and costs (from the manufactured homeowner's perspective) associated with the standard, expressed in terms of annualized values, is presented in Table I.10 (See section I.E of this document).[91]

V. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'') 12866, ''Regulatory Planning and Review,'' as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review, 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed/final regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this final regulatory action constitutes an economically significant regulatory action under section 3(f) of E.O. 12866. Accordingly, pursuant to section 6(a)(3)(C) of E.O. 12866, DOE has provided to OIRA an assessment,

[91] DOE used a two-step calculation process to convert the time-series of costs and benefits into annualized values. First, DOE calculated a present value in 2016, the year used for discounting the net present value of total consumer costs and savings, for the time-series of costs and benefits using discount rates of three and seven percent for all costs and benefits except for the value of CO_2 reductions. From the present value, DOE then calculated the fixed annual payment over a 30-year period, starting in 2020 that yields the same present value. The fixed annual payment is the annualized value. Although DOE calculated annualized values, this does not imply that the time-series of cost and benefits from which the annualized values were determined would be a steady stream of payments.

including the underlying analysis, of benefits and costs anticipated from the proposed/final regulatory action, together with, to the extent feasible, a quantification of those costs; and an assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, and an explanation why the planned regulatory action is preferable to the identified potential alternatives. These assessments are summarized in the tables below, as well as elsewhere in this preamble. Further detail on alternatives can be found in chapter 15 of the final rule TSD for this rulemaking.

TABLE V.1—SUMMARY OF TOTAL MONETIZED BENEFITS AND COSTS TO MANUFACTURED HOME HOMEOWNERS UNDER THE ADOPTED STANDARDS

	Net present value (billion $2020)
3% Discount Rate	
Consumer Operating Cost Savings	10.2
Climate Benefits *	3.3
Health Benefits **	5.6
Total Benefits	19.1
Consumer Incremental Product Costs †	5.1
Net Benefits	14.0
7% Discount Rate	
Consumer Operating Cost Savings	3.9
Climate Benefits *	3.3
Health Benefits **	1.9
Total Benefits †	9.1
Consumer Incremental Product Costs ††	2.4
Net Benefits	6.7

Note: This table presents the costs and benefits associated with manufactured housing shipped in 2023–2052. These results include benefits to consumers which accrue after 2052 from the products shipped in 2023–2052.

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate), as shown in Table IV.22 through Table IV.24. Together these represent the global SC–GHG. For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate. See section. IV.D of this document for more details. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. See section IV.D.2 of this document for more details.

† Total and net benefits include those consumer, climate, and health benefits that can be quantified and monetized. For presentation purposes, total and net benefits for both the 3-percent and 7-percent cases are presented using the average SC–GHG with 3-percent discount rate, but the Department does not have a single central SC–GHG point estimate. DOE emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates.

†† The incremental costs include incremental costs associated with principal and interest, mortgage and property tax for the analyzed loan types. Further discussion can be found in chapter 8 of the TSD.

TABLE V.2—ANNUALIZED MONETIZED BENEFITS AND COSTS TO MANUFACTURED HOME HOMEOWNERS UNDER THE STANDARDS

	Million $2020
3% Discount Rate	
Consumer Operating Cost Savings	551
Climate Benefits *	169
Health Benefits **	285
Total Benefits	1005
Consumer Incremental Product Costs †	277
Net Benefits	728
7% Discount Rate	
Consumer Operating Cost Savings	361
Climate Benefits *	169
Health Benefits **	153
Total Benefits	682
Consumer Incremental Product Costs †	221

TABLE V.2—ANNUALIZED MONETIZED BENEFITS AND COSTS TO MANUFACTURED HOME HOMEOWNERS UNDER THE STANDARDS—Continued

	Million $2020
Net Benefits	461

* Climate benefits are calculated using four different estimates of the social cost of carbon (SC–CO_2), methane (SC–CH_4), and nitrous oxide (SC–N_2O) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). Together these represent the global social cost of greenhouse gases (SC–GHG). For presentational purposes of this table, the climate benefits associated with the average SC–GHG at a 3 percent discount rate are shown, but the Department does not have a single central SC–GHG point estimate, and it emphasizes the importance and value of considering the benefits calculated using all four SC–GHG estimates. On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and presents monetized benefits where appropriate and permissible under law.

** Health benefits are calculated using benefit-per-ton values for NO_X and SO_2. DOE is currently only monetizing (for NO_X and SO_2) $PM_{2.5}$ precursor health benefits and (for NO_X) ozone precursor health benefits, but will continue to assess the ability to monetize other effects such as health benefits from reductions in direct $PM_{2.5}$ emissions. The health benefits are presented at real discount rates of 3 and 7 percent.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') and a final regulatory flexibility analysis (''FRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by E.O. 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (Aug. 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990 (Feb. 9, 2003) DOE has made its procedures and policies available on the Office of the General Counsel's website (*www.energy.gov/gc/office-general-counsel*).

DOE prepared an IRFA as part of the August 2021 supplemental notice of proposed rulemaking (''SNOPR''). 86 FR 47825. In the IRFA, DOE identified 29 domestic small businesses impacted by the energy conservation standards for manufactured housing. DOE determined that the costs imposed on domestic small businesses as a result of this rulemaking would be small relative to the size of the average small manufacturer. DOE sought comment from stakeholders on the cost and number of model plans manufacturers must update as a result of the rule, the types of capital expenditures necessitated by the proposal, and the total cost of updating product offerings and manufacturing facilities. DOE also sought comment on how these values would differ for small manufacturers, and DOE's estimate of average annual revenues for small manufacturers of manufactured housing. In light of DOE's analysis in the IRFA and input from stakeholders, DOE has prepared the following FRFA as part of this final rule.

1. Need for, and Objectives of, the Rule

EISA requires DOE to regulate energy conservation in manufactured housing, an area of the building construction industry traditionally regulated by HUD. HUD has regulated the manufactured housing industry since 1976, when it first promulgated the HUD Code. Among other provisions, EISA directs DOE to consult with the Secretary of HUD, who may seek further counsel from the Manufactured Housing Consensus Committee (''MHCC''); and to base the energy conservation standards on the most recent version of the International Energy Conservation Code (''IECC''), except where DOE finds that the IECC is not cost effective or where a more stringent standard would be more cost effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. (42 U.S.C. 17071)

2. Significant Issues Raised

DOE received comments from the Manufactured Housing Association for Regulatory Reform (''MHARR''), the Manufactured Housing Institute (''MHI''), and the MHCC related to small businesses and the regulatory flexibility analysis presented in the manufactured housing August 2021 SNOPR. These comments are addressed in this section.

In written comments, MHARR cited a U.S. Small Business Administration (''SBA'') study to conclude that the cost burdens of Federal regulation fall disproportionately on smaller businesses. MHARR made a general request that DOE evaluate potential impacts on smaller manufactured housing producers, retailers and communities and on the future viability and market share of those smaller, independent manufactured housing manufacturers.

DOE notes that its Regulatory Flexibility Analysis is scoped to the parties that have a direct compliance burden resulting from the rule, specifically the manufacturers that are subject to the energy conservation standard. DOE's rule requires only manufacturers of manufactured housing to comply with the rule's requirements. Analysis of retailers and communities is therefore outside the scope of DOE's FRFAs. For this final rule, DOE has further revised its analysis of small manufacturer impacts based on additional data submitted in written comments from industry stakeholders.

In response to the August 2021 SNOPR's IRFA, MHI raised concerns about the retail list price threshold used in the tiered proposal. MHI noted that the cost to update model plans would be a recurring annual cost rather than a one-time cost due to recurring retail price changes. (MHI, No. 1592 at p. 30) For the final rule, DOE is adopting a tiered approach wherein the standard levels are dependent on a size-based threshold instead of retail list prices. As such, the cost of updating the industry's current model plans to comply with the standards is expected to be a one-time conversion cost and not a recurring cost.

MHCC provided comments on DOE's August 2021 SNOPR and stated that smaller manufacturers may not always have the ability to make model plan changes in-house and must rely on external experts, which results in higher costs. The MHCC noted that the estimated engineering and third-party review time of 3 hours estimated in DOE's August 2021 SNOPR analysis is

too conservative. MHCC estimated the actual time required would be 10–12 hours. As an example of changes needed, MHCC noted model plans must be revised for physical space impacts, evaluated through calculation for compliance to new thermal envelope requirements, analyzed for structural load path impacts, evaluated for procurement and material changes, and a third-party plan review and approval. MHCC gave the example that one large manufacturer on the MHCC has upwards of 3,000 model plans while data received from a single facility manufacturer estimates 300 model plans.

For the final rule analysis, DOE revised its estimates of conversion costs based on feedback from stakeholders. Specifically, DOE revised upward its estimates of the number of model plans and the cost to update model plans, in line with MHCC's comments. Additional detail is in section 4 ''Description and Estimate of Compliance Requirements'' of the Review Under the Regulatory Flexibility Act.

3. Description and Estimate of the Number of Small Entities Affected

The SBA has set a size threshold for manufacturers of manufactured homes, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. (13 CFR part 121) The size standards are listed by North American Industry Classification System (''NAICS'') code and industry description and are available at *www.sba.gov/document/support--table-size-standards.* Manufacturing of manufactured housing is classified under NAICS code 321991: ''Manufactured Home (Mobile Home) Manufacturing.'' The SBA sets a threshold of 1,250 employees or fewer for an entity to be considered as a small business for this category. DOE notes that the IRFA in the June 2016 NOPR was based on an employee threshold of 500 employees. 81 FR 42576. The updated threshold of 1,250 employees in the IRFA in the August 2021 SNOPR and today's FRFA reflects the SBA's most recent guidance on the employee threshold for small businesses.

To estimate the number of companies that manufacture manufactured housing covered by this rulemaking, DOE conducted a market survey using publicly available information. DOE first attempted to identify all manufactured housing manufacturers by researching industry trade associations (*e.g.,* MHI [92]) and individual company websites. DOE used market research tools such as Dun & Bradstreet reports,[93] Glassdoor,[94] and LinkedIn [95] to gather information about the number of employees and manufacturing locations. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers. After a comprehensive list of businesses was created, DOE screened out companies that do not offer manufactured homes affected by this final rule, do not meet the definition of a ''small business,'' are foreign-owned and operated, or do not manufacture manufactured homes in the United States.

DOE identified 31 manufacturers of manufactured housing affected by this rulemaking. Of these, DOE identified 27 manufacturers that qualify as domestic small businesses.

4. Description and Estimate of Compliance Requirements

To evaluate impacts facing manufacturers of manufactured housing, DOE estimated both the product conversion costs (*e.g.,* expenditures on R&D, testing, marketing, and other non-depreciable expenses) and capital conversion costs (*e.g.,* investments in property, plant, and equipment) manufacturers would incur to bring their product designs and manufacturing facilities into compliance with the standards.

To calculate product conversion costs, DOE estimated the number of model-plans manufacturers would need to redesign. MHI reports there are 136 production plants for manufactured housing in the United States.[96] Three large manufacturers in the industry account for 100 of those production plants, based on production plant counts in the companies' annual reports. The remaining 36 plants are associated with small manufacturers. MHCC's comments indicate that individual production plants have approximately 300 model plans. (MHCC, No. 1600 at pp. 14) DOE estimated there are 10,800 model plans associated with the small manufacturers. Based on stakeholder input from written comments, DOE estimated that each plan would require 10 hours of engineering time to update. DOE chose to use the lower end of MHCC's 10–12 hour estimate because of revisions to the adopted standards, specifically removal of R–5 continuous insulation from the prescriptive requirements, addresses some of the more complex design concerns of manufacturers raised in response to the August 2021 SNOPR. Using data from the U.S. Bureau of Labor Statistics, DOE calculated a fully burdened mean hourly wage for a mechanical engineer at $65.53/hour in 2020.[97] Based on these inputs, DOE estimated total small business product conversion costs of approximately $7.1 million. For this FRFA, DOE assumed the $7.1 million in product conversion costs were evenly spread across the 27 small businesses identified. DOE believes that particularly small, low-volume manufacturers would offer fewer model plans, however there was insufficient information to determine the exact number of plans each small business offered. Furthermore, DOE believes this even allocation avoids underestimating the investment needed for particularly small, low-volume manufacturers. Using these assumptions, DOE estimates product conversion costs of approximately $262,000 per small manufacturer.

While DOE understands most manufacturers have the necessary equipment to produce manufactured homes that are compliant with the standards as proposed in this document, DOE incorporated capital conversion costs of $20,000 per production plant to cover tooling and work station adjustments that may be needed to support compliance with the standard. Accounting for 36 production plants, DOE estimates capital conversion costs of approximately $27,000 per small manufacturer.

DOE estimated the average small manufacturer would incur $289,000 in conversion costs. Based on data from business databases (*i.e.,* Dun & Bradstreet and Manta), DOE estimated that small manufacturers of manufactured housing have an average annual revenue of $52.3 million. Per manufacturer conversion costs are less than one percent of average small business annual revenue.

[92] Manufactured Housing Institute. MHI Company Members. (2019). *www.manufacturedhousing.org/wp-content/uploads/2019/07/Current-Member-List-USE-7-18-19-3.pdf* (Last accessed March 10, 2022).

[93] Dun & Bradstreet Hoovers. Subscription login accessible at: *app.dnbhoovers.com/* (Last accessed March 10, 2022).

[94] Glassdoor, Inc. Available at: *www.glassdoor.com/index.htm* (Last accessed March 10, 2022).

[95] LinkedIn. Available at: *www.linkedin.com/* (Last accessed March 10, 2022).

[96] Manufactured Housing Institute. *2021 Manufactured Housing Facts.* Available at: *www.manufacturedhousing.org/wp-content/uploads/2021/05/2021-MHI-Quick-Facts-updated-05-2021.pdf* (Last accessed March 10, 2022).

[97] U.S. Bureau of Labor Statistics. *Occupational Employment and Wage Statistics.* Available at: *www.bls.gov/oes/current/oes172141.htm* (Last accessed March 10, 2022).

While DOE's analysis indicated that conversion costs are small relative to the annual revenue of most small manufacturers, DOE recognized that there is a range of company sizes within the set of 27 small manufacturers. DOE evaluated the impacts of the standard of different groupings of small manufacturers based on revenue. See Table V.3 for the grouping of small manufacturers by revenue.

TABLE V.3—ANNUAL REVENUE DISTRIBUTION OF MANUFACTURED HOUSING SMALL BUSINESSES

Annual company revenue (millions)	Number of small manufacturers	Conversion cost/annual revenue (%)
Less than $10	4	5
$10 to $20	6	2
$20 to $30	5	1
$30 to $40	2	1
$40 to $50	4	1
$50 or more	6	0
Total	27	

For the small manufacturer groupings with revenue over $10 million, DOE finds the conversion costs to be small relative to company revenue. However, the impacts could be more severe for the grouping with annual revenue less than $10 million. For this grouping of manufacturers, which accounts for less than 0.5 percent of industry shipments, the estimated conversion costs could reach 5 percent of annual revenue over the conversion period.

DOE expects the four manufacturers with less than $10 million in annual revenue to have one production location each. If these small manufacturers maintain fewer than 300 model plans or if these manufacturers have existing high efficiency models that meet the standard today, then the conversion costs would be lower. However, there is insufficient publicly available information to allow DOE to determine the exact number of model plans requiring redesign for just these four specific companies.

5. Significant Alternatives Considered and Steps Taken To Minimize Significant Economic Impacts on Small Entities

In reviewing alternatives to the proposed standards, DOE examined energy conservation standards proposals in the June 2016 NOPR, proposals the August 2021 SNOPR, and sensitivities in the October 2021 NODA. The June 2016 NOPR was adopted by the MH working group, which consisted of 22 representatives of stakeholders,[98] including representatives of manufacturer trade groups that included small manufacturers. However, in response to concerns related to potential adverse impacts on price-sensitive, low-income purchasers of manufactured homes from the imposition of energy conservation standards on manufactured housing, DOE considered multiple alternatives.

DOE evaluated the alternative of adopting tiered standards with tiers based on retail pricing. In the August 2021 SNOPR, Tier 1 applied to manufactured home with a manufacturer's retail list price of $55,000 or less, and would incorporate building thermal envelope measures based on certain thermal envelope components subject to the 2021 IECC but would limit the incremental purchase price increase to $750 or less. The August 2021 SNOPR also set up a Tier 2 that would apply to manufactured homes with a manufacturer's retail list price greater than $55,000. The Tier 2 standards would be set to stringencies based on the 2021 IECC and would increase purchase prices by more than $750.

DOE is adopting energy conservation standards based on the tiered approach presented in the August 2021 SNOPR and October 2021 NODA with some revisions. Tier 1 will apply to single-section manufactured homes and Tier 2 will apply to multi-section manufactured homes. The removal of tiers based on retail price eliminates the possibility that manufacturers would need to revise models plans frequently due to fluctuations in production costs or changes in retail pricing strategy. Additionally, DOE is adopting alternate exterior wall insulation prescriptive requirements to reduce burden on manufacturers, including small manufacturers. Specifically, for manufacturers choosing to follow the prescriptive requirements, eliminating the continuous insulation requirement in exterior wall insulation reduces product conversion costs by reducing the complexity and the extent of plan redesign. Without this change, DOE would expect product conversion costs for manufacturers, including small manufacturers, to be at least 20 percent higher.

The adopted energy conservation standards incorporate building thermal envelope measures based on specifications of the 2021 IECC, with consideration of the design and factory construction techniques of manufactured homes. Further, the energy conservation standards also include duct and air sealing, insulation installation, HVAC specifications, service hot water systems, mechanical ventilation fan efficacy, and heating and cooling equipment sizing provisions, based on the 2021 IECC. Additionally, the energy conservation standard incorporates feedback from manufacturers and takes steps to mitigate the burdens on small manufacturers, such as removing prescriptive requirements requiring continuous insulation. The tiered energy conservation standards provide

[98] Selected member of the MH working group were: Bert Kessler, Palm Harbor Homes, Inc.; David Tompos, NTA, Inc.; Emanuel Levy, Systems Building Research Alliance; Eric Lacey, Responsible Energy Codes Alliance; Ishbel Dickens, National Manufactured Home Owners Association (NMHOA); Keith Dennis, National Rural Electric Cooperative Association; Lois Starkey, Manufactured Housing Institute; Lowell Ungar, American Council for an Energy-Efficient Economy; Manuel Santana, Cavco Industries; Mark Ezzo, Clayton Homes, Inc.; Mark Weiss, Manufactured Housing Association for Regulatory Reform; Michael Lubliner, Washington State University Extension Energy Program; Michael Wade, Cavalier Home Builders; Peter Schneider, Efficiency Vermont; Richard Hanger, Housing Technology and Standards; Richard Potts, Virginia Department of Housing and Community Development; Rob Luter, Lippert Components, Inc.; Robin Roy, Natural Resources Defense Council; Scott Drake, East Kentucky Power Cooperative; Stacey Epperson, Next Step Network. DOE and ASRAC members were: Joseph Hagerman (DOE); and John Caskey (ASRAC, National Electrical Manufacturers Association).

positive national average lifecycle cost savings over the life of the manufactured home (*i.e.,* 30-years). Additionally, this adopted standard is expected to save 1.88 quads of FFC savings over the 30-year analysis period.

C. Review Under the Paperwork Reduction Act

This rulemaking does not include any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act of 1969

On January 14, 2022, DOE published the draft environmental impact statement for proposed energy conservation standards for manufactured housing (DOE/EIS–0550D). (''January 2022 DEIS''). The January 2022 DEIS was published pursuant to the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's Regulations for implementing the procedural provisions of the National Environmental Policy Act (40 CFR parts 1500–1508), and DOE's NEPA Implementing Procedures (10 CFR part 1021). In response to the August 2021 SNOPR and October 2021 NODA, DOE received a number of comments regarding the January 2022 DEIS, as follows.

Schulte commented that there may be difficulty in establishing national standards because evaluating the impact of tightening the air envelope of the home on indoor air quality would be influenced by regional differences in ambient climate. (Schulte, No. 1028 at p. 23) UCB commented that they were concerned that there is not an EIS available, and that they cannot make an informed comment without the EIS, especially when looking at alternatives to this rule. (UCB, No. 1405 at p. 1) UC Law School stated that by failing to publish a Draft Environmental Impact Statement, the DOE has compromised the ability of the public to offer meaningful comments. Under NEPA, ''NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.'' 40 CFR 1500.1(b). They stated that this provision indicates that a DEIS should have been prepared before the DOE decided on this proposed rule and certainly should be available for public comment before the proposed rule is promulgated. (UC Law School, No. 1634 at p. 2, 3, 5, 6) They also stated that DOE must incorporate the cost-benefit analysis into the EIS. The CEQ rules do not require a formal CBA, but if the agency prepares one, it must be presented in the EIS, according to 40 CFR 1502.22. (UC Law School, No. 1634 at p. 10) Further, UC Law School commented that the CBA does not comply with the directives of Executive Order 12866. Executive Order 12866 directs agencies, in the rulemaking process, to ''assess all costs and benefits of available regulatory alternatives. . . .''. The Executive order mandates that agencies shall: Identify the problem to be addressed and its significance; consider the need to fix existing regulations; assess alternatives to direct regulation; design regulations to maximize cost-efficiency; confirm that the benefits of new rules justify the costs, use the best reasonably obtainable information; tailor regulations to minimize burdens; and write rules clearly to minimize uncertainty and litigation. UC Law School stated that the alternatives were not entirely assessed, a third approach was not examined, the regulation was not designed to maximize cost-efficiency, and the proposed rule was not written to minimize uncertainty and litigation since the EIS has not been published. (UC Law School, No. 1634 at p. 11)

ACEEE stated that the analysis presented in the EIS supports a strong untiered standard to provide the greatest environmental, socioeconomic, and health benefits. ACEEE says that air sealing requirements have mixed but acceptable impacts on IAQ. ACEEE stated that its analysis shows that the air sealing requirements of the proposed standards may increase concentrations of certain indoor air pollutants but that does not change the overall hazard status of these pollutants. ACEEE also stated that analysis also shows that the proposed air sealing requirements reduce indoor exposure to pollutants from outdoor sources (by reducing uncontrolled air flow). Thus, the proposed efficiency standards should not be rejected based on the potential impacts to IAQ. ACEEE stated that it is worth noting that all options considered in the SNOPR and in the EIS have the same air sealing requirements and thus the same IAQ impacts. ACEEE stated that requiring effective mechanical ventilation and reducing use of off-gassing materials in manufactured homes, regardless of the efficiency standard, is the best way to ensure healthy indoor air quality by reducing exposure to air pollutants from indoor sources, and referred to ASHRAE Standard 62.2, Ventilation and Acceptable Indoor Air Quality in Residential Buildings, as an option for meeting the HUD Code. ACEEE concluded that the EIS confirms that the untiered standard delivers the highest 30-year LCC savings to residents, and delivers strong climate and environmental justice benefits. ACEEE said the untiered standard delivers the largest reduction in ongoing energy costs, which is an essential part of preserving the affordability of MH and lowering high energy burdens for its residents. (ACEEE, No. 1988 at p. 1–2)

Earthjustice and Prosperity Now stated that there is no need to view energy-saving requirements that reduce air infiltration in MH as establishing a zero sum game between different groups or air pollutants, and that DOE should follow through on the draft EIS recommendations that to promote installation of energy efficient fans for ventilation. Earthjustice and Prosperity Now stated that, at the absolute minimum, DOE needs to fulfill its statutory obligation to evaluate the requirements for improved ventilation contained in the IECC, and concluded that the substantial economic, environmental, and health benefits of improving air sealing practices in MH construction should not come at the cost of creating environments where air pollutants generated indoors linger until concentrations reach potentially harmful levels, and that it is essential that these risks be mitigated, and DOE must not pass up any opportunities to use its legal authority to ensure the safety of the MH residents.

As previously mentioned, DOE has published the January 2022 DEIS and the Final EIS in April of 2022 which informs this final rule. Although DOE was unable to issue the DEIS simultaneously with the August 2021 SNOPR, the agency reopened the energy conservation standards rule docket for public comment in January 2022, when it issued the January 2022 DEIS, to ensure an opportunity to comment on how the January 2022 DEIS should inform the standards final rule. Comments received in the rulemaking docket during the January 2022 comment period have been considered in the previous sections, though some are discussed more below; comments received on the DEIS specifically are considered in the FEIS.

The January 2022 DEIS analyzed a range of alternatives and impacts for the standards considered in the August 2021 SNOPR and October 2021 NODA (*i.e.,* tiered—using manufacturer's list price or home size; untiered; alternate exterior wall insulation for certain climate zones), as well as the no action alternative. The final EIS further analyzed these alternatives, and incorporated and addressed feedback

from stakeholder comments on the DEIS. DOE utilized the analyses in the DEIS, the comments received on the DEIS, and the analyses in the final EIS to inform this final rule, particularly in regards to the issues of indoor air quality and socioeconomics.

With respect to indoor air quality, the final EIS provides a discussion of potential environmental impacts to indoor air quality related to the alternatives analyzed, as well as potential mitigation measures, which informed this rulemaking. See sections 4.2.3 and 4.3 of the Final EIS. As noted in the EIS, all the action alternatives analyzed would result in more airtight homes, which would have higher indoor air concentrations of pollutants emitted indoors, increasing the existing potential for health effects, particularly when ventilation is not routinely used. Conversely, all the action alternatives would result in better indoor protection from outdoor air pollutants, including wildfire smoke. Additionally, DOE expects a lower risk of moisture problems (*e.g.,* mold) in the belly and attic of manufactured homes. As noted in section 4.11 of the final EIS, DOE identified potential mitigation measures to address increased indoor air pollutants resulting from better sealing of homes, such as promotion of installation of energy-efficient ventilation systems, advanced research and stakeholder engagement to increase implementation of efficient ventilation in manufactured housing, and promoting indoor air quality and environmental justice through informational resources and labeling. DOE considered all of this information in constructing this final rule.

With respect to socioeconomics, the final EIS provides a discussion of impacts to indoor socioeconomics, which informed this rulemaking of the reasonable alternatives that could avoid or minimize adverse impacts. See section 4.4 of the Final EIS. DOE received numerous comments from a variety of stakeholders about the impacts of the alternatives analyzed in the DEIS on socioeconomics, particularly on low-income consumers. Accordingly, DOE has finalized the tiered standard based on home size in this final rule.

With respect to the comments at the beginning of this section, as discussed in section III.B of this document, DOE is adopting a tiered standard in this final rule to mitigate the affordability and cost-effectiveness concerns raised by HUD during and consultation, and in other stakeholder comments. DOE acknowledges that the untiered standard provided greater long-term energy savings benefits. However, for the reasons stated in section III.B of this document, DOE has determined to adopt the tiered standard in today's final rule. As ACEEE noted, DOE considered similar sealing requirements across the analyzed action alternatives, and they had similar indoor air quality impacts. Therefore, these impacts would be similar regardless of the alternative chosen. With respect to Earthjustice and Prosperity Now's comments, as discussed in section III.A.3 of this document, DOE disagrees with the commenter that a provision-by-provision analysis of the IECC is necessary for this final rule. Moreover, HUD is the Federal authority that regulates safety standards, including ventilation, in manufactured homes. Additional ventilation requirements to improve indoor air quality are better addressed by HUD. DOE notes that the standards adopted in this final rule are similar to those already required by the HUD Code. Additionally, as discussed in section 4.11 of the final EIS, DOE identified potential mitigation measures to address increased indoor air pollutants resulting from better sealing of homes, such as promotion of installation of energy-efficient ventilation systems, advanced research and stakeholder engagement to increase implementation of efficient ventilation in manufactured housing, and through informational resources and labeling. DOE intends to pursue these potential mitigation measures to promote indoor air quality and environmental justice in manufactured homes.

Elsewhere in this issue of the **Federal Register**, DOE is publishing its record of decision (''ROD'') pursuant to its obligations under NEPA. The ROD finalizes DOE's considerations of the environmental impacts under the NEPA process and memorializes DOE's determinations and approach chosen consistent with this final rule. In addition, to remain compliant with Executive Order 12866, DOE is submitting this final rule for review to the Office of Information and Regulatory Affairs to ensure that the final rule, including the assessments of cost-effectiveness and benefits, meet the requirements of Executive Order 12866. DOE is statutorily required by EISA to base these energy conservation standards on the most recent version of the IECC except where it is not cost-effective, and as such, DOE followed that statutory direction for this final rule. DOE strived to incorporate feedback from stakeholders to maximize clarity and minimize the burden placed on manufacturers, while also following its statutory obligations and ensuring energy and cost savings for consumers of manufactured housing. With regards to difficulties establishing national standards based on regional differences in ambient climate, DOE has based the adopted standards on the established HUD zones to account for differences in regional climates consistent with section 413 of EISA (42 U.S.C. 17071(b)(2)(B)).

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this final rulemaking and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

DOE has examined this action and has determined that it will not pre-empt State law. This action impacts energy efficiency requirements for manufacturers of manufactured homes. Therefore, no further action is required by E.O. 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of E.O. 12988, ''Civil Justice Reform,'' imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard; and (4) promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Regarding the review required by section 3(a), section 3(b) of E.O. 12988 specifically requires that executive

agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of E.O. 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met, or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of E.O. 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, section 201 (codified at 2 U.S.C. 1531). For a regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect them. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *https://energy.gov/sites/prod/files/gcprod/documents/umra_97.pdf.*

DOE has concluded that this rule may require expenditures of $100 million or more in one year by the private sector. Such expenditures may include: (1) Updates to product plans and investment in capital expenditures by manufactured home manufacturers in the years between the final rule and the compliance date of the new standards, and (2) incremental additional expenditures by consumers to purchase higher-efficiency manufactured homes, starting at the compliance date for the standards.

Section 202 of UMRA authorizes a Federal agency to respond to the content requirements of UMRA in any other statement or analysis that accompanies the rule. (2 U.S.C. 1532(c)) The content requirements of section 202(b) of UMRA relevant to a private sector mandate substantially overlap the economic analysis requirements that apply under E.O. 12866. This **SUPPLEMENTARY INFORMATION** section and chapter 15 of the TSD for this final rule respond to those requirements.

Under section 205 of UMRA, the Department is obligated to identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a written statement under section 202 is required. (2 U.S.C. 1535(a)) DOE is required to select from those alternatives the most cost-effective and least burdensome alternative that achieves the objectives of the rule unless DOE publishes an explanation for doing otherwise, or the selection of such an alternative is inconsistent with law.

In accordance with the statutory provisions discussed in this document, this rule would establish energy conservation standards for manufactured homes based on the most recent IECC, except in cases in which DOE finds that the IECC is not cost-effective, or a more stringent standard would be more cost-effective, based on the impact of the code on the purchase price of manufactured housing and on total life-cycle construction and operating costs, and taking into consideration the design and factory construction techniques of manufactured homes. (42 U.S.C. 17071(b)(1) and 42 U.S.C. 17071(b)(2)(A)) As discussed previously, DOE found the 2021 IECC-based adopted final rule cost-effective consistent with section 413 of EISA. A discussion of the alternatives considered by DOE is presented in chapter 15 of the TSD for this final rule.

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

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

I. Review Under Executive Order 12630

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

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

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

K. Review Under Executive Order 13211

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

distribution, or use, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has concluded that this regulatory action, which establishes new energy conservation standards for manufactured housing, is not a significant energy action because the standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on this final rule.

L. Information Quality

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

In response to OMB's Bulletin, DOE conducted formal peer reviews of the energy conservation standards development process for consumer products and industrial equipment under EPCA and the analyses that are typically used and prepared a report describing that peer review.[99] Generation of this report involved a rigorous, formal, and documented evaluation using objective criteria and qualified and independent reviewers to make a judgment as to the technical, scientific, and business merit; the actual or anticipated results; and the productivity and management effectiveness of programs and/or projects. Because available data, models, and technological understanding have changed since 2007, DOE has engaged with the National Academy of Sciences to review DOE's analytical methodologies to ascertain whether modifications are needed to improve the Department's analyses. DOE is in the process of evaluating the resulting report.[100]

M. Materials Incorporated by Reference

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the FTC Chairman concerning the impact of the commercial or industry standards on competition.

DOE is incorporating by reference the industry standard published by ACCA, titled Manual J–2016 (ver 2.50), Manual J—Residential Load Calculations, Eight Edition, Version 2.50.. ACCA Manual J is an industry accepted standard for calculating the heating and cooling load associated with a building. DOE is requiring building heating and cooling loads to be calculated (for purposes of equipment sizing) in accordance with ACCA Manual J. ACCA Manual J is readily available on ACCA's website at *www.acca.org/.*

DOE is incorporating by reference the industry standard published by ACCA, titled Manual S–2014, Manual S—Residential Equipment Selection, Second Edition, Version 1.00. ACCA Manual S is an industry accepted standard for calculating the appropriate heating and cooling equipment size for a building. DOE is requiring building heating and cooling equipment to be sized in accordance with ACCA Manual S. ACCA Manual S is readily available on ACCA's website at *www.acca.org/.*

DOE is incorporating by reference the industry standard written by C.C Conner and Z.T. Taylor of Pacific Northwest Laboratory, titled *Overall U-Values and Heating/Cooling Loads—Manufactured Homes.* This industry standard (referred to as the ''Battelle Method'') is an industry accepted method for calculating the overall thermal transmittance of a manufactured home. In instances in which manufacturers demonstrate compliance with the overall thermal transmittance requirement, DOE is requiring manufactured housing manufacturers to calculate the overall thermal transmittance of a manufactured home in accordance with this industry standard. This standard is readily available on the U.S. Department of Housing and Urban Development's website at *www.huduser.org/portal/publications/manufhsg/uvalue.html.*

DOE has evaluated these standards and was unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review.) DOE has consulted with both the Attorney General and the Chairman of the FTC about the impact on competition of using the methods contained in these standards and has received no comments objecting to their use.

N. Congressional Notification

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule prior to its effective date. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

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

List of Subjects in 10 CFR Part 460

Administrative practice and procedure, Buildings and Facilities, Energy conservation, Housing standards, Incorporation by reference, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on May 16, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters

[99] The 2007 ''Energy Conservation Standards Rulemaking Peer Review Report'' is available at the following website*: http://energy.gov/eere/buildings/downloads/energy-conservation-standards-rulemaking-peeR-review-report-0.*

[100] The report is available at *www.nationalacademies.org/our-work/review-of-methods-for-setting-building-and-equipment-performance-standards.*

the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on May 17, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE adds part 460 of chapter II of title 10, Code of Federal Regulations as set forth below:

PART 460—ENERGY CONSERVATION STANDARDS FOR MANUFACTURED HOMES

Subpart A—General

Sec.
460.1 Scope.
460.2 Definitions.
460.3 Materials incorporated by reference.
460.4 Energy conservation standards.

Subpart B—Building Thermal Envelope

460.101 Climate zones.
460.102 Building thermal envelope requirements.
460.103 Installation of insulation.
460.104 Building thermal envelope air leakage.

Subpart C—HVAC, Service Hot Water, and Equipment Sizing

460.201 Duct systems.
460.202 Thermostats and controls.
460.203 Service hot water.
460.204 Mechanical ventilation fan efficacy.
460.205 Equipment sizing.

Authority: 42 U.S.C. 17071; 42 U.S.C. 7101 *et seq.*

Subpart A—General

§ 460.1 Scope.

This subpart establishes energy conservation standards for manufactured homes as manufactured at the factory, prior to distribution in commerce for sale or installation in the field. A manufactured home that is manufactured on or after the May 31, 2023 must comply with all applicable requirements of this part.

§ 460.2 Definitions.

Adapted from section R202 of the 2021 IECC and as used in this part—

2021 IECC means the 2021 version of the International Energy Conservation Code, issued by the International Code Council.

Access (to) means that which enables a device, appliance or equipment to be reached by ready access or by a means that first requires the removal or movement of a panel or similar obstruction.

Air barrier means one or more materials joined together in a continuous manner to restrict or prevent the passage of air through the building thermal envelope and its assemblies.

Automatic means self-acting or operating by its own mechanism when actuated by some impersonal influence.

Building thermal envelope means exterior walls, exterior floors, exterior ceiling, or roofs, and any other building element assemblies that enclose conditioned space or provide a boundary between conditioned space and unconditioned space.

Ceiling means an assembly that supports and forms the overhead interior surface of a building or room that covers its upper limit and is horizontal or tilted at an angle less than 60 degrees (1.05 rad) from horizontal.

Climate zone means a geographical region identified in § 460.101.

Conditioned space means an area, room, or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned space, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping, or other sources of heating or cooling.

Continuous air barrier means a combination of materials and assemblies that restrict or prevent the passage of air from conditioned space to unconditioned space.

Door means an operable barrier used to block or allow access to an entrance of a manufactured home.

Dropped ceiling means a secondary nonstructural ceiling, hung below the exterior ceiling.

Dropped soffit means a secondary nonstructural ceiling that is hung below the exterior ceiling and that covers only a portion of the ceiling.

Duct means a tube or conduit, except an air passage within a self-contained system, utilized for conveying air to or from heating, cooling, or ventilating equipment.

Duct system means a continuous passageway for the transmission of air that, in addition to ducts, includes duct fittings, dampers, plenums, fans, and accessory air-handling equipment and appliances.

Eave means the edge of the roof that overhangs the face of an exterior wall and normally projects beyond the side of the manufactured home.

Equipment includes material, devices, fixtures, fittings, or accessories both in the construction of, and in the plumbing, heating, cooling, and electrical systems of a manufactured home.

Exterior ceiling means a ceiling that separates conditioned space from unconditioned space.

Exterior floor means a floor that separates conditioned space from unconditioned space.

Exterior wall means a wall, including a skylight well, that separates conditioned space from unconditioned space.

Fenestration means vertical fenestration and skylights.

Floor means a horizontal assembly that supports and forms the lower interior surface of a building or room upon which occupants can walk.

Glazed or glazing means an infill material, including glass, plastic, or other transparent or translucent material used in fenestration.

Heated water circulation system means a water distribution system in which one or more pumps are operated in the service hot water piping to circulate heated water from the water heating equipment to fixtures and back to the water heating equipment.

Insulation means material deemed to be insulation under 16 CFR 460.2.

Manual means capable of being operated by personal intervention.

Manufactured home means a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected onsite is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. This term includes all structures that meet the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification pursuant to 24 CFR 3282.13 and complies with the construction and safety standards set forth in 24 CFR part 3280. The term does not include any self-propelled recreational vehicle. Calculations used to determine the number of square feet in a structure will be based on the structure's exterior dimensions, measured at the largest horizontal projections when erected on site. These dimensions will include all expandable rooms, cabinets, and other projections containing interior space, but do not include bay windows. Nothing in this definition should be interpreted to mean that a manufactured home necessarily meets the requirements of the U.S. Department of Housing and Urban Development Minimum Property Standards (HUD

Handbook 4900.1) or that it is automatically eligible for financing under 12 U.S.C. 1709(b).

Manufacturer means any person engaged in the factory construction or assembly of a manufactured home, including any person engaged in importing manufactured homes for resale.

Opaque door means a door that is not less than 50 percent opaque in surface area.

R-value (thermal resistance) means the inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area ($h \times ft^2 \times °F/Btu$).

Rough opening means an opening in the exterior wall or roof, sized for installation of fenestration.

Service hot water means supply of hot water for purposes other than comfort heating.

Skylight means glass or other transparent or translucent glazing material, including framing materials, installed at an angle less than 60 degrees (1.05 rad) from horizontal, including unit skylights, tubular daylighting devices, and glazing materials in solariums, sunrooms, roofs and sloped walls.

Skylight well means the exterior walls underneath a skylight that extend from the interior finished surface of the exterior ceiling to the exterior surface of the location to which the skylight is attached.

Solar heat gain coefficient (SHGC) means the ratio of the solar heat gain entering a space through a fenestration assembly to the incident solar radiation. Solar heat gain includes directly transmitted solar heat and absorbed solar radiation that is then reradiated, conducted, or convected into the space.

State means each of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the U.S. Virgin Islands, and American Samoa.

Thermostat means an automatic control device used to maintain temperature at a fixed or adjustable set point.

U-factor (thermal transmittance) means the coefficient of heat transmission (air to air) through a building component or assembly, equal to the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films ($Btu/h \times ft^2 \times °F$).

U_o *(overall thermal transmittance)* means the coefficient of heat transmission (air to air) through the building thermal envelope, equal to the time rate of heat flow per unit area and unit temperature difference between the warm side and cold side air films ($Btu/h \times ft^2 \times °F$).

Ventilation means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

Vertical fenestration means windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque and glazed doors composed of glass or other transparent or translucent glazing materials and installed at a slope of greater than or equal to 60 degrees (1.05 rad) from horizontal.

Wall means an assembly that is vertical or tilted at an angle equal to greater than 60 degrees (1.05 rad) from horizontal that encloses or divides an area of a building or room.

Whole-house mechanical ventilation system means an exhaust system, supply system, or combination thereof that is designed to mechanically exchange indoor air with outdoor air when operating continuously or through a programmed intermittent schedule to satisfy the whole house ventilation rates.

Window means glass or other transparent or translucent glazing material, including framing materials, installed at an angle greater than 60 degrees (1.05 rad) from horizontal.

Zone means a space or group of spaces within a manufactured home with heating or cooling requirements that are sufficiently similar so that desired conditions can be maintained using a single controlling device.

§ 460.3 Materials incorporated by reference.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the U.S. Department of Energy (DOE) must publish a document in the **Federal Register** and the material must be available to the public. All approved material is available for inspection at DOE and at the National Archives and Records Administration (NARA). Contact DOE at: The U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Sixth Floor, 950 L'Enfant Plaza SW, Washington, DC 20024, (202) 586–9127, *Buildings@ee.doe.gov, https://www.energy.gov/eere/buildings/building-technologies-office.* For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the following sources:

(a) *ACCA.* Air Conditioning Contractors of America, Inc., 2800 S. Shirlington Road, Suite 300, Arlington, VA 22206, 703–575–4477; *www.acca.org/*.

(1) ANSI/ACCA 2 Manual J–2016 (ver 2.50) (''ACCA Manual J''), Manual J–Residential Load Calculations, Eight Edition, Version 2.50, Copyright 2016; IBR approved for § 460.205.

(2) ANSI/ACCA 3 Manual S–2014 (''ACCA Manual S''), Manual S–Residential Equipment Selection, Second Edition, Version 1.00, Copyright 2014; IBR approved for § 460.205.

(b) *HUD User,* 11491 Sunset Hills Road, Reston, VA 20190–5254; *www.huduser.gov/portal/publications/pdrpubli.html.*

(1) HUD User No. 0005945, Overall U-Values and Heating/Cooling Loads—Manufactured Homes, February 1, 1992 (available from *www.huduser.org/portal/publications/manufhsg/uvalue.html*); IBR approved for § 460.102(e).

(2) [Reserved].

§ 460.4 Energy conservation standards.

(a) *General.* A manufactured home must comply with the energy conservation standards specified for the applicable tier as presented in paragraphs (b) and (c) of this section.

(b) *Tier 1.* A single-section manufactured home (*i.e.,* a Tier 1 manufactured home) must comply with all applicable requirements in subparts B and C of this part.

(c) *Tier 2.* A multi-section manufactured home (*i.e.,* a Tier 2 manufactured home) must comply with all applicable requirements in subparts B and C of this part.

Subpart B—Building Thermal Envelope

§ 460.101 Climate zones.

Manufactured homes subject to the requirements of this subpart must comply with the requirements applicable to one or more of the climate zones set forth in figure 1 to § 460.101 and table 1 to § 460.101.

Figure 1 to § 460.101 Climate Zones

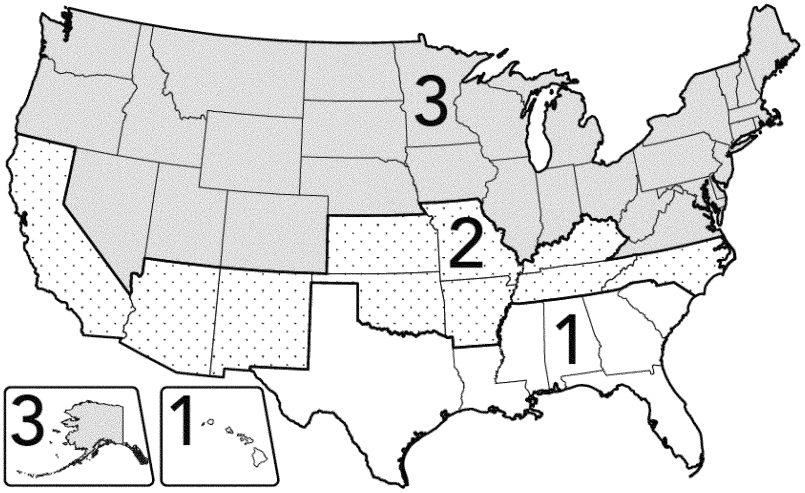

TABLE 1 TO § 460.101—U.S. STATES AND TERRITORIES PER CLIMATE ZONE

Zone 1	Zone 2	Zone 3
Alabama	Arkansas	Alaska
American Samoa	Arizona	Colorado
Florida	California	Connecticut
Georgia	Kansas	Delaware
Guam	Kentucky	District of Columbia
Hawaii	Missouri	Idaho
Louisiana	New Mexico	Illinois
Mississippi	North Carolina	Indiana
South Carolina	Oklahoma	Iowa
Texas	Tennessee	Maine
The Commonwealth of Puerto Rico		Maryland
U.S. Virgin Islands		Massachusetts
		Michigan
		Minnesota
		Montana
		Nebraska
		Nevada
		New Hampshire
		New Jersey
		New York
		North Dakota
		Ohio
		Oregon
		Pennsylvania
		Rhode Island
		South Dakota
		Utah
		Vermont
		Virginia
		Washington
		West Virginia
		Wisconsin
		Wyoming

§ 460.102 Building thermal envelope requirements.

(a) *Compliance options.* The building thermal envelope must meet either the prescriptive requirements of paragraph (b) of this section or the performance requirements of paragraph (c) of this section.

(b) *Prescriptive requirements.* (1) The building thermal envelope must meet the applicable minimum *R*-value (nominal value of insulation), and the glazing maximum *U*-factor and SHGC, requirements set forth in table 1 to § 460.102(b)(1) and table 2 to § 460.102(b)(2) or component U-values set forth in table 3 to § 460.102(b)(5) and table 4 to § 460.102(b)(5).

TABLE 1 TO § 460.102(b)(1)—TIER 1 BUILDING THERMAL ENVELOPE PRESCRIPTIVE REQUIREMENTS

Climate zone	Exterior wall insulation *R*-value	Exterior ceiling insulation *R*-value	Exterior floor insulation *R*-value	Window *U*-factor	Skylight *U*-factor	Door *U*-factor	Glazed fenestration SHGC
1	13	22	22	1.08	0.75	0.40	0.7
2	13	22	19	0.5	0.55	0.40	0.6
3	19	22	22	0.35	0.55	0.40	Not applicable.

TABLE 2 TO § 460.102(b)(1)—TIER 2 BUILDING THERMAL ENVELOPE PRESCRIPTIVE REQUIREMENTS

Climate zone	Exterior wall insulation *R*-value	Exterior ceiling insulation *R*-value	Exterior floor insulation *R*-value	Window *U*-factor	Skylight *U*-factor	Door *U*-factor	Glazed fenestration SHGC
1	13	30	13	0.32	0.75	0.40	0.33
2	21	30	19	0.30	0.55	0.40	0.25
3	21	38	30	0.30	0.55	0.40	Not applicable.

(2) For the purpose of compliance with the exterior ceiling insulation *R*-value requirement of paragraph (b)(1) of this section, the truss heel height must be a minimum of 5.5 inches at the outside face of each exterior wall.

(3) A combination of *R*-21 batt insulation and *R*-14 blanket insulation may be used for the purpose of compliance with the floor insulation *R*-value requirement of table 2 to § 460.102(b)(1), Climate Zone 3.

(4) An individual skylight that has an SHGC that is less than or equal to 0.30 is not subject to the glazed fenestration SHGC requirements established in paragraph (b)(1) of this section. Adapted from section R402 of the 2021 IECC.

(5) *U*-factor alternatives to *R*-value requirements. Compliance with the applicable requirements in paragraph (b)(1) of this section may be determined using the applicable maximum *U*-factor values set forth in table 3 to § 460.102(b)(5) and table 4 to § 460.102(b)(5), which reflect the thermal transmittance of the component, excluding fenestration, and not just the insulation of that component, as an alternative to the minimum nominal *R*-value requirements set forth in table 1 to § 460.102(b)(1) and table 2 to § 460.102(b)(1), respectively.

TABLE 3 TO § 460.102(b)(5)—*U*-FACTOR ALTERNATIVES TO TIER 1 *R*-VALUE REQUIREMENTS

Climate zone	Exterior ceiling *U*-factor	Exterior wall *U*-factor	Exterior floor *U*-factor
1	0.061	0.094	0.049
2	0.061	0.094	0.056
3	0.061	0.068	0.049

TABLE 4 TO § 460.102(b)(5)—*U*-FACTOR ALTERNATIVES TO TIER 2 R-VALUE REQUIREMENTS

Climate zone	Exterior ceiling *U*-factor	Exterior wall *U*-factor	Exterior floor *U*-factor
1	0.043	0.094	0.078
2	0.043	0.063	0.056
3	0.037	0.063	0.032

(c) *Performance requirements.* (1) The building thermal envelope must have a U_o that is less than or equal to the applicable value specified in table 5 to § 460.102(c)(1) and table 6 to § 460.102(c)(1).

TABLE 5 TO § 460.102(c)(1)—TIER 1 BUILDING THERMAL ENVELOPE PERFORMANCE REQUIREMENTS

Climate zone	Single-section U_o
1	0.110
2	0.091
3	0.074

TABLE 6 TO § 460.102(c)(1)—TIER 2 BUILDING THERMAL ENVELOPE PERFORMANCE REQUIREMENTS

Climate zone	Multi-section U_o
1	0.082

TABLE 6 TO § 460.102(c)(1)—TIER 2 BUILDING THERMAL ENVELOPE PERFORMANCE REQUIREMENTS—Continued

Climate zone	Multi-section U_o
2	0.066
3	0.055

(2) Area-weighted average vertical fenestration *U*-factor must not exceed 0.48 in Climate Zone 2 or 0.40 in Climate Zone 3. Adapted from section R402 of the 2021 IECC.

(3) Area-weighted average skylight *U*-factor must not exceed 0.75 in Climate Zone 2 and Climate Zone 3. Adapted from section R402 of the 2021 IECC.

(4) Windows, skylights and doors containing more than 50 percent glazing by area must satisfy the SHGC requirements established in paragraph (b)(1) of this section on the basis of an area-weighted average. Adapted from section R402 of the 2021 IECC.

(d) [Reserved].

(e) *Determination of compliance with paragraph (c) of this section.* (1) U_o must be determined in accordance with Overall *U*-Values and Heating/Cooling Loads—Manufactured Homes (incorporated by reference; see § 460.3)

(2) [Reserved]

§ 460.103 Installation of insulation.

Insulating materials must be installed according to the insulation manufacturer's installation instructions and the requirements set forth in table 1 to 460.103, which is adapted from section R402 of the 2021 IECC.

TABLE 1 TO § 460.103—INSTALLATION OF INSULATION

Component	Installation requirements
General	Air-permeable insulation must not be used as a material to establish the air barrier.
Access hatches, panels, and doors	Access hatches, panels, and doors between conditioned space and unconditioned space, such as attics and crawlspaces, must be insulated to a level equivalent to the insulation of the surrounding surface, must provide access to all equipment that prevents damaging or compressing the insulation, and must provide a wood-framed or equivalent baffle or retainer when loose fill insulation is installed within an exterior ceiling assembly to retain the insulation both on the access hatch, panel, or door and within the building thermal envelope.
Baffles	For air-permeable insulations in vented attics, a baffle must be installed adjacent to soffit and eave vents. Baffles, when used in conjunction with eave venting, must be constructed using a solid material, maintain an opening equal or greater than the size of the vents, and extend over the top of the attic insulation.
Ceiling or attic	The insulation in any dropped ceiling or dropped soffit must be aligned with the air barrier.
Narrow cavities	Batts to be installed in narrow cavities must be cut to fit or narrow cavities must be filled with insulation that upon installation readily conforms to the available cavity space.
Rim joists	Rim joists must be insulated such that the insulation maintain permanent contact with the exterior rim board.
Shower or tub adjacent to exterior wall	Exterior walls adjacent to showers and tubs must be insulated.
Walls	Air permeable exterior building thermal envelope insulation for framed exterior walls must completely fill the cavity, including within stud bays caused by blocking lay flats or headers.

§ 460.104 Building thermal envelope air leakage.

Manufactured homes must be sealed against air leakage at all joints, seams, and penetrations associated with the building thermal envelope in accordance with the component manufacturer's installation instructions and the requirements set forth in table 1 to 460.104. Sealing methods between dissimilar materials must allow for differential expansion, contraction and mechanical vibration, and must establish a continuous air barrier upon installation of all opaque components of the building thermal envelope. All gaps and penetrations in the exterior ceiling, exterior floor, and exterior walls, including ducts, flue shafts, plumbing, piping, electrical wiring, utility penetrations, bathroom and kitchen exhaust fans, recessed lighting fixtures adjacent to unconditioned space, and light tubes adjacent to unconditioned space, must be sealed with caulk, foam, gasket or other suitable material. The air barrier installation criteria are adapted from section R402 of the 2021 IECC.

TABLE 1 TO § 460.104—AIR BARRIER INSTALLATION CRITERIA

Component	Air barrier criteria
Ceiling or attic	The air barrier in any dropped ceiling or dropped soffit must be aligned with the insulation and any gaps in the air barrier must be sealed with caulk, foam, gasket, or other suitable material. Access hatches, panels, and doors, drop-down stairs, or knee wall doors to unconditioned attic spaces must be weather-stripped or equipped with a gasket to produce a continuous air barrier.
Duct system register boots	Duct system register boots that penetrate the building thermal envelope or the air barrier must be sealed to the subfloor, wall covering or ceiling penetrated by the boot, air barrier, or the interior finish materials with caulk, foam, gasket, or other suitable material.
Electrical box or phone box on exterior walls	The air barrier must be installed behind electrical and communication boxes or the air barrier must be sealed around the box penetration with caulk, foam, gasket, or other suitable material.

TABLE 1 TO § 460.104—AIR BARRIER INSTALLATION CRITERIA—Continued

Component	Air barrier criteria
Floors	The air barrier must be installed at any exposed edge of insulation. The bottom board may serve as the air barrier.
Mating line surfaces	Mating line surfaces must be equipped with a continuous and durable gasket.
Recessed lighting	Recessed light fixtures installed in the building thermal envelope must be sealed to the drywall with caulk, foam, gasket, or other suitable material.
Rim joists	The air barrier must enclose the rim joists. The junctions of the rim board and the subfloor must be air sealed.
Shower or tub adjacent to exterior wall	The air barrier must separate showers and tubs from exterior walls.
Walls	The junction of the top plate and the exterior ceiling, and the junction of the bottom plate and the exterior floor, along exterior walls must be sealed with caulk, foam, gasket, or other suitable material.
Windows, skylights, and exterior doors	The rough openings around windows, exterior doors, and skylights must be sealed with caulk or foam.

Subpart C—HVAC, Service Hot Water, and Equipment Sizing

§ 460.201 Duct system.

Each manufactured home equipped with a duct system, which may include air handlers and filter boxes, must be sealed to limit total air leakage to less than or equal to four (4) cubic feet per minute per 100 square feet of conditioned floor area at a pressure differential of 0.1 inch w.g. (25 Pascals) across the system. Building framing cavities must not be used as ducts or plenums when directly connected to mechanical systems. The duct total air leakage requirements are adapted from section R403 of the 2021 IECC.

§ 460.202 Thermostats and controls.

(a) At least one thermostat must be provided for each separate heating and cooling system installed by the manufacturer. The thermostat and controls requirements are adapted from section R403 of the 2021 IECC.

(b) Any programmable thermostat installed by the manufacturer that controls the heating or cooling system must—

(1) Be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day and different days of the week;

(2) Include the capability to set back or temporarily operate the system to maintain zone temperatures down to 55 °F (13 °C) or up to 85 °F (29 °C); and

(3) Initially be programmed with a heating temperature set point no higher than 70 °F (21 °C) and a cooling temperature set point no lower than 78 °F (26 °C).

(c) Heat pumps with supplementary electric-resistance heat must be provided with controls that, except during defrost, prevent supplemental heat operation when the heat pump compressor can meet the heating load.

§ 460.203 Service hot water.

(a) Service hot water systems installed by the manufacturer must be installed according to the service hot water manufacturer's installation instructions. Where service hot water systems are installed by the manufacturer, the manufacturer must ensure that any maintenance instructions received from the service hot water system manufacturer are provided with the manufactured home. The service hot water requirements are adapted from section R403 of the 2021 IECC.

(b) Any automatic and manual controls, temperature sensors, pumps associated with service hot water systems must provide access.

(c) Heated water circulation systems must—

(1) Be provided with a circulation pump;

(2) Ensure that the system return pipe is a dedicated return pipe or a cold water supply pipe;

(3) Not include any gravity or thermosyphon circulation systems;

(4) Ensure that controls for circulating heated water circulation pumps start the pump based on the identification of a demand for hot water within the occupancy; and

(5) Ensure that the controls automatically turn off the pump when the water in the circulation loop is at the desired temperature and when there is no demand for hot water.

(d) All hot water pipes—

(1) Outside conditioned space must be insulated to a minimum *R*-value of *R*-3; and

(2) From a service hot water system to a distribution manifold must be insulated to a minimum *R*-value of *R*-3.

§ 460.204 Mechanical ventilation fan efficacy.

(a) Whole-house mechanical ventilation system fans must meet the minimum efficacy requirements set forth in table 1 to 460.204(a), except as provided in paragraph (b) of this section. The mechanical ventilation fan efficacy requirements are adapted from section R403 of the 2021 IECC.

TABLE 1 TO § 460.204(a)—MECHANICAL VENTILATION SYSTEM FAN EFFICACY

Fan type description	Airflow rate minimum (cfm)	Minimum efficacy (cfm/watt)
Heat recovery ventilator or energy recovery ventilator	Any	1.2
In-line supply or exhaust fans	Any	3.8
Other exhaust fan	<90	2.8
Other exhaust fan	≥90	3.5

(b) Mechanical ventilation fans that are integral to heating, ventilating, and air conditioning equipment, including furnace fans as defined in § 430.2 of this subchapter, are not subject to the efficiency requirements in paragraph (a) of this section.

§ 460.205 Equipment sizing.

Sizing of heating and cooling equipment installed by the manufacturer must be determined in accordance with ACCA Manual S (incorporated by reference; see § 460.3) based on building loads calculated in accordance with ACCA Manual J (incorporated by reference; see § 460.3). The equipment sizing criteria are adapted from section R403 of the 2021 IECC.

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Part IV

Department of the Treasury

Office of the Comptroller of the Currency

Federal Reserve System
Federal Deposit Insurance Corporation
Farm Credit Administration
National Credit Union Administration

12 CFR Parts 22, 208, 338, et al.

Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 22

[Docket IDs OCC–2020–0033, OCC–2020–0008]

FEDERAL RESERVE SYSTEM

12 CFR Part 208

[Docket No. R–1742, OP–1720]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 339

RIN 3064–ZA16

FARM CREDIT ADMINISTRATION

12 CFR Part 614

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 760

RIN 3133–AF31, 3133–AF14

Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and National Credit Union Administration (NCUA).

ACTION: Guidance.

SUMMARY: The OCC, Board, FDIC, FCA, and NCUA (collectively, the Agencies) are reorganizing, revising, and expanding the Interagency Questions and Answers Regarding Flood Insurance. This revised guidance will assist lenders in meeting their responsibilities under Federal flood insurance law and increase public understanding of the Agencies' respective flood insurance regulations. Significant topics addressed by the revisions include guidance related to major amendments to the flood insurance laws with regard to the escrow of flood insurance premiums, the detached structure exemption, force placement procedures, and the acceptance of flood insurance policies issued by private insurers. With this issuance, the Agencies are consolidating the Questions and Answers proposed by the Agencies in July 2020 and the Questions and Answers proposed by the Agencies in March 2021 into one set of Interagency Questions and Answers Regarding Flood Insurance.

DATES: The issuance date of this guidance is May 11, 2022.

FOR FURTHER INFORMATION CONTACT:

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Board: Vivian W. Wong, Senior Counsel, (202) 452–3667, Matthew Dukes, Counsel, (202) 973–5096, or Keshia King, Lead Supervisory Policy Analyst, (202) 452–2496, Division of Consumer and Community Affairs; or Daniel Ericson, Senior Counsel, (202) 452–3359, Legal Division; for users of Telecommunications Relay Service (TRS),Telecommunications Device for the Deaf (TDD) only, contact 711 or (202) 263–4869.

FDIC: Navid Choudhury, Counsel, Policy Unit, Legal Division, (202) 898–6526; or Simin Ho, Senior Policy Analyst, Division of Depositor and Consumer Protection, (202) 898–6907.

FCA: Ira D. Marshall, Senior Policy Analyst, Office of Regulatory Policy, (703) 883–4379, TTY (703) 883–4056 or Jennifer Cohn, Assistant General Counsel, Office of General Counsel, (720) 213–0440.

NCUA: Thomas Zells, Senior Staff Attorney, Office of General Counsel, (703) 518–6540, or Simon Hermann, Senior Credit Specialist, Office of Examination and Insurance, (703) 518–6360.

SUPPLEMENTARY INFORMATION:

Background

The National Flood Insurance Act of 1968 created the National Flood Insurance Program (NFIP), which is administered by the Federal Emergency Management Agency (FEMA).[1] The NFIP enables property owners in participating communities to purchase flood insurance if the community has adopted floodplain management ordinances and minimum standards for new and substantially damaged or improved construction. Thus, in participating communities, federally-backed flood insurance is available for property owners in flood risk areas.

Congress expanded the NFIP by enacting the Flood Disaster Protection Act of 1973 (FDPA).[2] The FDPA made the purchase of flood insurance mandatory in connection with loans made by federally-regulated lending institutions when the loans are secured by improved real estate or mobile homes located in a special flood hazard area (SFHA). The National Flood Insurance Reform Act of 1994 (the Reform Act) (Title V of the Riegle Community Development and Regulatory Improvement Act of 1994) comprehensively revised the Federal flood insurance statutes.[3] The Reform Act required the OCC, Board, FDIC, Office of Thrift Supervision (OTS), and NCUA to revise their flood insurance regulations, and required the FCA to promulgate a flood insurance regulation for the first time. The OCC, Board, FDIC, OTS, FCA, and NCUA [4] fulfilled these requirements by issuing a joint final rule in the summer of 1996.[5]

In October 2013, the Agencies jointly issued proposed rules [6] to implement the escrow, force placement, and private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act).[7] In March 2014, Congress enacted the Homeowner Flood Insurance Affordability Act (HFIAA), which, among other things, amended the Biggert-Waters Act's requirements regarding the escrow of flood insurance premiums and fees and created a new exemption from the mandatory flood insurance purchase requirement for certain detached structures.[8] The Agencies finalized the regulations to implement provisions in the Biggert-Waters Act and HFIAA under the Agencies' jurisdiction, except for the provisions in the Biggert-Waters Act related to private flood insurance, with a final rule issued in July 2015 (2015 Final Rule).[9] In February 2019, the

[1] Public Law 90–448, 82 Stat. 572 (1968).

[2] Public Law 93–234, 87 Stat. 975 (1973).

[3] Public Law 103–325, 108 Stat. 2255 (1994).

[4] Throughout this document ''the Agencies'' includes the OTS with respect to events that occurred prior to July 21, 2011, but does not include OTS with respect to events thereafter. Sections 311 and 312 of the Dodd-Frank Wall Street Reform and Consumer Protection Act transferred OTS's functions to other agencies on July 21, 2011. The OTS's supervisory functions relating to Federal savings associations were transferred to the OCC, while those relating to State savings associations were transferred to the FDIC. *See also* 76 FR 39246 (July 6, 2011).

[5] 61 FR 45684 (Aug. 29, 1996).

[6] 78 FR 65107 (Oct. 30, 2013).

[7] Public Law 112–141, 126 Stat. 916 (2012).

[8] Public Law 113–89, 128 Stat. 1020 (2014).

[9] 80 FR 43215 (July 21, 2015). Subsequently, on November 7, 2016, the Agencies re-proposed the

Agencies finalized regulations to implement the private flood insurance related provisions of the Biggert-Waters Act (2019 Final Rule).[10]

Interagency Questions and Answers Regarding Flood Insurance

Since 1997, the Interagency Questions and Answers [11] have provided the lending industry and other interested parties with guidance addressing a wide spectrum of technical flood insurance-related compliance issues. In 2009, the Agencies comprehensively revised and reorganized the initial 1997 Interagency Questions and Answers (2009 Interagency Questions and Answers). In 2011, the Agencies further finalized two additional Q&As that were proposed in 2009, and re-proposed three Q&As that were never finalized.[12]

In light of the significant changes to flood insurance requirements pursuant to the Biggert-Waters Act and HFIAA, as well as the Agencies' regulations issued to implement these laws, the Agencies proposed new and revised Interagency Questions and Answers in July 2020 (July 2020 Proposed Questions and Answers) that covered a broad range of topics related to technical flood insurance-related issues, including the escrow of flood insurance premiums, the detached structure exemption to the mandatory purchase of flood insurance requirement, and force placement procedures.[13] This proposal also reorganized the Interagency Questions and Answers to provide a more logical flow of questions through the flood insurance process. The Agencies also committed in the July 2020 Proposed Questions and Answers to separately issuing for notice and comment additional proposed questions and answers relating to the 2019 Final Rule implementing the private flood insurance provisions of the Biggert-Waters Act. The Agencies published these proposed questions and answers in March 2021 (March 2021 Proposed Questions and Answers).[14]

With this **Federal Register** document, the Agencies are consolidating the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one set of Interagency Questions and Answers Regarding Flood Insurance (2022 Interagency Questions and Answers), consisting of 144 Questions and Answers (including 24 private flood insurance questions and answers), revised as appropriate based on comments received. Specifically, the Q&As in the March 2021 Proposed Questions and Answers are now set forth as sections III, IV, and V in the 2020 Interagency Questions and Answers, and the remaining sections, with the exception of proposed Section III discussed below, are renumbered accordingly. The Agencies also are making non-substantive revisions to certain questions and answers to more directly respond to the question asked, provide additional clarity, or make technical corrections.

These 2022 Interagency Questions and Answers supersede the 2009 Interagency Questions and Answers (and the 2011 amendments to the 2009 Interagency Questions and Answers) and supplement other guidance or interpretations issued by the Agencies related to loans in areas having special flood hazards. In addition to guidance and interpretations issued by the Agencies, lenders should be aware of information related to the NFIP provided by FEMA that may address questions pertaining to NFIP requirements.

The issuance of these 2022 Interagency Questions and Answers responds to requests over the years from the lending industry, including at conferences and through interagency webinars, to provide additional guidance on flood insurance compliance issues. In addition, the 2022 Interagency Questions and Answers are responsive to requests made pursuant to the most recent review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), which directs some of the Agencies to conduct a joint review of their regulations every 10 years and consider whether any of those regulations are outdated, unnecessary, or unduly burdensome.[15] As part of the most recent joint review, the Board, FDIC, OCC, and NCUA received comments on the Agencies' flood insurance rules. Several commenters asked for more guidance to the industry on flood insurance requirements, particularly with respect to renewal notices for force-placed insurance policies, the required amount of flood insurance, and flood insurance requirements for tenant-owned buildings and detached structures. One commenter specifically requested that the Agencies update the Interagency Questions and Answers. In the 2017 EGRPRA Joint Report to Congress issued by the Federal Financial Institutions Examination Council (FFIEC), the Board, FDIC, and OCC indicated that they agreed with commenters that the Interagency Questions and Answers should be updated and planned to address many of the flood insurance issues raised by EGRPRA commenters.[16] Accordingly, in issuing these 2022 Interagency Questions and Answers, the Agencies are addressing the commitment made in the 2017 EGRPRA Joint Report to Congress.

Reorganization of Interagency Questions and Answers

For ease of reference and in light of the increased number of subjects covered that address complex issues, the Agencies proposed to reorganize the Interagency Questions and Answers to provide a more logical flow of questions through the flood insurance process for lenders, servicers, regulators, and policyholders. Moreover, the Agencies also proposed a new system of designation for the Q&As. Rather than numbering the Q&As successively

private flood insurance provisions through a joint notice of proposed rulemaking (81 FR 78063).

[10] 84 FR 4953 (Feb. 20, 2019).

[11] Throughout this document, ''Interagency Questions and Answers'' refers to the Interagency Questions and Answers Regarding Flood Insurance in its entirety; ''Q&A'' refers to an individual question and answer within the Questions and Answers.

[12] For additional information on the history of the Interagency Questions and Answers, please see the preamble to the July 2020 Proposed Interagency Questions and Answers at 85 FR 40442 (July 6, 2020).

[13] *See* 85 FR 40442 (July 6, 2020). The comment period for the July 2020 Proposed Questions and Answers was extended from Sept. 4, 2020 to Nov. 3, 2020. *See* 85 FR 54946 (Sept. 3, 2020).

[14] *See* 86 FR 14696 (Mar. 18, 2021).

[15] Public Law 104–208, 110 Stat. 3001 (1996) (codified at 12 U.S.C. 3311). The most recent report to Congress required by EGRPRA was published by the Board, FDIC, OCC, and NCUA under the FFIEC in March 2017 and is available at *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.* The NCUA, although an FFIEC member, is not a ''Federal banking agency'' within the meaning of EGRPRA and so is not required to participate in the review process. Nevertheless, the NCUA elected to participate in the EGRPRA review and conducted its own parallel review of its regulations. The FCA is not subject to EGRPRA; however, as required by the Farm Credit System Reform Act of 1996 (*see* 12 U.S.C. 2252 note), FCA engages in periodic regulatory review. The Consumer Financial Protection Bureau (CFPB), although an FFIEC member, is not a ''Federal banking agency'' within the meaning of EGRPRA and so is not required to participate in the review process.

[16] Specifically, the OCC, Board, and FDIC stated in the EGRPRA report that they ''agree with these EGRPRA commenters that additional agency guidance on flood insurance requirements would be helpful to the banking industry and that the Interagency Flood Q&As should be updated to address recent amendments to the flood insurance statutes. In fact, the agencies have begun work on revising the Interagency Flood Q&As to reflect the agencies' recently issued final rules implementing the Biggert-Waters Act and HFIAA requirements and to address other issues that have arisen since the last update in 2011. As part of this revision, the agencies also plan to address many of the flood insurance issues raised by EGRPRA commenters.'' FFIEC Joint EGRPRA Report to Congress, March 2017 at 56; available at *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

through all the categories, each Q&A would be designated by the category to which it belongs and then designated in numerical order for that particular category. This numbering system enables the Agencies to add or delete Q&As in the future without needing to significantly renumber or reorganize all of the Q&As. Furthermore, the Agencies have added three new Q&As (Applicability 13, Amount 10, and Condo and Co-op 9) to better address commenters' questions and for organizational purposes, rather than adding information into existing Q&As.

As discussed below, commenters supported the proposed reorganization. Therefore, the Agencies are adopting this reorganization with the inclusion of three new categories related to the private flood insurance requirements, proposed in the March 2021 Proposed Questions and Answers. The table below sets forth the current categories and the corresponding new, reorganized categories for purposes of comparison:

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	Category from 2009 interagency questions and answers	Reorganized category in 2022 interagency questions and answers
I.	Determining When Certain Loans Are Designated Loans for Which Flood Insurance Is Required Under the Act and Regulation.	Determining the Applicability of Flood Insurance Requirements for Certain Loans [Applicability].
II.	Determining the Appropriate Amount of Flood Insurance Required Under the Act and Regulation.	Exemptions From the Mandatory Flood Insurance Purchase Requirements [Exemptions].
III.	Exemptions From the Mandatory Flood Insurance Requirements.	Private Flood Insurance—Mandatory Acceptance [Mandatory].
IV.	Flood Insurance Requirements for Construction Loans	Private Flood Insurance—Discretionary Acceptance [Discretionary].
V.	Flood Insurance Requirements for Non-residential Buildings	Private Flood Insurance—General Compliance [Private Flood Compliance].
VI.	Flood Insurance Requirements for Residential Condominiums	Required Use of Standard Flood Hazard Determination Form [SFHDF].
VII.	Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral Located in an SHFA.	Flood Insurance Determination Fees [Fees].
VIII.	Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights.	Flood Zone Discrepancies [Zone].
IX.	Escrow Requirements	Notice of Special Flood Hazards and Availability of Federal Disaster Relief [Notice].
X.	Force Placement	Determining the Appropriate Amount of Flood Insurance Required [Amount].
XI.	Private Flood Insurance	Flood Insurance Requirements for Construction Loans [Construction].
XII.	Required Use of Standard Flood Hazard Determination Form (SFHDF).	Flood Insurance Requirements for Residential Condominiums and Co-Ops [Condo and Co-Op].
XIII.	Flood Determination Fees	Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral Located in an SFHA [Other Security Interests].
XIV.	Flood Zone Discrepancies	Requirement to Escrow Flood Insurance Premiums and Fees—General [Escrow].
XV.	Notice of Special Flood Hazards and Availability of Federal Disaster Relief.	Requirement to Escrow Flood Insurance Premiums and Fees—Small Lender Exception [Escrow Small Lender Exception].
XVI.	Mandatory Civil Money Penalties	Requirement to Escrow Flood Insurance Premiums and Fees—Loan Exceptions [Escrow Loan Exceptions].
XVII.		Force Placement of Flood Insurance [Force Placement].
XVIII.		Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights [Servicing].
XIX.		Mandatory Civil Money Penalties [Penalty].

For ease of reference, the following terms are used throughout this document: ''Act'' refers to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised by the National Flood Insurance Reform Act of 1994, Biggert-Waters Flood Insurance Reform Act of 2012, and Homeowner Flood Insurance Affordability Act of 2014 (codified at 42 U.S.C. 4001 *et seq*). ''Regulation'' refers to each Agency's current final rule.[17] References to the *NFIP Flood Insurance Manual* refer to the version published in April 2021.

Public Comments

The Agencies solicited comment on all aspects of the proposed Q&As and received a total of 22 substantive comment letters on the July 2020 Proposed Questions and Answers and 11 substantive comment letters on the March 2021 Proposed Questions and Answers. Many of the commenters supported the proposed organizational changes to the Interagency Questions and Answers and believed the new organization provided clarity, increased understanding, and was user-friendly. In addition, some commenters specifically found the grouping by topic to be very useful, noting this would improve accessibility and allow the Agencies to easily revise the Interagency Questions and Answers in the future.

[17] 12 CFR part 22 (OCC); 12 CFR 208.25 (Board); 12 CFR part 339 (FDIC); 12 CFR part 614, subpart S (FCA); and 12 CFR part 760 (NCUA).

One commenter found the addition of references to the Regulation to be beneficial. Another commenter requested that the Agencies combine both sets of questions and answers into one set of final questions and answers. As indicated above, the Agencies are adopting the proposed reorganization of the Interagency Questions and Answers and combining both the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document.

One commenter requested that these Interagency Questions and Answers be made available to insurance agents, which would be helpful for lenders and make the process easier for borrowers. A few commenters also suggested that the NCUA add the finalized Interagency Questions and Answers to the Regulation as an Appendix. The commenters felt that this would ensure the Interagency Questions and Answers are easily located and used by credit union staff in years to come.

The Agencies note that the Interagency Questions and Answers are already publicly available, including to insurance agents, as the Interagency Questions and Answers are published in the **Federal Register** and readily accessible on the Agencies' websites. At this time, the Agencies decline to add the Interagency Questions and Answers to the Regulation as an Appendix. Furthermore, the NCUA is committed to assisting credit unions comply with the flood insurance requirements.

In addition, the Agencies received several comments that urged the Agencies to provide periodic updates and review the Interagency Questions and Answers on a regular basis, as well as to allow the industry an adequate notice and comment period. Commenters stated that this would provide industry and other stakeholders predictable opportunities to provide feedback on compliance issues and questions as they arise. Commenters also felt this type of review would maintain the Interagency Questions and Answers in a more organized manner and would ensure the guidance keeps pace with the marketplace and the issues that arise with respect to compliance. One commenter emphasized that this review should take place more frequently than the 10-year EGRPRA cycle and recommended a formal review of the Interagency Questions and Answers every three to five years. Other commenters stated that additional issues may arise for credit unions, who planned to share these issues with the NCUA, and asked that the Interagency Questions and Answers be updated in the future to provide additional clarity.

The Agencies understand the value of the Interagency Questions and Answers to the industry and other stakeholders and will continue to review the Interagency Questions and Answers and update the guidance as necessary. The Agencies agree that the reorganization of the Interagency Questions and Answers will facilitate future updates. The Agencies expect to update the Interagency Questions and Answers as needed and will provide interested parties a sufficient notice and comment period.

Other commenters encouraged the Agencies to include in the final version of the Interagency Questions and Answers an explicit statement referencing the Interagency Statement Clarifying the Role of Supervisory Guidance (Interagency Statement).[18] The commenters stated the Agencies should confirm that the Interagency Questions and Answers are guidance and failure to comply with the Interagency Questions and Answers are not grounds for matters requiring attention (MRAs), matters requiring immediate attention (MRIA), or any other adverse supervisory action. The Agencies confirm that the Agencies are providing the Interagency Questions and Answers as guidance only. The Agencies are not adding a reference to the Interagency Statement in the Interagency Questions and Answers because doing so is unnecessary.

One commenter asked the Agencies to specifically reference which Q&As apply only to an NFIP policy and which Q&As apply to a flood insurance policy issued by a private insurance company or both. In response to this comment, the Agencies note that all the Q&As apply to all policies, whether NFIP or a flood insurance policy issued by a private insurance company, unless otherwise noted in the Q&A.

The Agencies also received a general comment regarding climate change. The commenter noted that the Interagency Questions and Answers failed to discuss climate change risks. According to the commenter, climate change risks should serve as a ''safe-harbor'' for insurers to deny flood coverage. Further, the commenter suggested that the Agencies should explicitly require the insurers to consider climate risks and that flood insurance should be mandatory in high risk zones as a result of climate change. Climate change risk is outside the scope of the Agencies' Interagency Questions and Answers. The Agencies note that they are working individually and on an interagency basis to address financial risks associated with climate change consistent with the Agencies' regulatory and supervisory authorities. Therefore, the Agencies decline to make changes to any of the Q&As in response to this comment.

Comments on specific Q&As are discussed below in the Section-by-Section Analysis.

Section-by-Section Analysis

Section I. Determining the Applicability of Flood Insurance Requirements for Certain Loans (Applicability)

Section I includes questions and answers related to the applicability of the Regulation's flood insurance requirements to certain loans. This proposed general applicability section included existing Q&As 1 through 7 relating to residential buildings and, for organizational purposes, incorporated existing section V's Q&As 24 and 25, which address flood insurance requirements for non-residential buildings. The Agencies also proposed a streamlined heading for this section to provide greater clarity with no intended change in substance or meaning. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers.

Applicability 1. The Agencies proposed to redesignate existing Q&A 1 as Q&A Applicability 1 with only minor language modifications, and no intended change in substance or meaning. This Q&A discusses whether the Regulation applies to a loan where the building or mobile home securing the loan is located in a community that does not participate in the NFIP. The Agencies received no specific comments on this Q&A and are adopting Q&A Applicability 1 as proposed with minor non-substantive edits.

Applicability 2. The Agencies proposed to redesignate existing Q&A 24 as Q&A Applicability 2. This Q&A discusses whether a lender is required to mandate flood insurance for buildings with limited utility or value. The Agencies proposed to update this Q&A to indicate that the answer depends on whether buildings with limited utility meet the detached structure exemption, which provides an exemption from the mandatory purchase requirements for certain detached structures. This exemption was added by HFIAA. The proposal also removed the existing language indicating that the lender should

[18] The OCC, Board, FDIC, and NCUA subsequently codified this statement. *See* 12 CFR part 4, appendix A to subpart F (OCC); 12 CFR part 262, appendix A (Board); 12 CFR part 302, appendix A (FDIC); and 12 CFR part 791, appendix A to subpart D (NCUA).

consider any local zoning issues or other issues that would affect its collateral. In addition, the Agencies made minor wording changes.

The Agencies received one comment on this Q&A. The commenter suggested an alternative ''carve-out'' approach that would permit a lender to include all buildings in the security instrument as a matter of convenience in closing the loan and in marketing the parcel of land if necessary, even if a structure could have been ''carved out'' as not necessary for collateral. The commenter suggested that buildings that are included as security for a loan as a matter of convenience, and not to protect the lender by providing material credit support for the loan, would not be considered to be buildings ''securing the loan'' that need to be covered by flood insurance. However, the approach suggested by this commenter is not legally possible because the Act [19] requires flood insurance on all improved property that secures a designated loan. The Agencies therefore are adopting Q&A Applicability 2 as proposed with an added cross-reference to Q&A Exemptions 1, which discusses the exemptions from the mandatory purchase requirement, for reader reference.

Applicability 3. The Agencies proposed to redesignate existing Q&A 25 as proposed Q&A Applicability 3. This Q&A discusses a lender's requirements under the Regulation for a loan secured by multiple buildings if only some of the buildings are located in an SFHA, or if some of the buildings are located in different communities and only some of the communities participate in the NFIP. The Agencies proposed to change the answer to emphasize when flood insurance is required as opposed to when it is not required as in the existing Q&A. Further, the Agencies proposed to include an example in the answer. The Agencies proposed these changes to provide greater clarity and to improve readability and did not intend any change in substance or meaning.

The Agencies received two comments on this proposed Q&A. One commenter requested that the Agencies add a statement that the mandatory purchase requirement is only applicable to buildings with a physical footprint at least partially within the boundaries of an SFHA. This commenter stated that the extension of a plat or lot into the SFHA does not automatically trigger the mandatory purchase of flood insurance for buildings located on that plat or lot. The other commenter requested that the Agencies address situations when a portion of a property securing a loan is located in an SFHA but the improvements located on that same property are not located in the SFHA. The commenter recommends that if the structure is not located within an SFHA, then insurance should not be required.

The Agencies confirm that land itself is not subject to the mandatory flood insurance purchase requirement. To address these comments, the Agencies are clarifying in the final answer to this Q&A that if any portion of a building is located in an SFHA in which flood insurance is available under the Act, the flood insurance requirement applies even if the entire structure is not located in the SFHA. Further, the Agencies are revising the final answer to state that a building located on a portion of a plat or lot that is not in an SFHA is not subject to the mandatory flood insurance purchase requirement even if a portion of the plat or lot not containing a building extends into an SFHA. With these amendments and some minor non-substantive edits, the Agencies are adopting Q&A Applicability 3.

Applicability 4. The Agencies proposed to redesignate existing Q&A 2 as Q&A Applicability 4. This Q&A discusses a lender's responsibility if a particular building or mobile home that secures a loan is no longer located within an SFHA due to a map change. The Agencies proposed to broaden this Q&A to also address a lender's responsibility if a building or mobile home that secures a loan is not located within an SFHA, even if not due to a map change. In addition, the Agencies proposed to reword for clarity the sentence in the answer indicating that a lender, by contract, may still require flood insurance on such buildings or mobile homes for safety and soundness purposes. The proposed sentence states that a lender may, at its discretion and taking into consideration appropriate State law, require flood insurance for property outside of SFHAs for safety and soundness purposes as a condition of a loan being made. Further, the Agencies proposed to add language to the answer to specifically note that each lender should tailor its own flood insurance policies and procedures to suit its business needs and protect its ongoing interest in the collateral. The Agencies intended no substantive changes with these revisions. The Agencies received no specific comment on this proposed Q&A and are adopting it as proposed with one technical change. The Agencies are removing the discussion of the NFIP Preferred Risk Policy because of changes made by FEMA in Risk Rating 2.0—Equity in Action (Risk Rating 2.0).[20]

Applicability 5. The Agencies proposed to redesignate existing Q&A 3 as Q&A Applicability 5 and to revise it by making minor language modifications for greater clarity, with no intended change in substance or meaning. This Q&A discusses whether a lender's purchase of a designated loan triggers any requirements under the Regulation. The Agencies received positive comment on this Q&A and are adopting it as proposed.

Applicability 6. The Agencies proposed to redesignate existing Q&A 5, which addresses whether the Regulation applies to loans that are being restructured or modified, as proposed Q&A Applicability 6 with no changes. One commenter specifically stated that the clarification provided by Q&A Applicability 6 may be very helpful in light of the COVID–19 pandemic as more consumers may need to modify their mortgages. A few commenters requested that Q&A Applicability 6 include additional examples to clarify when flood compliance requirements are triggered in loan restructurings and modifications, and they provided specific language. As in the existing Q&A, proposed Q&A Applicability 6 states that if the loan otherwise meets the definition of a designated loan and if the lender increases the amount of the loan, or extends or renews the terms of the original loan, then the Regulation applies. However, the Agencies agree that additional clarification on when loan restructurings and modifications trigger the Regulation's requirements would be helpful. Furthermore, the Agencies believe that rewording the question also would provide additional clarity. Therefore, the Agencies are revising the question in the final Q&A to ask whether a loan that is being restructured or modified constitutes a triggering event (making, increasing, renewing, or extending a loan) under the Regulation. In addition, the Agencies are revising the answer in the final Q&A to provide that if a loan modification or restructuring involves recapitalizing delinquent payments and other amounts due under the loan, or amounts that were otherwise originally contemplated to be part of the loan pursuant to the contract with the borrower, into the loan's outstanding principal balance and the maturity date of the loan otherwise stays the same, the Regulation would not apply because the modification or restructuring would not

[19] Public Law 93–234, 87 Stat. 975 (1973), codified at 42 U.S.C. 4012a.

[20] *See https://www.fema.gov/flood-insurance/risk-rating.*

increase, extend, or renew the terms of the loan. The revisions to the final answer also provide that, conversely, if the loan modification or restructuring changes terms of the loan such as by increasing the outstanding principal balance beyond what was contemplated as part of the loan under the contract with the borrower, or by extending the maturity date of the loan, the Regulation would apply because the lender increased or extended the terms of the loan beyond what was originally contemplated to be part of the loan. With these amendments, the Agencies are adopting Q&A Applicability 6.

Applicability 7. The Agencies proposed to redesignate existing Q&A 6, which addresses whether table funded loans are treated as new loan originations, as Q&A Applicability 7. The Agencies proposed to update the answer to refer to the definition of ''table funding'' in the Regulation instead of to the obsolete definition of this term in the Department of Housing and Urban Development's (HUD) former Real Estate Settlement Procedures Act (RESPA) rule. The Agencies received no specific comment on this Q&A and are adopting it as proposed.

Applicability 8. The Agencies proposed to redesignate existing Q&A 7 as Q&A Applicability 8 and proposed only one minor wording change, with no intended change in substance or meaning. This Q&A addresses whether a lender is required to perform a review of its, or of its servicers', existing loan portfolio for compliance with the flood insurance requirements under the Act and Regulation. The Agencies received positive comment on this Q&A and are adopting it as proposed.

Applicability 9. The Agencies proposed to redesignate existing Q&A 4 as Q&A Applicability 9 and to make only minor language modifications for greater clarity, with no intended change in substance or meaning. This proposed Q&A addressed whether the mandatory purchase requirements apply to loan syndications or participations. The proposed answer provided that the acquisition by a lender of an interest in a loan either by participation or syndication after that loan has been made does not trigger the requirements of the Act or the Regulation but that, as with purchased loans, depending upon the circumstances, the lender may undertake due diligence for safety and soundness purposes to protect itself against the risk of flood or other types of loss. The proposed answer also stated that lenders who pool or contribute funds that will be simultaneously advanced to a borrower or borrowers as a loan secured by improved real estate would be making a loan that triggers the requirements of the Act and Regulation, and that Federal flood insurance requirements also would apply when a group of lenders refinances, extends, renews or increases a loan. Further, the proposed answer provided that although the agreement among the lenders may assign compliance duties to a lead lender or agent, and may include clauses in which the lead lender or agent indemnifies participating lenders against flood losses, each participating lender remains individually responsible for compliance with the Act and Regulation. Therefore, under the proposed answer, the Agencies would examine whether the regulated institution/participating lender has performed upfront due diligence to determine whether the lead lender or agent has undertaken the necessary activities to ensure that the borrower obtains appropriate flood insurance and that the lead lender or agent has adequate controls to monitor the loan(s) on an ongoing basis for compliance with the flood insurance requirements. Lastly, the proposed answer stated that the Agencies expect the participating lender to have adequate controls to monitor the activities of the lead lender or agent for compliance with flood insurance requirements over the term of the loan.

The Agencies received a number of comments on this Q&A. Some commenters requested that the Agencies offer further clarity on what constitutes sufficient ''upfront due diligence'' and ''adequate controls to monitor the activities of the lead lender or agent for compliance with flood insurance requirements over the term of the loan.'' These commenters also stated that problems arise when lead lenders have different regulators employing different approaches for upfront due diligence as well as monitoring for flood compliance. One commenter recommended the inclusion of an explicit statement in the Q&A that if a lead lender on a facility is not federally regulated, and thus not subject to flood compliance requirements, any participating lenders on that facility also do not have flood compliance obligations with respect to that facility. Another commenter requested that the Agencies indicate in the Q&A that as long as a participating non-lead lender has adopted written policies, procedures, and processes for managing the risks of flood compliance that are reasonably within that participating lender's control, that lender generally would be viewed as having satisfied its flood compliance obligations. A third commenter stated that the answer was confusing since it appears to state that flood compliance requirements can be assigned to the lead lender but subsequently states that each individual lender remains responsible for compliance. The commenter suggested that, in instances where a lead lender is in charge of ensuring flood insurance requirements are met, participating lenders be allowed to rely on, as a safe harbor, documentation from the lead lender to limit their individual exposure.

The Agencies understand the compliance complications that may arise with loan syndications and participations. However, the requirements under the Act and the Regulation apply to each lender individually, even if they are part of a loan syndication or participation. The Agencies may not remove these requirements as suggested if the lead lender is not federally-regulated nor create a safe harbor that allows a lender to rely on the lead lender's policies or procedures or on others' policies and procedures for compliance. Further, the Agencies believe it is more appropriate for lenders to determine specific due diligence procedures and controls to ensure compliance with the Act and Regulation based on the particular facts of each transaction. Therefore, the Agencies decline to include examples of such procedures and controls in the Q&A. However, to emphasize the particular concerns that may arise with lead lenders who are not federally-regulated, the Agencies are adding a statement in the final answer indicating that a non-lead lender's due diligence and monitoring of the lead lender is especially important when the lead lender itself is not subject to Federal flood insurance requirements. With this amendment, the Agencies are adopting Q&A Applicability 9.

Applicability 10. The Agencies proposed new Q&A Applicability 10 to address a lender's obligations when participating in a multi-tranche credit facility, specifically whether a lender is expected to consider any triggering event and any cashless roll of which it becomes aware in any tranche. The proposed answer provided that a multi-tranche credit facility is analogous to a loan syndication or participation and that the Agencies do not expect a lender participating in one tranche in a multi-tranche credit facility to be responsible for taking action to comply with flood insurance requirements in connection with a triggering event or cashless roll that occurs in a tranche in which the lender does not participate. Furthermore, the proposed answer

clarified that the Agencies expect a lender participating in a multi-tranche credit facility to perform upfront due diligence to determine whether the lead lender has adequate controls to monitor the loan on an ongoing basis for compliance with flood insurance requirements. One commenter requested the same changes it suggested for proposed Q&A Applicability 9 regarding further clarification on what constitutes sufficient upfront due diligence and adequate controls and removal of flood compliance requirements if the lead lender is not federally-regulated. For the reasons stated in the discussion of Q&A Applicability 9, the Agencies decline to accept these changes and are adopting Q&A Applicability 10 as proposed with the addition of a similar statement added to Q&A Applicability 9 regarding due diligence and non-Federal lead lenders.

Applicability 11. The Agencies proposed new Q&A Applicability 11 to clarify that an automatic extension of a credit facility agreed upon by the borrower and lender in the original loan agreement would not constitute a triggering event for purposes of the Federal flood insurance requirements. The Agencies received no specific comment on this Q&A and are adopting it as proposed.

Applicability 12. The Agencies proposed new Q&A Applicability 12, based on guidance previously issued by the Agencies,[21] to address the applicability of the mandatory purchase requirement during a period of time when coverage under the NFIP is unavailable, such as due to a lapse in authorization or in appropriations. The proposed answer clarified that during a period when NFIP coverage is not available, lenders may continue to make loans subject to the Regulation without flood insurance coverage but must continue to make flood determinations, provide timely, complete and accurate notices to borrowers, and comply with other aspects of the Regulation. The proposed answer also indicated that lenders should evaluate the safety and soundness and legal risks, and prudently manage those risks, during such periods when the NFIP is unavailable. One commenter specifically commented on this proposed Q&A, stating that it provides helpful and appreciated clarity on how credit unions should proceed in the event of a lapse in authorization or appropriations. The Agencies are adopting this Q&A as proposed.

New Q&A Applicability 13. To address a number of comments regarding what is and is not a triggering event under the Regulation, and to further clarify the Interagency Questions and Answers Regarding Flood Insurance, the Agencies are adding a new Q&A Applicability 13 to the 2022 Interagency Questions and Answers to specifically address triggering events. This new Q&A provides lenders with a quick reference of what constitutes a triggering event under the Regulation.

Specifically, Q&A Applicability 13 states that under the Regulation, a triggering event occurs when a designated loan is made, increased, extended, or renewed. If a triggering event occurs with respect to a designated loan, the lender is required to comply with certain requirements of the Regulation, including the mandatory flood insurance purchase requirement, the requirement to provide the Notice of Special Flood Hazards to the borrower, the requirement to notify the Administrator of FEMA or the Administrator's designee (the insurance provider) in writing of the identity of the servicer of the loan, and the requirement to escrow for a loan secured by residential property, unless either the lender or the loan qualifies for an exception. This Q&A also includes examples of events that are not considered triggering events for purposes of the Regulation, including the purchase of a loan from another lender (*see* Q&A Applicability 5); a loan modification that does not increase the amount of the loan nor extend or renew the terms of the loan (*see* Q&A Applicability 6); the assumption of the loan by another borrower; the remapping of a building securing the loan into an SFHA; the acquisition by a lender of an interest in a loan either by participation or syndication (*see* Q&A Applicability 9); a cashless roll (*see* Q&A Applicability 10); certain automatic extensions of credit (*see* Q&A Applicability 11); and certain treatments of force placement premiums and fees (*see* Q&A Force Placement 10).

Applicability 14 (Proposed as Q&A Coverage 2). The Agencies proposed to redesignate existing Q&A 64 as Q&A Coverage 2. As noted below, the Agencies are renumbering this Q&A as Q&A Applicability 14. This Q&A addresses when a lender may rely on an insurance policy providing portfolio-wide coverage, removes the reference to criteria set forth by FEMA, and includes language addressing a lender's reliance on a policy that provides portfolio-wide coverage.

Several commenters suggested that the Agencies clarify the term ''portfolio-wide'' coverage to explain that the typical ''master policy'' that lenders obtain and use to force place flood insurance on individual loans is different than portfolio-wide coverage. The Agencies agree with the commenters and are clarifying that a lender may not rely on an insurance policy providing portfolio-wide coverage to meet the flood insurance purchase or force placement requirements if the policy only provides coverage to the lender (''single interest''). As stated in the Regulation, flood insurance coverage under the discretionary acceptance provision must cover both the mortgagor and mortgagee (*i.e.,* lender and the borrower) as loss payees, except in the case of a policy that is provided by a condominium association, cooperative, homeowners association, or other applicable group and for which the premium is paid by the respective organization. However, the Agencies are adding language to the answer indicating that lenders may purchase a master flood insurance policy that provides coverage for its entire portfolio and covers both the lender and the borrower (''dual interest'') because these policies provide coverage for the entire portfolio as well as individual coverage, and include the issuance of an individual policy or certificate.

A few commenters suggested that the answer be clarified to state that a portfolio-wide gap policy may be useful in some circumstances, such as when a property is newly mapped into an SFHA. Additionally, a few commenters suggested that lenders be allowed to rely on master policies for compliance purposes. The Agencies decline to make these revisions. As noted in the existing and proposed Q&A, master policies providing portfolio-wide coverage may be useful protection for the lender for a gap in coverage in the period of time before a force-placed policy takes effect; however, such policies do not provide coverage for the borrower and cannot be used to satisfy the force placement requirement.

One commenter stated that using the term ''private insurance policy'' may be confused with a borrower-procured flood insurance policy issued by a private insurer. The Agencies agree and are making technical changes to remove the term ''private'' when referring to

[21] *See* Guidance Regarding Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts, OCC Bulletin 2010–20 (OCC); Informal Guidance on the Lapse of FEMA's Authority to Issue Flood Insurance Contracts, CA Letter 10–3 (Board); Lapse of FEMA Authority to Issue Flood Insurance Policies, FIL–23–2010 (FDIC); Lapse and Extension of FEMA's Authority to Issue Flood Insurance Contracts, Informational Memorandum June 3, 2010 (FCA), and Guidance on the Lapse of FEMA's Authority to Issue Flood Insurance Contracts, Letter No. 10–CU–08 (NCUA).

lender procured flood insurance policies in the Q&A.

The Agencies are adopting this Q&A as proposed with the amendments discussed above and an additional minor non-substantive change.

Applicability 15 (Proposed as Q&A Coverage 3). The Agencies proposed new Q&A Coverage 3 to address when mandatory flood insurance on a designated loan is required to be in place during the closing process. As noted below, the Agencies are renumbering this Q&A as Q&A Applicability 15. This proposed Q&A clarified that a lender should use the loan ''closing date'' to determine the date by which flood insurance should be in place for a designated loan, and that FEMA deems the ''closing date'' as the date the ownership of the property transfers to the new owner based on State law. The proposed answer further explained the difference between ''wet funding'' and ''dry funding'' States and how it impacts the ''closing date'' for purposes of flood insurance.

A few commenters suggested expanding the Q&A to clarify the ''closing date'' for refinances subject to rescission. One lender suggested that it would be helpful to add examples to illustrate when mandatory flood insurance needs to be in place on a designated loan. The Agencies agree and are expanding the answer to address transactions where there is no transfer of property ownership, such as a refinance, and the borrower is purchasing a new flood insurance policy or is required to increase flood insurance coverage. In these cases, the lender should use the loan's consummation date, which is the date the borrower becomes contractually obligated on the loan, as the effective date for the flood insurance policy. As a result of this clarification, the Agencies do not believe adding examples is necessary. The Agencies are adopting this Q&A with the changes discussed above.

Section II. Exemptions From the Mandatory Flood Insurance Purchase Requirements (Exemptions)

Existing section III includes one Q&A related to the exemptions from the mandatory flood insurance purchase requirements. The Agencies proposed to redesignate existing section III as section II and proposed a streamlined heading for this section to provide greater clarity with no intended change in substance or meaning. As proposed, section II includes existing Q&A 18 and six new Q&As, Exemptions 2 through 7, pertaining to the exemption from the mandatory flood insurance purchase requirements for certain detached structures created by HFIAA. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. As noted in the proposal, this set of Q&As on the detached structure exemption responds to a request for more guidance related to this exemption, as documented in the EGRPRA report.[22]

Exemptions 1. The Agencies proposed to redesignate existing Q&A 18 as Q&A Exemptions 1. This Q&A discusses the exemptions from the mandatory flood insurance purchase requirement. The Agencies proposed to revise the Q&A to include the detached structure exemption in addition to the existing exemptions for State-owned property and loans with an original principal balance of $5,000 or less and an original repayment term of one year or less. The proposed Q&A also noted that although an exemption may apply, a borrower may still elect to purchase flood insurance or a lender may still require flood insurance as a condition of making the loan for purposes of safety and soundness, depending on its risk analysis. One commenter requested further clarity and examples on what constitutes a detached structure. Another commenter requested clarification on ''mixed use'' property where detached buildings that may have been used for commercial purposes but no longer have a commercial use could fall under the residential exemption if the residence is using the structure for storage. The Agencies note that what constitutes a detached structure is a fact-based determination and that the lender, who is in the best position to consider all the facts and circumstances and with input from the borrower, has the responsibility to determine what constitutes a detached structure and its purpose or the primary use of a mixed use structure. The Agencies are not in a position to provide examples for all possible scenarios. The Agencies also are including a cross reference to Q&A Exemptions 2 to provide further guidance and therefore are adopting the Q&A with this addition.

Exemptions 2. The Agencies proposed new Q&A Exemptions 2 to address whether a lender must take a security interest in the primary residential structure for a detached structure to be eligible for the detached structure exemption. The proposed answer provided that although a lender does not have to take a security interest in the primary residential structure, it would need to evaluate the uses of the detached structures to confirm each is eligible for the exemption. One commenter suggested that the Agencies provide more examples of a primary residential structure. The Agencies decline to provide examples as the Agencies have indicated in the preamble to the 2015 Final Rule that whether a structure is defined as a primary residential structure is fact specific and that lenders would need to conduct good faith due diligence to make this determination. Another commenter suggested the Agencies separate this Q&A into two discrete questions to highlight different aspects of the answer. The Agencies decline to adopt this suggestion because the example is intertwined with the principles being discussed in the answer. Accordingly, the Agencies are adopting the Q&A as proposed.

Exemptions 3. The Agencies proposed new Q&A Exemptions 3 to clarify that a flood hazard determination is required for a detached structure even though flood insurance coverage is not required on such a structure because the determination is used to identify the number and type of structures present on the property. One commenter noted that in practice, lenders first obtain a flood hazard determination as to the entire parcel of property to determine if any structures are located in an SFHA and then determine whether any detached structures on the property may be exempt under the Regulation, and therefore the proposed Q&A may imply that the presence or absence of exempt structures may affect whether a flood hazard determination is required. The Agencies agree that this Q&A may be confusing as proposed. As a result, the Agencies are revising the Q&A to clarify that a flood hazard determination is required even where detached structures are present. The revised answer provides that a flood hazard determination is needed to determine whether a building or mobile home securing a loan is or will be located in an SFHA where flood insurance is available under the Act. The answer further provides that in order to determine whether the exemption for non-residential detached structures on residential property may apply, a flood hazard determination must be conducted first, without regard to whether there may be any detached structures that could be exempt. With these amendments, the Agencies are adopting Q&A Exemptions 3.

Exemptions 4. The Agencies proposed new Q&A Exemptions 4 to provide that a lender or its servicer may cancel its flood insurance requirement on an eligible detached structure that is

[22] *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

currently insured, but that a lender alternatively may want to continue to require flood insurance coverage for detached structures of relatively high value if such coverage would be beneficial to the borrower and the lender. The Agencies received no specific comments on this Q&A and are adopting the Q&A as proposed.

Exemptions 5. The Agencies proposed new Q&A Exemptions 5 to address whether a property being remapped into an SFHA triggers a review of the intended use of each detached structure. Specifically, the proposed answer stated that a lender must examine the status of a detached structure upon a qualifying triggering event and that a remapping is not a triggering event. The proposed answer also stated that although there is no duty to monitor the status of a detached structure following the lender's initial determination, sound risk management practices may lead a lender to conduct scheduled periodic reviews that track the need for flood insurance on properties securing loans in its portfolio. Further, the proposed answer notes that, consistent with existing obligations under the Regulation, if a lender determines at any time that a property, including a detached structure, has become subject to the mandatory flood insurance purchase requirement and, as a result, the collateral is uninsured or underinsured, the lender has a duty to inform the borrower of the obligation to obtain or increase insurance coverage and to purchase flood insurance on the borrower's behalf, as necessary.

One commenter asked whether notification of a map change constitutes notice that the property may be subject to the mandatory flood insurance purchase requirement. Another commenter inquired whether this Q&A allows a lender to rely on the initial appraisal as to what the detached structure is being used for or whether the lender is responsible for determining the current use. One commenter noted that the answer reiterates the requirements for force placement which do not seem relevant to the answer. Based on the comments received, the Agencies are revising the question to focus instead on whether a triggering event requires a lender to review the intended use of the detached structure. The answer remains unchanged, except for removing the language regarding remapping and force placement and non-substantive wording changes for clarification. In addition, the Agencies are including a reference to new Q&A Applicability 13, which explains what constitutes a triggering event. With these changes, the Agencies are adopting Q&A Exemptions 5.

Exemptions 6. The Agencies proposed new Q&A Exemptions 6 to discuss whether a lender, following a review of its loan portfolio, may determine to no longer require flood insurance on a detached structure in an SFHA if the structure does not provide contributory value. The Agencies proposed to clarify that, while a lender or servicer could initiate such a review, the Regulation does not permit the exemption of structures from the mandatory flood insurance purchase requirement based solely on their contributory value. Instead, a specific exemption must apply. The Agencies received no specific comments on this Q&A and are adopting the Q&A as proposed.

Exemptions 7. The Agencies proposed new Q&A Exemptions 7 to address whether a building would qualify as a detached structure if it is joined to another building by a stairway or covered walkway. The proposed answer provided that for purposes of the detached structure exemption, a structure is ''detached'' from the primary residential structure if it is not joined by any structural connection to that structure, and ''stands alone.'' One commenter suggested that the Agencies allow lenders to defer to an insurer's definition for a structural connection as this term is not defined in the Regulation or statute, or that the Agencies define this term. As indicated in the proposed Q&A, the Agencies have interpreted this term to mean a structure is ''detached'' if it stands alone and that this interpretation is consistent with the coverage provision of the NFIP's Standard Flood Insurance Policy (SFIP) for additions and extensions to a dwelling unit. The proposed answer also included a reference to the *NFIP Flood Insurance Manual* for additional information. However, the Agencies are amending the Q&A to track the language of the Regulation and are removing the FEMA example as it is unnecessary. Therefore, the Agencies are adopting the Q&A with these changes.

Proposed Section III. Coverage (NFIP/Private Flood Insurance)

The Agencies proposed in the July 2020 Questions and Answers to move existing section XI to section III. This section included two new Q&As (Coverage 1 and 3), and existing Q&A 64 redesignated as Coverage 2. Because the Agencies are consolidating the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers, for organizational purposes, in the 2022 Interagency Questions and Answers the Agencies are moving the three Q&As under Section III Coverage to other sections as noted below and reassigning section III.

The Agencies proposed new Q&A Coverage 1 in the July 2020 Proposed Questions and Answers to assist lenders in complying with the discretionary acceptance provision and mutual aid societies provision in the Agencies' 2019 Final Rule. The Agencies are redesignating this Q&A as Q&A Discretionary 4. Please refer to Section IV, Q&A Discretionary 4 for the Agencies response to comments.

The Agencies proposed to redesignate existing Q&A 64 as Coverage 2. This Q&A addresses when a lender may rely on an insurance policy providing portfolio-wide coverage, removes the reference to criteria set forth by FEMA, and includes language addressing a lender's reliance on a policy that provides portfolio-wide coverage. The Agencies are re-designating this Q&A as Q&A Applicability 14. Please refer to Section I, Q&A Applicability 14 for the Agencies response to comments.

The Agencies proposed new Q&A Coverage 3 in the July 2020 Proposed Questions and Answers to address when mandatory flood insurance on a designated loan is required to be in place during the closing process. The Agencies redesignated Q&A Coverage 3 as Q&A Applicability 15. Please refer to Section I, Q&A Applicability 15 for the Agencies response to comments.

Additionally, the Agencies proposed in the July 2020 Proposed Questions and Answers to delete existing Q&A 63 because it was inconsistent with the Agencies' final rule implementing the private flood insurance provision of the Biggert-Waters Act.[23] The Agencies received no specific comment on this proposed change and are deleting this Q&A as proposed.

Section III. Private Flood Insurance—Mandatory Acceptance (Mandatory)

The 2019 Final Rule requires lenders to accept ''private flood insurance,'' as defined in the Biggert-Waters Act (mandatory acceptance). In order to assist lenders in evaluating whether a flood insurance policy meets the definition of ''private flood insurance,'' the 2019 Final Rule also includes a compliance aid provision. Under the compliance aid provision, a lender may conclude that a policy meets the definition of ''private flood insurance'' without further review if the policy, or an endorsement to the policy, contains the compliance aid statement set forth in the rule.

[23] 84 FR 4953 (Feb. 20, 2019).

The Agencies proposed a number of Q&As regarding mandatory acceptance and the compliance aid provision in the March 2021 Proposed Questions and Answers. As discussed in further detail below, the Agencies are combining proposed Q&A Mandatory 2 with proposed Q&A Discretionary 4 and renumbering the Q&A as Q&A Private Flood Compliance 11. The Agencies also are renumbering the other Q&As in this section accordingly.

General Comments. The Agencies received some general comments regarding the Q&As related to the mandatory acceptance of private flood insurance policies. One commenter was supportive of the proposed Q&As, stating that the Agencies' implementation of the mandatory acceptance provisions and widespread use of a compliance aid assurance clause have allowed the private flood insurance market to thrive. This commenter believed the mandatory acceptance provisions facilitate private policy placements, ensure that consumers have access to affordable flood coverage, and provide security to lenders seeking to fulfill their compliance obligation.

Another commenter suggested the Q&As could incorporate language that clarifies digital transmission of relevant flood coverage documents, as well as physical transmission or use of paper documents, is permissible. As explained under Q&A Discretionary 2, the Regulation does not address the acceptability of electronic records, but lenders may accept electronic and digital records for recordkeeping purposes.

One commenter noted that a number of the mandatory acceptance Q&As refer to ''reviews'' of private flood insurance policies. This commenter stated that it would be helpful to clarify that a flood insurance policy issued by a private insurer is subject to two different reviews. According to the commenter, as with any flood insurance policy, including NFIP policies, the lender or servicer must conduct the mandatory purchase requirement review in connection with a triggering event. The commenter stated that this review would include, among other things, determining whether the policy contains the appropriate coverage limits, deductible, term of coverage, and mortgagee clause. In addition, the commenter stated that, the lender or servicer must determine whether a private flood insurance policy satisfies the definition of ''private flood insurance'' or could otherwise be accepted by a lender under the discretionary acceptance criteria. The commenter requested this clarification throughout the Interagency Questions and Answers.

The Agencies understand the commenter's confusion regarding the term ''review'' as used in some of the Q&As in the mandatory acceptance section. The Agencies have generally clarified the type of review involved for relevant mandatory acceptance Q&As, either in the text of the Q&A or the preamble.

Mandatory 1. Proposed new Q&A Mandatory 1 addressed whether a lender may decide to only accept private flood insurance policies under the mandatory acceptance provision of the Regulation. The proposed answer confirmed that a lender may decide to only accept private flood insurance policies that the lender is required to accept under the mandatory acceptance provision because the policies meet the definition of ''private flood insurance'' under the Regulation. The proposed answer also clarified that a lender is not required to accept flood insurance policies that only meet the criteria set forth in the discretionary acceptance or mutual aid provision in the Regulation. The Agencies received no specific comments on this Q&A and are adopting it as proposed with minor non-substantive edits.

Mandatory 2 (Proposed as Q&A Mandatory 3). Proposed new Q&A Mandatory 3 addressed whether the private flood insurance requirements under the Regulation require a lender to change its policy of not originating a mortgage in non-participating communities or coastal barrier regions where the NFIP is not available. The proposed answer explained that the Regulation does not require a lender to originate a loan that does not meet the lender's underwriting criteria. Further, the proposed answer noted that the flood insurance purchase requirement only applies to loans secured by structures located or to be located in an SFHA in which flood insurance is available under the Act. As stated in Q&A Applicability 1, as proposed and as adopted by the Agencies, the mandatory flood insurance purchase requirement does not apply within non-participating communities where NFIP insurance is not available under the Act. Therefore, the proposed answer states that the lender does not need to change its policy of not originating mortgages in areas where NFIP insurance is unavailable solely because of the private flood insurance requirements under the Regulation. The Agencies received no specific comments on this Q&A and are adopting it as proposed, with minor changes for clarity, and renumbered as Q&A Mandatory 2.

Mandatory 3 (Proposed as Q&A Mandatory 4). Proposed new Q&A Mandatory 4 addressed whether the compliance aid assurance clause could act as a conformity clause that would make a flood insurance policy issued by a private insurer conform to the definition of ''private flood insurance'' under the Regulation. The proposed answer clarified that the compliance aid assurance clause is not intended to act as a conformity clause but rather to facilitate the ability of lenders and borrowers to recognize policies that meet the definition of ''private flood insurance'' and promote the consistent acceptance of policies that meet this definition.

The Agencies received a few comments on this proposed Q&A. One commenter agreed in principle that the compliance aid language should not, and cannot, act as a conformity clause, due mainly to the unique legal status that the term ''conformity clause'' has in State insurance regulation and contract law. Another commenter noted that whether the compliance aid assurance clause acts as a conformity clause is best interpreted by State insurance regulation and contract law. The third commenter explained that interpretation of insurance contracts, including whether the compliance aid assurance clause acts as a conformity clause, should be a matter of State law. This commenter further stated that this Q&A is outside the scope of the Federal flood insurance statutes and regulations, and is outside the Agencies' authority to interpret and apply those Federal statutes and regulations. The commenter recommended instead that the Agencies address this question by providing guidance that this is a matter of State insurance contract law. The Agencies disagree with this commenter's statement regarding the scope of the Act and Regulation and the Agencies' authority to interpret or apply the Act and Regulation. The Agencies adopted the compliance aid provision in the Regulation pursuant to the authority granted to the Agencies in the Act to issue the Regulation.[24] Therefore, the Agencies have the authority to interpret this provision in a Q&A.

Additionally, a few of the commenters recommended that the Agencies delete references to ''assurance clause'' in this Q&A and revert to prior language that simply refers to this clause as the compliance aid language or statement. The commenters noted that the addition of ''assurance clause'' in the current

[24] 42 U.S.C. 4012a(b)(1).

Q&A could infer a meaning beyond that intended by the Agencies because the term ''assurance clause'' has broad meaning under State insurance regulations and insurance laws. The Agencies agree with these comments. The Agencies are removing references to ''assurance clause'' in the final Q&A, as well as in the other Q&As, and will refer to this as the ''compliance aid statement'' per the Regulation. With this change, and a minor change for clarity, the Agencies are adopting this Q&A as proposed and renumbered as Q&A Mandatory 3.

Mandatory 4 (Proposed as Q&A Mandatory 5). Proposed new Q&A Mandatory 5 stated that a lender is not required to accept a flood insurance policy issued by a private insurer solely because the policy contains the compliance aid assurance clause if the lender chooses to conduct its own review and determines the flood insurance policy actually does not meet the mandatory acceptance requirements. The proposed answer noted that if a flood insurance policy issued by a private insurer does not include the compliance aid assurance clause, the lender must still review the policy to determine if it meets the requirements for private flood insurance as set forth in the Regulation before the lender may choose to reject the policy.

One commenter believed that a flood insurance policy issued by a private insurer that includes the compliance aid statement must be accepted and did not support Q&A Mandatory 5. The Agencies have been clear that a lender is not required to accept a flood insurance policy issued by a private insurer solely because it contains the compliance aid statement. Lenders may still, at their discretion, review a flood insurance policy issued by a private insurer that contains the compliance aid statement and reject the policy if they do not believe it meets the definition of ''private flood insurance'' or if it does not meet other requirements of the Regulation, such as providing the required amount of insurance.

Other commenters emphasized that Q&A Mandatory 5 is confusing and unclear. For example, commenters pointed out that a lender does not have to accept a flood insurance policy issued by a private insurer that does not meet the coverage requirements and a review is not required if a policy does not meet the coverage requirements. Commenters were unsure if the ''required to accept'' phrase in the question applies only to an assessment of whether the policy meets the definition of ''private flood insurance'' or if a lender could be required to accept the policy even if the policy is otherwise insufficient (such as the required dollar amount of coverage).

Some commenters believed the Agencies make an assumption about a given lender's processes by concluding that the lender would review a policy under mandatory acceptance criteria before the lender would review under discretionary acceptance criteria even though the Agencies make clear under proposed Q&A Mandatory 8 that a lender ''may first review the policy to determine whether it meets the criteria under the discretionary acceptance provision.'' One commenter emphasized that the Agencies go further than necessary in the proposed response and seem to dictate certain processes for the lender.

In addition, commenters suggested the Agencies consider alternative language for Q&A Mandatory 5. One commenter was confused by the Agencies' choice of language that did not align with the Regulation or the preamble discussion on the proposed Q&A. One commenter recommended the Agencies modify the answer to use plain language from the 2019 Final Rule and use consistent language to avoid confusion regarding key compliance concepts.

As explained in the preamble to the 2019 Final Rule, the Regulation does not permit lenders to reject a flood insurance policy issued by a private insurer solely because the policy is not accompanied by the compliance aid statement.[25] The Agencies stress that the compliance aid statement is meant to be an aid for lenders and it is not required for lenders to accept a flood insurance policy issued by a private insurer. In addition, lenders should remember that other aspects of the Regulation must be met for a lender to accept a flood insurance policy issued by a private insurer, even if the policy meets the definition of ''private flood insurance.''

However, the Agencies understand the commenters' concerns about Q&A Mandatory 5 as proposed and are incorporating suggested changes to address these issues. The final answer provides that if a flood insurance policy issued by a private insurer includes the compliance aid statement, the lender may choose to rely upon the statement and would not need to review the policy further to determine if the policy meets the definition of ''private flood insurance.'' The final answer also makes clear, however, that the lender is not required to accept this policy based upon inclusion of the compliance aid statement alone and may choose to make its own determination about whether the policy meets the definition of ''private flood insurance'' or whether the policy is acceptable under the discretionary acceptance or mutual aid criteria. In addition, if a flood insurance policy issued by a private insurer does not include the compliance aid statement, the final answer provides that the lender may not reject the policy solely because it does not include this statement. The final answer also states that a lender is not relieved from the requirement to accept a policy that meets the definition of ''private flood insurance'' and provides the required amount of insurance under the Regulation. The final answer also provides that the lender may determine the policy is acceptable under the discretionary acceptance or mutual aid criteria.

Lastly, as mentioned in Q&A Mandatory 3 in this section, the Agencies are changing the term ''compliance aid assurance clause'' throughout this Q&A to ''compliance aid statement'' to be consistent with the Regulation.

With these changes, the Agencies are adopting proposed Q&A Mandatory 5 and renumbering it as Q&A Mandatory 4.

Mandatory 5 (Proposed as Q&A Mandatory 6). Proposed new Q&A Mandatory 6 discussed whether a lender is required to conduct an additional review of a flood insurance policy issued by a private insurer under the mandatory acceptance provision if the policy includes the compliance aid assurance clause. The proposed answer stated that under the mandatory acceptance provision of the Regulation, if a policy or an endorsement to the policy contains the compliance aid assurance clause, a lender is *not* required to conduct any further review of the policy in order to determine that the policy meets the definition of ''private flood insurance.'' The proposed answer also clarified that the language of the compliance aid assurance clause must be stated as set forth in the Regulation in order for the lender to rely on the protections of the compliance aid assurance clause. However, a lender need not reject a policy containing the compliance aid assurance clause if the formatting, font, punctuation, and similar stylistic effects that do not change the substantive meaning of the clause are different from the compliance aid assurance clause set forth in the Regulation. The proposed answer included a cross-reference to proposed new Q&A Mandatory 7.

The Agencies received a specific comment on Q&A Mandatory 6 that was

[25] 84 FR 4953, 4959 (Feb. 20, 2019).

supportive. The commenter agreed that if a policy or an endorsement to the policy contains the compliance aid statement, further review is not necessary in order for the lender to determine that a policy meets the definition of ''private flood insurance.'' Therefore, the Agencies are adopting this Q&A as proposed, other than amending the term ''compliance aid assurance clause'' throughout the Q&A to ''compliance aid statement'' to be consistent with the Regulation. The Agencies are also renumbering Q&A Mandatory 6 as proposed to Q&A Mandatory 5 and updating the included cross-reference.

Mandatory 6 (Proposed as Q&A Mandatory 7). Proposed new Q&A Mandatory 7 described additional reviews a lender must conduct when a flood insurance policy issued by a private insurer includes the compliance aid assurance clause, as the clause only assists a lender in making the determination that a flood insurance policy meets the definition of ''private flood insurance'' in the Regulation, and not other requirements specified in the Regulation. Specifically, under the proposed answer, the lender also must ensure that the amount of insurance is at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act. The answer also included a cross-reference to proposed new Q&A Mandatory 6.

One commenter recommended that the Agencies revise Q&A Mandatory 7 and include a new Q&A under the Private Flood Compliance section. This commenter understood that the Agencies are attempting to reassure lenders who may be reluctant to accept a flood insurance policy issued by a private insurer merely because the policy includes the compliance aid statement. At the same time, the commenter believed that the Agencies do not want lenders to overlook the fundamental ''requirements for coverage'' review. Thus, the commenter suggested the Agencies simplify Q&A Mandatory 7 and move the language regarding coverage and other applicable requirements to a new Q&A under the Private Flood Compliance section. In addition, this commenter further recommended the Agencies include appropriate cross-references between Q&A Mandatory 7 and their suggested new Q&A, as well as to applicable questions under other sections. The Agencies disagree with this comment. Under the Regulation, lenders must determine whether a policy issued by a private flood insurance company meets both the definition of ''private flood insurance'' and the required amount of insurance under the Regulation. The intent of proposed Q&A Mandatory 7 is to remind lenders that they must review the policy to ensure that it meets the amount of insurance required under the Regulation even if the policy includes the compliance aid statement.

Many commenters had concerns with the sentence in the answer recommending that lenders ensure the accuracy of other key aspects of the policy, such as the borrower's name and address. These commenters specifically found the phrase ''key aspects of the policy'' to be ambiguous, open-ended, extraneous, and potentially problematic and recommended either its deletion or amendment. Specifically, one commenter noted that because there are no statutory or regulatory requirements or references regarding this phrase or the included examples, this sentence could confuse lenders. Another commenter stated that the Agencies should clearly define the exact elements that lenders must review beyond the compliance aid statement. One commenter suggested that the Agencies instead instruct lenders to review the policy as they would review other insurance policies for safety and soundness. Further, one commenter explained that there are many valid reasons for differences between the named parties on a mortgage and a property insurance policy as well as for differences in the physical address of the property, especially if the mortgage system reflects the legal description for the property as opposed to a mailing address.

The Agencies agree with the commenters that the phrase ''other key aspects of the policy'' is unclear. Because this sentence is not necessary to answer the question, the Agencies are deleting it in the final answer. Using alternative language regarding safety and soundness, as suggested by one commenter, would not eliminate ambiguity. However, the Agencies note that this deletion does not eliminate the need for lenders to conduct other reviews of a policy pursuant to their internal processes.

One commenter requested that the Agencies use the term ''limit'' instead of the term ''coverage'' the first time it appears in the answer. The Agencies have considered this request and are changing this use of ''coverage'' to ''amount of insurance,'' which is the phrase used in the Regulation.

Additionally, the Agencies are adding a reference to the Regulation in the question in this Q&A to avoid further confusion. The Agencies also are amending the term ''compliance aid assurance clause'' throughout the Q&A to ''compliance aid statement'' to be consistent with the Regulation.

With these changes, the Agencies are adopting this Q&A, renumbering it as Q&A Mandatory 6, and making a corresponding update to the included cross-reference.

Mandatory 7 (Proposed as Q&A Mandatory 8). Proposed new Q&A Mandatory 8 addressed whether a lender may use the criteria under the discretionary acceptance provision to decide whether to accept a policy that does not contain the compliance aid assurance clause without first reviewing the policy to determine if it meets the mandatory acceptance provision. The proposed answer clarified that a lender may first review the policy to determine whether it meets the criteria under the discretionary acceptance provision. However, if the policy is not accepted under the discretionary acceptance provision, the lender still needs to determine whether it *must* accept the policy under the mandatory acceptance criteria. The proposed answer also reminded lenders to document that a policy provides sufficient protection of the loan if the lender accepts the policy under the discretionary acceptance provision of the Regulation.

The Agencies did not receive any specific comment on Q&A Mandatory 8. However, the Agencies are adding a cross reference to Q&A Discretionary 2 regarding the documentation of the sufficient protection of the loan, which provides that the lender may document this information electronically. The Agencies also are amending the term ''compliance aid assurance clause'' in the question to ''compliance aid statement'' to be consistent with the Regulation. The Agencies are adopting Q&A Mandatory 8 with minor clarifying edits and renumbering as Q&A Mandatory 7.

Mandatory 8 (Proposed as Q&A Mandatory 9). Proposed new Q&A Mandatory 9 noted that if the compliance aid assurance clause is included on the declarations page, a lender may accept the policy without further review to determine whether the policy meets the definition of ''private flood insurance.'' However, a lender also must ensure that the policy provides the amount of insurance as required under the Regulation. One commenter pointed out that many private flood insurance policies do not include this representation on the declarations page, but they do include it in the policy, and requested that the Agencies edit this Q&A to reflect this fact. The Agencies note that the

Regulation provides that a lender may accept a flood insurance policy issued by a private insurer if the compliance aid statement is in the policy. The purpose of the proposed Q&A was to provide guidance when a lender receives only the declarations page and not the policy. Therefore, to clarify this Q&A, the Agencies are changing the question to refer to the lender only receiving a declarations page without receiving a copy of the policy.

Another commenter asked the Agencies to amend the response to make it clear that the lender may determine that the policy meets the definition of ''private flood insurance'' without further review. The Agencies agree and have revised the answer as suggested by this commenter, which better reflects the language in the Regulation.

One commenter stated that it would be helpful for the Agencies to identify in the answer the specific items that a lender must review to ensure compliance with the mandatory purchase requirement when the compliance aid assurance clause is included. The Agencies have addressed this issue in Q&A Mandatory 6 and included a cross-reference to Q&A Mandatory 6 in Q&A Mandatory 9. Therefore, the Agencies do not believe it is necessary to amend Q&A Mandatory 9 to include this information.

Lastly, the Agencies are amending the term ''compliance aid assurance clause'' throughout the Q&A to ''compliance aid statement'' to be consistent with the Regulation.

With the changes described above, the Agencies are adopting this Q&A, renumbering it as Q&A Mandatory 8, and making a corresponding update to the included cross-reference.

Mandatory 9 (Proposed as Private Flood Compliance 11). The Agencies are renumbering proposed Q&A Private Flood Compliance 11 as Q&A Mandatory 9 in the 2022 Interagency Questions and Answers because it more appropriately fits within the Mandatory Acceptance Q&A section. As proposed, this Q&A addressed whether a lender may accept a private flood insurance policy that includes a compliance aid assurance clause, but that also includes a disclaimer that the ''insurer is not licensed in the State or jurisdiction in which the property is located.'' The proposed answer explained circumstances under which lenders may accept a policy issued by an insurer that is not licensed in the State or jurisdiction in which the property is located. The proposed answer also included a cross-reference to proposed Q&A Private Flood Compliance 10, which addressed whether lenders may accept policies issued by private insurers that are surplus lines insurers [26] for noncommercial residential properties.

Some commenters suggested revising the answer to be more direct and to remove language that is addressed in Q&A Private Flood Compliance 10. The Agencies agree with the commenters that the answer can be worded more effectively and are adopting language similar to that recommended by one of the commenters. As revised, the answer provides that if the policy includes a statement indicating that the insurer is not licensed in the State or jurisdiction in which the property is located, suggesting that the policy is issued by a surplus lines insurer, but contains a compliance aid statement, lenders may accept the policy as long as the policy complies with the Regulation and applicable State laws. However, the Agencies note that the language removed from the proposed answer that provided specific circumstances under which lenders may accept a policy issued by a surplus lines insurer is still relevant. Specifically, a lender may accept a policy issued by a surplus lines insurer recognized or not disapproved by the relevant State insurance regulator as protection for loan collateral that is a commercial property. Also, a lender may accept a policy issued by a surplus lines insurer as protection for loan collateral that is a noncommercial property as a policy issued by an insurance company that is ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.''

The Agencies also are making one technical change to this question, amending the term ''compliance aid assurance clause'' to ''compliance aid statement'' to be consistent with the Regulation.

With the changes described above, the Agencies are adopting Q&A Mandatory 9.

[26] The National Association of Insurance Commissioners (NAIC) notes, ''[t]he surplus lines market (inclusive of U.S. and non-U.S. domiciled insurers) is a distinct segment of the industry consisting of non-admitted specialized insurers covering risks not available within the admitted market . . . Surplus lines insurers are subject to regulatory requirements and are overseen for solvency by their domiciliary [S]tate or country.'' *https://content.naic.org/cipr_topics/topic_surplus_lines.htm.* For specific definitions related to surplus lines insurers, lenders should review the State law in which the property is located.

Section IV. Private Flood Insurance—Discretionary Acceptance (Discretionary)

The 2019 Final Rule permits a lender, at its discretion, to accept a flood insurance policy issued by a private insurer even if the policy does not meet the statutory and regulatory definition of ''private flood insurance,'' provided the policy meets certain requirements in the rule (discretionary acceptance). The 2019 Final Rule also permits a lender, at its discretion, to accept certain mutual aid plans that meet the conditions stated in the rule.

The Agencies proposed the Q&As in this section, except for Q&A Discretionary 4, in the March 2021 Proposed Questions and Answers. The Agencies originally proposed Q&A Discretionary 4, as adopted in these 2022 Interagency Questions and Answers, as Q&A Coverage 1 in the July 2020 Proposed Questions and Answers. The Agencies are combining proposed Q&A Discretionary 4 with proposed Q&A Mandatory 2 and renumbering this Q&A as Q&A Private Flood Compliance 11, as discussed in more detail below.

Discretionary 1. Proposed Q&A Discretionary 1 addressed whether lenders are required to accept flood insurance policies that meet the discretionary acceptance criteria. The proposed answer notes that the discretionary acceptance criteria in the Regulation set forth the minimum acceptable criteria that a flood insurance policy must have for the lender to accept the policy under the discretionary acceptance provision. The proposed answer clarified that it is at the lender's discretion to accept a policy that meets the discretionary acceptance criteria so long as the policy does not meet the mandatory acceptance criteria. The Agencies received no specific comments on this Q&A and are adopting Q&A Discretionary 1 as proposed.

Discretionary 2. Proposed Q&A Discretionary 2 addressed the requirements for documentation to demonstrate that a policy provides sufficient protection of a loan when a lender accepts that policy under the discretionary acceptance criteria. The proposed answer explained that the Regulation requires the lender to document its conclusion in writing that the policy provides sufficient protection of the loan, consistent with safety and soundness principles. In addition, the proposed answer included a cross-reference to Q&A Discretionary 4 which discusses some factors to consider when determining whether a flood insurance policy issued by a private insurer provides sufficient protection of the

loan, consistent with safety and soundness principles.[27] Furthermore, the proposed answer noted that while the Regulation does not require any specific documentation to demonstrate that the policy provides sufficient protection of the loan, lenders may include any information that reasonably supports the lender's conclusion following review of the policy.

One commenter on this Q&A suggested that the Agencies clarify that a lender's electronic records may serve as documentation that demonstrates that a policy provides sufficient protection of the loan. The Agencies note that specific provisions in the Regulation allow for the use of electronic records. For example, the Regulation allows for the use of the Standard Flood Hazard Determination Form in an electronic format. Although there are no general provisions in the Regulation regarding the acceptability of electronic records, the Agencies agree that electronic and digital records are acceptable for a lender's recordkeeping purposes. In consideration of this comment, the Agencies are amending the Q&A by adding that a lender's review of a policy under the discretionary acceptance provision may be performed and recorded electronically.

The second commenter asked the Agencies to clarify whether in situations where a loan is secured by a building and land, and the value of the land securing a loan is greater than the loan amount, the lender could determine that flood insurance is not required or that the deductible may be higher than what the mandatory purchase criteria allows. The Agencies note that the Regulation requires that flood insurance be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property, and that land is excluded from this analysis. Therefore, the lender cannot waive the flood insurance requirement based on the value of the land. Additionally, a flood insurance policy issued by a private insurer must provide sufficient protection of the designated loan, consistent with general safety and soundness principles. When evaluating higher deductibles, lenders should ensure the deductible is reasonable considering the borrower's financial condition. The Agencies believe that no change is needed in the Q&A to address this comment and that readers should refer to Q&A Private Flood Compliance 1.

With the amendment described above, the Agencies are adopting Q&A Discretionary 2.

Discretionary 3. Proposed Q&A Discretionary 3 addressed how a lender could evaluate concerns related to an insurer's solvency, strength, and ability to pay claims in order to determine whether an insurance policy provides sufficient protection of a loan, consistent with general safety and soundness principles. The proposed answer provided that a lender may evaluate an insurer's solvency, strength, and ability to satisfy claims by obtaining information from the State insurance regulator's office of the State in which the property securing the loan is located, among other options. The proposed answer further indicated that a lender could rely on the licensing or other processes used by the State insurance regulator for such an evaluation.

A number of commenters suggested that the Agencies provide additional examples for evaluating an insurer's solvency, including the use of third-party sources of information such as credit rating agencies. Although lenders could consider many sources of information to evaluate an insurer, the Agencies decline to provide examples other than those included in the proposed Q&A. Further, including credit rating agencies as an example would be inconsistent with the principle in Section 939A of the Dodd-Frank Act, which required the Agencies to remove references to, or requirements of reliance on, credit ratings in their regulations with regard to assessment of the creditworthiness of a security or money market instrument using credit rating agencies. Although this provision concerns regulations, and not guidance, and is focused on the creditworthiness of a security or money market instrument, and not the solvency of an insurer, the Agencies believe it would be inappropriate to endorse or reference the use of credit rating agencies in the Interagency Questions and Answers in light of Section 939A of the Dodd-Frank Act.

One commenter suggested that the Agencies remove the requirement for financial institutions to evaluate the solvency and strength of private flood insurers. The Agencies note that the Regulation does not require lenders to evaluate the solvency and strength of private flood insurers. Rather, it requires lenders to determine that the policy provides sufficient protection of the designated loan, consistent with general safety and soundness principles. Evaluating the solvency and strength of private flood insurers is one factor, among others, that lenders could consider in making this determination, as detailed in Q&A Discretionary 4 as adopted, discussed below. For these reasons, the Agencies are adopting the Q&A as proposed, with an update to the included cross-reference to reflect Q&A renumbering.

Discretionary 4 (Proposed as Q&A Coverage 1). The Agencies proposed new Q&A Coverage 1 in the July 2020 Proposed Questions and Answers to assist lenders in complying with the discretionary acceptance provision and mutual aid societies provision in the Agencies' final rule implementing the private flood insurance provision of the Biggert-Waters Act. As noted above, the Agencies are renumbering this Q&A as Discretionary 4. The Q&A provides additional information on some factors to consider when determining whether a flood insurance policy issued by a private insurer provides sufficient protection of a loan.

The Agencies received several comments on this Q&A. One commenter supported the Q&A because it is not overly prescriptive and will likely enhance the development of the private flood insurance market. A few commenters recommended that the Agencies clarify that the sufficient protection of a loan requirement only applies to the discretionary acceptance provision. The Agencies agree and are clarifying the question so that it specifically references the discretionary acceptance and mutual aid acceptance provisions.

One commenter recommended that the Agencies expand the answer to explain that if a flood insurance policy issued by a private insurer or flood endorsement to an insurance policy issued by a private insurer states that the policy meets the definition of private flood insurance under 42 U.S.C. 4012a, or includes similar alternative language, such as that the coverage is at least as broad as the NFIP, the policy is explicitly acceptable. Additionally, the commenter suggested that if the flood insurance policy issued by a private issuer is determined to be less than the coverage provided under an NFIP policy, and the policy states that coverage is amended to match the terms of an NFIP policy, that the policy is explicitly acceptable. The Regulation provides a specific compliance aid

[27] These factors include whether: (1) A policy's deductibles are reasonable based on a borrower's financial condition; (2) the insurer provides adequate notice of cancellation to the mortgagor and the mortgagee; (3) the terms and conditions of the policy with respect to payment per occurrence or per loss and aggregate limits are adequate to protect the lending institution's interest in the collateral; (4) the flood insurance policy complies with applicable State insurance laws; and (5) the private insurance company has the financial strength, solvency and ability to satisfy claims. *See* 85 FR 40442, 40458 (July 6, 2020).

provision to assist lenders in determining if a policy meets the definition of private flood insurance. While lenders may consider the alternative language noted above when reviewing flood insurance policies issued by private insurers, making a policy acceptable based on such statements would not be consistent with the Regulation. Therefore, the Agencies are adopting proposed Q&A Coverage 1, renumbered as Discretionary 4, with the amendments discussed above.

Section V. Private Flood Insurance—General Compliance (Private Flood Compliance)

The Agencies proposed eleven new Q&As in this section in the March 2021 Proposed Questions and Answers. As discussed in more detail above, the Agencies are renumbering proposed Q&A Private Flood Compliance 11 from the March 2021 Proposed Questions and Answers as Q&A Mandatory 9. Q&A Private Flood Compliance 11, as adopted in these 2022 Interagency Questions and Answers, is a combination of proposed Q&A Mandatory 2 and proposed Q&A Discretionary 4 from the March 2021 Proposed Questions and Answers.

Private Flood Compliance 1. Proposed new Q&A Private Flood Compliance 1 addressed the maximum deductible permissible for a flood insurance policy issued by a private insurer on properties located in an SFHA. The proposed answer clarified that the analysis depends on whether the lender is accepting the flood insurance policy under the mandatory acceptance provision or the discretionary acceptance provision.

For a private flood insurance policy that the lender is accepting under the mandatory acceptance provision, the proposed answer stated that the Regulation provides that the policy must contain a deductible that is ''at least as broad as'' the maximum deductible in the SFIP under the NFIP, which means that the deductible is no higher than the specified maximum under an SFIP for any total coverage amount up to the maximum available under the NFIP at the time the policy is provided to the lender. Further, the proposed answer provided that a policy with a coverage amount exceeding that available under the NFIP may have a deductible exceeding the specific maximum deductible under an SFIP. However, the proposed answer also advised that for safety and soundness purposes, the lender should consider whether the deductible is reasonable based on the borrower's financial condition, consistent with guidance the Agencies proposed in Q&A Amount 9 [28] and with how deductibles may be evaluated under the discretionary acceptance provision. The proposed answer also set forth examples to aid in compliance.

Further, the proposed answer provided that for purposes of compliance with the discretionary acceptance provision, the Regulation requires that the policy provide sufficient protection of the loan, consistent with general safety and soundness principles. The proposed answer stated that among other factors a lender could consider in determining whether the policy provides sufficient protection of the loan is whether the deductible is reasonable based on the borrower's financial condition. The proposed answer further provided that unlike the limitation on deductibles for policies accepted under the mandatory acceptance provision for any total coverage amount up to the maximum available under the NFIP, a lender can accept a flood insurance policy issued by a private insurer under the discretionary acceptance provision with a deductible higher than that for an SFIP for a similar type of property, provided the lender has determined the policy provides sufficient protection of the loan, consistent with general safety and soundness provisions. Finally, the proposed answer provided that whether a lender is evaluating the policy under the mandatory acceptance provision or the discretionary acceptance provision, a lender may not allow the borrower to use a deductible amount equal to the insurable value of the property to avoid the mandatory purchase requirement.

The Agencies received several comments on this Q&A. One commenter asked for clarification of the flood insurance requirements for non-residential detached structures that are part of a commercial property and requested that the Agencies not limit the applicability of the detached structure exemption only to residential properties. The Agencies note that Congress established the detached structure exemption in HFIAA. This exemption provides that any structure that is part of a residential property but detached from the primary residential structure and does not serve as a residence is not required to be covered by flood insurance. As this statutory exemption only applies to a detached structure that is part of a residential property, the Agencies cannot create an exemption for detached structures that are part of a commercial property. Therefore, the Agencies do not have authority to revise the answer as requested.

One commenter requested clarification regarding the deductible when multiple buildings are insured on a single insurance policy. Some other commenters requested clarification on how the statement in Q&A Amount 9 referenced in the final paragraph of the proposed Q&A applies differently to a flood insurance policy issued by a private insurer covering multiple individual buildings versus an NFIP policy, which is limited to covering a single building. In response to these comments, the Agencies are amending the answer to add language that provides that a lender may accept a private flood insurance policy covering multiple buildings regardless of whether any single building covered by the policy has an insurable value lower than the amount of the per occurrence deductible. The Agencies also are adding cross-references to new Q&A Amount 10 and Q&A Private Flood Compliance 2, which address related deductible issues, to assist the reader.

One commenter indicated that the Q&A should include guidance that directs private insurers to consider climate change risk when setting flood insurance deductibles. As discussed above, climate change risk is outside the scope of the Agencies' Interagency Questions and Answers. As indicated previously, the Agencies are working individually and on an interagency basis to address financial risks associated with climate change consistent with the Agencies' regulatory and supervisory authorities. Therefore, the Agencies decline to make any change to the Q&A in response to this comment. For clarity, the Agencies are rewording the reference to the deductible requirement in the Regulation. With this clarifying edit and the amendment as noted, the Agencies are adopting Q&A Private Flood Compliance 1.

Private Flood Compliance 2. Proposed new Q&A Private Flood Compliance 2 clarified that a lender may require that the deductible of any flood insurance policy issued by a private insurer be lower than the maximum deductible for an NFIP policy, under both the mandatory acceptance provision and the discretionary acceptance provision. The proposed answer further stated that for the mandatory acceptance provision, the Regulation requires that the private flood insurance policy be at least as broad as an NFIP policy, which includes a requirement that the private flood

[28] Proposed Q&A Amount 9 provided that a lender should determine the reasonableness of the deductible on a case-by-case basis, taking into account the risk that such a deductible would pose to the borrower and the lender.

insurance policy contain a deductible *no higher* than the specified maximum deductible for an SFIP. Therefore, the proposed answer clarified that a lender may require a borrower's private flood insurance policy deductible to be lower than the maximum deductible for an NFIP policy in connection with a policy that the lender accepts under the mandatory acceptance provision consistent with general safety and soundness principles and based on a borrower's financial condition, among other factors. With respect to the discretionary acceptance provision, the proposed answer noted that the lender need only consider whether the policy, including the stated deductible, provides sufficient protection of the loan, consistent with general safety and soundness principles. The proposed answer also included a reference to proposed Q&A Private Flood Compliance 1, which also addresses deductibles.

A commenter requested that the Agencies include in the answer an example of when a lender is not required to accept a policy for safety and soundness reasons related to the deductible, such as when a deductible is too high based on the borrower's financial condition. The Agencies decline to include an example in the answer because the answer already makes clear that a lender can require, as a condition of accepting the policy, a lower deductible for safety and soundness reasons. The Agencies note that the issues of deductibles as they relate to flood insurance policies issued by private insurers are already discussed in Q&A Private Flood Compliance 1. Therefore, the Agencies are adopting this Q&A as proposed with some minor non-substantive edits.

Private Flood Compliance 3. Proposed Q&A Private Flood Compliance 3 provided guidance regarding whether a lender may charge fees to the borrower for the lender's use of a third party to review flood insurance policies. The proposed answer provided that the Act and the Regulation do not prohibit lenders from charging fees to borrowers for contracting with a third party to review flood insurance policies, including a policy issued by a private insurer, and, as provided in Q&A Fees 1 and Q&A Fees 2, lenders may charge limited, reasonable fees for flood determinations and life-of-loan monitoring.[29] The proposed answer reminded lenders that they should be aware of any other applicable requirements regarding fees and disclosures of fees.

A commenter suggested that the Q&A should be expanded to specifically speak to the lender's ability to condition its acceptance of a flood insurance policy issued by a private insurer on payment of a fee. The Agencies disagree. As provided in the Act and the Regulation, a lender is required to accept a flood insurance policy issued by a private insurer that meets the definition of ''private flood insurance,'' as long as the policy meets the amount of insurance required under the Regulation. Therefore, a lender cannot condition the acceptance of such a policy on the payment of a fee by the borrower. Further, as stated above lenders should be aware of any other applicable requirements regarding fees and disclosures of fees. Therefore, the Agencies are adopting this Q&A as proposed with minor non-substantive edits.

Private Flood Compliance 4. Proposed new Q&A Private Flood Compliance 4 addressed the lender's responsibility to ensure a policy issued by a private insurer meets the private flood insurance requirements of the Regulation if the policy is not available prior to loan closing. The proposed answer stated that the Act and Regulation do not specify the acceptable types of documentation for a lender to rely on when reviewing a flood insurance policy issued by a private insurer. The proposed answer also advised lenders to determine whether they have sufficient evidence to show the policy meets requirements under the Regulation and that if the lender does not have enough information to make this determination, then the lender should timely request additional information as necessary to complete its review. The proposed answer also suggested some optional steps that a lender could take to mitigate against closing delays.

The Agencies received a number of comments on this Q&A. Commenters asserted that lenders may not be able to obtain, before closing, a full policy or other information sufficient to determine whether a policy complies with the private flood insurance requirements of the Regulation. The commenters suggested revising the answer to provide that a lender may close a loan without determining whether the policy satisfies these requirements and, if the lender later determines that the policy does not satisfy these requirements, the lender would then comply with the Act's force-placed insurance requirements. The commenters also noted that with NFIP policies, lenders often rely on paid applications as evidence of coverage and receive a declarations page only after loan closing.

The Agencies decline to make the changes the commenters request. If a borrower is obtaining a flood insurance policy issued by a private insurer, the lender must determine whether the policy meets the requirements under the Regulation. If the lender cannot make this determination before closing on the loan, it may need to delay the closing. As discussed in Q&A Private Flood Compliance 5, the declarations page, if available to the lender before closing, may provide enough information for the lender to determine whether the policy meets the mandatory acceptance provision or discretionary acceptance provision of the Regulation or may contain the compliance aid statement, in which case the lender may rely solely on the declarations page. Otherwise, the lender may choose to ask the borrower to obtain the necessary information from the private insurer to provide to the lender.

Further, with respect to the commenter's statement that with NFIP policies, lenders often rely before closing on paid applications for coverage and do not receive a declarations page until after closing, the Agencies note that an NFIP policy does not need to be evaluated to determine if it complies with the private flood insurance requirements of the Regulation. In contrast, flood insurance policies issued by private insurers may not necessarily satisfy the private flood insurance requirements of the Regulation. As indicated above, a lender must review such a policy to determine if it satisfies these requirements.

Finally, commenters also requested that the answer distinguish its applicability to the two forms of review: The review of sufficiency for compliance with the mandatory purchase requirement and the review of acceptability under the private flood insurance requirements of the Regulation. The intent of this Q&A is to remind lenders of their responsibility to ensure that a policy meets the private flood insurance requirements of the Regulation if the policy is not available prior to loan closing. It is not to address any of the other requirements in the Regulation. To clarify this, the Agencies are amending the Q&A so that it addresses only the private flood insurance requirements under the

[29] New Q&A Fees 1, which is adapted from current Q&A 69, lists the four instances in the Act and Regulation when a lender or servicer can charge the borrower a fee for making a flood determination. New Q&A Fees 2, adapted from current Q&A 70, provides that charges made for life-of-loan reviews by determination firms may be passed to the borrower under certain conditions.

Regulation and does not address any other flood requirements that the Regulation imposes. The Agencies also are adding in this Q&A a reference to Q&A Private Flood Compliance 5, to direct readers to guidance on whether a declarations page provides sufficient information for a lender to determine whether the policy complies with the private flood insurance requirements of the Regulation.

With the exception of the changes discussed above, the Agencies are adopting this Q&A as proposed.

Private Flood Compliance 5. Proposed new Q&A Private Flood Compliance 5 addressed whether a declarations page provides sufficient information for a lender to determine whether a policy complies with the private flood insurance requirements of the Regulation. Under the proposed answer, the lender may rely on the declarations page if it provides sufficient information for the lender to determine whether the policy meets the mandatory acceptance provision or the discretionary acceptance provision of the Regulation or if the declarations page contains the compliance aid assurance clause. However, if the declarations page does not provide sufficient information, the proposed answer suggested that the lender should request additional information about the policy to aid its determination.

The Agencies received a number of comments on this Q&A. Similar to Q&A Private Flood Compliance 4, the commenters asserted that the information lenders receive before closing may not be sufficient to determine whether the policy complies with the private flood insurance requirements of the Regulation, even though it is sufficient to determine that the policy satisfies the mandatory purchase requirement, and they suggested revising the answer to provide that a lender may close a loan without determining whether the policy satisfies the private flood insurance requirements. If the lender later determined that the policy does not satisfy these requirements, the lender would then comply with the Act's force-placed insurance requirements. For the reasons discussed in Private Flood Compliance 4, the Agencies decline to make the requested changes.

Commenters further requested that the answer distinguish its applicability to the two forms of review: The review of sufficiency for compliance with the mandatory purchase requirement and the review of acceptability under the private flood insurance requirements of the Regulation. The Agencies note that the focus of this Q&A is on the private flood insurance requirements of the Regulation and not any other flood requirements imposed by the Regulation. To clarify this, the Agencies are revising the question to specifically refer only to the private flood insurance requirements under the Regulation.

Several of the commenters requested guidance about a lender's authority to request necessary information from the borrower or insurer. The Agencies affirm that lenders may seek necessary information from borrowers and insurers. As discussed above, if a lender is unable to obtain the necessary information about a policy issued by a private insurer before closing, it may need to delay the closing. Another commenter suggested that the Q&A is unnecessarily limited by references to the declarations page and that that the Agencies should revise the Q&A to focus on the various forms of, and purposes for examining, evidence of coverage rather than emphasizing the declarations page. The Agencies note that this Q&A focuses on the declarations page because, prior to proposing this Q&A, the Agencies had received many questions requesting guidance on whether a declarations page provides sufficient information for a lender to determine whether a policy complies with the private flood insurance requirements of the Regulation. Q&A Private Flood Compliance 4 makes clear that the Act and Regulation do not specify the acceptable types of documentation on which a lender must rely when reviewing a flood insurance policy issued by a private insurer. If the necessary information is contained in other appropriate documentation, the lender need not rely on the declarations page.

The Agencies are adopting this Q&A as proposed, with the change to the question discussed above, and with one technical change to the answer that amends the term ''compliance aid assurance clause'' to ''compliance aid statement'' to be consistent with the Regulation.

Private Flood Compliance 6. The Agencies proposed new Q&A Private Flood Compliance 6 to provide guidance on a lender's ability to accept multiple-peril policies. Specifically, the proposed answer clarified that a lender may accept multiple-peril policies that cover the hazard of flood under the private flood insurance provisions of the Regulation, provided they meet the requirements of the Regulation.

A commenter requested that the Q&A clarify that lenders are permitted to accept both standalone multiple-peril policies that address flood risks and policies that insure against other risks and that have a flood-related endorsement, as long as the mandatory or discretionary provisions of the Regulation are otherwise satisfied. The Agencies agree that lenders may accept multiple-peril policies that either address flood risks in the policy itself or address flood risks as an endorsement to the policy, and have amended to answer to clarify this.

The Agencies are also making a technical correction to this Q&A by removing the phrase ''provided the policy meets the requirements under the Regulation.'' This phrase is redundant because the private flood insurance provisions of the Regulation already require the policy to meet the Regulation's requirements.

The Agencies are adopting this Q&A with this amendment.

Private Flood Compliance 7. Proposed new Q&A Private Flood Compliance 7 addressed the question of how the private flood insurance requirements of the Regulation work in conjunction with requirements of secondary market investors, such as the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac). The proposed answer first reminded lenders that they must comply with the Federal flood insurance requirements. The proposed answer then noted that secondary market investor requirements are separate from the requirements of the Regulation, and that, if a lender plans to sell loans to such an investor, the lender should carefully review the investor's requirements and direct questions regarding these requirements to the appropriate entities. The Agencies did not receive any specific comment on proposed Q&A Private Flood Compliance 7. Therefore, the Agencies are adopting Q&A Private Flood Compliance 7 as proposed, with one technical change to the question. Specifically, the Agencies are amending the term ''compliance aid assurance clause'' to ''compliance aid statement'' to be consistent with the Regulation.

Private Flood Compliance 8. Proposed new Q&A Private Flood Compliance 8 provided guidance to servicers for loans covered by flood insurance mandated by the Act. Specifically, the proposed answer clarified that for loans serviced on behalf of lenders supervised by the Agencies, the servicer must comply with the Regulation in determining whether a flood insurance policy issued by a private insurer must be accepted under the mandatory acceptance provision or may be accepted under the discretionary acceptance or mutual aid provisions. However, for loans serviced

on behalf of other entities not supervised by the Agencies, the proposed answer stated that the servicer should comply with the terms of its contract with such an entity. The proposed answer suggested that when servicing loans on behalf of Fannie Mae or Freddie Mac, where there are insurer rating requirements specified within those entities' servicing guidance or other relevant authorities that are not included in the Regulation, the servicer should adhere to those servicing requirements. The Agencies did not receive any specific comment on proposed Q&A Private Flood Compliance 8. Therefore, the Agencies are adopting Q&A Private Flood Compliance 8 as proposed.

Private Flood Compliance 9. Proposed new Q&A Private Flood Compliance 9 provided guidance regarding optional methods lenders can use to address questions on whether an insurer is licensed, admitted, or otherwise approved to do business in a particular State, which is one of the factors lenders must evaluate under both the mandatory acceptance and discretionary acceptance provisions. Specifically, proposed new Q&A Private Flood Compliance 9 explained that a lender could determine whether an insurer is licensed, admitted, or otherwise approved in a particular State, or whether a surplus lines or nonadmitted alien insurer [30] is permitted to issue an insurance policy in a particular State, by reviewing the website of the State insurance regulator where the collateral property is located or by contacting the State insurance regulator directly. Further, the proposed answer noted that the information with respect to surplus lines insurer eligibility may be available in the Consumer Insurance Search (CIS) tool available on the National Association of Insurance Commissioners (NAIC) website.[31] The proposed answer stated that lenders also may consult commercial service providers regarding the eligibility of surplus lines insurers in particular States as long as the lenders have a reasonable basis to believe that these service providers have reliable information. With regard to nonadmitted alien insurers in particular, the proposed answer suggested that lenders could review the NAIC's Quarterly Listing of Alien Insurers.[32]

The Agencies received one comment requesting that the Agencies allow financial institutions to rely on the regulated insurance companies to comply with the lender's regulatory requirement to use a licensed insurance company because it is difficult to identify the insurer that is behind a specific flood insurance policy when the policy is issued by a syndicate of an alien insurer. As indicated above, if there is a compliance aid statement, and the lender is accepting the policy under mandatory acceptance, no further review is required to determine the status of the insurer. *See* Q&A Mandatory 6. However, the Agencies do not agree that the lender can waive its duty to verify whether an insurer is licensed, admitted, or otherwise approved in a particular State, or whether a surplus lines or nonadmitted alien insurer is permitted to issue an insurance policy in a particular State, if there is no compliance aid statement or if the lender is choosing to conduct its own review of whether the policy must be accepted under the mandatory acceptance provision or may be accepted under the discretionary acceptance provision. The Agencies are adopting Q&A Private Flood Compliance 9 as proposed.

Private Flood Compliance 10. Proposed new Q&A Private Flood Compliance 10 addressed whether lenders may accept policies issued by private insurers that are surplus lines insurers for noncommercial residential properties. The proposed answer explained that if the surplus lines insurer is eligible or not disapproved to place insurance in the State or jurisdiction in which the property to be insured is located, lenders may accept policies issued by surplus lines insurers as coverage for noncommercial (*i.e.,* residential) properties. In addition, the proposed answer confirmed that policies issued by surplus lines insurers for noncommercial properties are covered in the definition of ''private flood insurance'' and in the discretionary acceptance provision, which the Agencies noted in the preamble to the March 2021 Proposed Questions and Answers and in the proposed answer is consistent with the Act and the Regulation.[33] Specifically, the Agencies explained that in the definition of ''private flood insurance,'' surplus lines policies for noncommercial properties are covered as policies that are issued by insurance companies that are ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.'' The proposed answer also noted that within the discretionary acceptance provision, noncommercial residential policies issued by surplus lines carriers are covered as policies that are issued by private insurance companies that are ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.''

As the Agencies discussed in the preamble to the March 2021 Proposed Questions and Answers, if the surplus lines insurer is eligible or not disapproved to place insurance in the State or jurisdiction in which a property to be insured is located, the surplus lines insurer is deemed to be ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located'' for purposes of the Act and Regulation. Therefore, the proposed answer noted that even if the surplus lines insurer is not considered to be engaged in the business of insurance under applicable State law, the surplus lines insurer nevertheless would meet the criteria *only* for purposes of this provision of the Regulation if the insurer is eligible or not disapproved to place insurance in the State or jurisdiction in which a property to be insured is located.

In the preamble to the March 2021 Proposed Questions and Answers, the Agencies provided an example to illustrate this concept, noting that under section 1776 of the California Insurance Code, the permission granted to allow an insurance policy issued by a nonadmitted insurer to be placed in California, ''shall not be deemed or construed to authorize any insurer to do business in [California].'' [34] In addition,

[30] The NAIC notes that ''[w]hereas [S]tates monitor the eligibility of U.S. domiciled surplus lines insurers, alien insurers eligible to write surplus lines premium are listed on the NAIC Quarterly Listing of Alien Insurers [*https://www.naic.org/prod_serv_alpha_listing.htm#quarterly_alien*] . . . [Alien insurers] are prohibited from establishing a U.S. branch office.'' *https://content.naic.org/cipr_topics/topic_surplus_lines.htm.*

[31] *See https://content.naic.org/cis_consumer_information.htm.*

[32] *See https://www.naic.org/prod_serv_alpha_listing.htm#quarterly_alien.*

[33] During discussion of the Biggert-Waters Act on the Senate floor, Sen. Crapo noted that surplus lines insurers can provide flood insurance coverage for residential properties and asked for clarification regarding the inclusion of surplus lines coverage in the definition of ''private flood insurance.'' In his response, Sen. Johnson stated, ''[T]he definition of 'private flood insurance' includes private flood insurance provided by a surplus lines insurer and is not intended to limit surplus lines eligibility to nonresidential properties. While the Senator is correct that surplus lines insurance is specifically mentioned in that context, overall the definition accommodates private flood insurance from insurers who are 'licensed, admitted, or otherwise approved' in the State where the property is located.'' 158 Cong. Rec. S6051 (daily ed. Sept. 10, 2012).

[34] Cal. Ins. Code Section 1776.

section 1776 of the California Insurance Code states that ''[p]lacement activities of a licensed surplus line broker in accordance with [California law], including, but not limited to, policy issuance, shall not be deemed or construed to be business done by the insurer in [California].'' [35] However, as discussed in the March 2021 Proposed Questions and Answers, it is the Agencies' understanding that these provisions of California law do not make ineligible or disapprove any individual surplus lines insurer from placing insurance in California if they meet all other applicable requirements in California law. Consequently, a surplus lines insurer that is eligible or not disapproved to place insurance in California is ''otherwise approved'' for purposes of the Regulation even though the surplus lines insurer is not authorized to do business in California for purposes of Section 1776 of the California Insurance Code.

Some commentors suggested that the Agencies consider removing or redrafting the Q&A because it suggests that lenders have an independent obligation to verify the eligibility of surplus lines insurers seeking to write flood coverage. The Agencies decline to make the suggested changes noting that, absent a compliance aid statement under the mandatory acceptance provision, the lender is required under the Regulation to verify the insurer's eligibility, as discussed above in connection with Q&A Private Flood Compliance 9. One commenter also suggested shortening the answer to only include the first sentence. The Agencies intentionally included the more detailed answer based on questions the Agencies have received and do not elect to shorten it. Therefore, the Agencies are adopting Q&A Private Flood Compliance 10 as proposed with one minor non-substantive edit to the question.

Private Flood Compliance 11 (Proposed as Q&As Mandatory 2 and Discretionary 4).

Proposed Q&A Mandatory 2 and proposed Q&A Discretionary 4 addressed lender requirements for reviewing flood insurance policies issued by private insurers. Because both proposed Q&As discussed similar issues, the Agencies are combining these two Q&As and renumbering them as Q&A Private Flood Compliance 11.

Proposed new Q&A Mandatory 2 addressed when a lender must review a flood insurance policy issued by a private insurer to make sure the policy meets the mandatory acceptance criteria, other than at loan origination. The proposed answer provided that other than at loan origination, a lender must review a flood insurance policy issued by a private insurer to determine whether it meets the mandatory acceptance criteria when the policy comes up for renewal, or any time the borrower presents the lender with any new flood insurance policy issued by a private insurer. The proposed answer clarified that a lender must review the policy in these instances regardless of whether a triggering event occurred (making, increasing, extending or renewing a loan).

The proposed answer further explained that a lender may determine that the policy meets the mandatory acceptance criteria without further review if the policy or an endorsement to the policy includes the compliance aid assurance clause and clarified that if the policy does not meet the mandatory acceptance criteria, the lender may still accept the policy if it meets the discretionary acceptance criteria, or, if applicable, the mutual aid plan criteria. The proposed answer indicated that if the policy does not meet the mandatory acceptance, discretionary acceptance, or mutual aid plan criteria, the lender must notify the borrower in accordance with the force placement provisions of the Regulation and further indicated that if the borrower does not purchase flood insurance that complies with the Regulation, the lender must purchase insurance on the borrower's behalf.

The proposed answer also clarified that if a lender previously reviewed the flood insurance policy under the discretionary acceptance provision to ensure that the policy meets the private flood insurance requirements of the Regulation, the lender may rely on its previous review, provided there are no changes to the terms of the policy. However, as required by the Regulation, the proposed answer indicated that the lender must document its conclusion regarding sufficiency of protection of the loan in writing.

Proposed Q&A Discretionary 4 addressed whether a lender is required to review a flood insurance policy upon renewal if that policy was issued by a private insurer and was originally accepted in accordance with the discretionary acceptance provision. The proposed answer provided that if a lender had accepted a flood insurance policy issued by a private insurer in accordance with the discretionary acceptance requirements and the policy is renewed, the lender must review the policy upon renewal to ensure that it continues to meet the discretionary acceptance requirements. The proposed answer also stated that a lender would need to document its conclusion regarding sufficiency of the protection of the loan in writing upon each renewal to indicate that the policy continues to provide sufficient protection of the loan.

One commenter to proposed Q&A Mandatory 2 stated its belief that a private policy should be reviewed either at every policy renewal or when making, increasing, extending or renewing a loan but believes it would be best if the policy is reviewed when making, increasing, extending or renewing a loan. This commenter also stated that in connection with a renewal of a policy, a lender should be able to rely on its prior review in connection with mandatory acceptance to be consistent with the proposed answer to Q&A Mandatory 2 that allows a lender to rely on its prior review in connection with discretionary acceptance. Some commenters indicated that proposed Q&As Mandatory 2 and Discretionary 4 suggest that there is a distinction between the level of review required in connection with making, increasing, extending or renewing a loan (triggering event) and the level of review required to accept a new policy during the loan term or renewal of the policy that had initially been accepted, and recommended that the Agencies revise the answers to clarify the level of review required in connection with a triggering event and the renewal of coverage. Some commenters noted that in connection with private flood insurance, a private flood insurance policy must be reviewed for both the acceptability of the policy (*i.e.,* whether the policy meets the definition of ''private flood insurance'') and sufficiency (*i.e.,* the amount and term of coverage), and they requested guidance on whether there is a distinction between the review required in connection with a triggering event and upon renewal of the policy. One commenter appreciated the statement in proposed Q&A Mandatory 2 that ''the lender may rely on its previous review, provided there are no changes to the terms of the policy'' and recommended that the Agencies provide additional detail as to what elements of the prior review may be relied on during review of the same policy at renewal. Other commenters stated that proposed Q&A Mandatory 2 conflicts with proposed Q&A Applicability 8, which stated that ''[a]part from the requirements mandated when a loan is made, increased, extended or renewed, a lender need only review and take action

[35] *Id.*

on any part of its existing portfolio for safety and soundness purposes, or if it knows or has reason to know of the need for NFIP coverage.'' These commenters recommended that the Agencies clarify that a private policy must be reviewed upon the making, increasing, extending or renewing of a loan, and otherwise may be reviewed periodically consistent with safety and soundness principles. These commenters also suggested that the Q&A refer to acceptance ''criteria'' rather than ''requirements'' unless referring to a specific required action. The commenters noted that proposed Q&A Discretionary 4 draws a distinction between origination and renewal, yet there is no statutory requirement to review policies at renewal. The commenters suggested the Agencies remove the requirement that the lender must review the policy upon renewal, and instead state that the lender should have procedures to ensure that the policy continues to meet the discretionary acceptance criteria.

Based on the comments, the Agencies agree that a lender should be able to rely at renewal on a prior review of a private policy in connection with mandatory acceptance and discretionary acceptance. Accordingly, the Agencies are combining the guidance contained in proposed Q&A Mandatory 2 with proposed Q&A Discretionary 4 and are removing the language in the first paragraph of the proposed answer to Q&A Mandatory 2 that would have required a lender to review a private policy to determine whether it meets the mandatory acceptance criteria when the policy comes up for renewal. To improve readability, the Agencies are removing the reference in proposed Q&A Mandatory 2 to ''making, increasing, extending or renewing a loan'' after the term ''triggering event'' in the first paragraph. Additionally, the Agencies are amending the term ''compliance aid assurance clause'' in the first paragraph of proposed Q&A Mandatory 2 to ''compliance aid statement'' to be consistent with the Regulation.

The Agencies also are revising and broadening the second paragraph of the answer to proposed Q&A Mandatory 2 to provide that if a lender has previously reviewed the flood insurance policy under any of the private flood provisions of the Regulation—the mandatory acceptance provision, the discretionary acceptance provision, or the mutual aid plan provision, the lender may rely on its prior review, provided there are no changes to the terms of the policy that would affect acceptance under the Regulation. The Agencies also are removing the phrase ''to ensure that the policy meets the private flood insurance requirements of the Regulation'' in this paragraph of proposed Q&A Mandatory 2 because it is redundant. The answer for Q&A Private Flood Compliance 11 provides that the lender should have effective internal controls in place through appropriate policies, procedures, training and monitoring to ensure compliance with the requirements of the Regulation. The Agencies interpret the Regulation to provide that when there are no changes to the terms of the policy that would affect acceptance under the Regulation, the lender's previous written documentation will constitute the documentation required under the Regulation each time the policy comes up for renewal and are amending the answer to address this issue. The Agencies believe that the answer properly distinguishes ''criteria'' from ''requirements'' under the Regulation and therefore decline to change this term as requested by the commenter.

Finally, a few commenters to proposed Q&A Mandatory 2 stated that references to force placement in the proposed Q&A seemed unnecessary and further complicate the message as to the level of review needed upon the renewal of a private insurance policy. As the answer to Q&A Private Flood Compliance 11 provides that in connection with a policy renewal a lender may rely on a previous review of the policy provided that there are no changes to the terms of the policy that would affect acceptance under the Regulation, the Agencies are not including the language regarding force placement that was proposed in Q&A Mandatory 2.

With these amendments, the Agencies are adopting Q&A Private Flood Compliance 11.

Section VI. Standard Flood Hazard Determination Form (SFHDF)

Proposed section IV included questions and answers related to use of the Standard Flood Hazard Determination Form (SFHDF). The Agencies proposed to move existing section XII to section IV for organizational purposes. Accordingly, this proposal redesignated existing Q&As 65 through 68 as Q&As SFHDF 1 through 4, respectively. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one Interagency Questions and Answers document, the Agencies are renumbering this SFHDF section as Section VI in the 2022 Interagency Questions and Answers and streamlining the title.

SFHDF 1. The Agencies proposed to redesignate existing Q&A 65 as Q&A SFHDF 1 with only minor language modifications and no intended change in substance or meaning. This Q&A addresses whether the SFHDF replaces the borrower notification form. The Agencies received no specific comments on this Q&A and are adopting Q&A SFHDF 1 as proposed.

SFHDF 2. The Agencies proposed to redesignate existing Q&A 66 as Q&A SFHDF 2 with only minor language modifications and no intended change in substance or meaning. This Q&A addresses whether a lender may provide a copy of the SFHDF to the borrower. The Agencies received two comments on this proposed Q&A. Both commenters suggested removing the phrase ''so they can better understand their flood risk'' from the answer as the lender need not contemplate a borrower's intended use of a flood determination and there may be other reasons for providing a flood determination to a borrower. One commenter suggested that references to FEMA's Letter of Determination Review (LODR) process be removed from the answer as it falls outside the scope of the question. In consideration of the comments received, the Agencies are removing the language regarding the borrower's understanding of their flood risk and limiting references to the LODR to note only that a lender would need to make a flood determination available to a borrower under this FEMA process. With these amendments and some minor non-substantive edits, the Agencies are adopting Q&A SFHDF 2.

SFHDF 3. The Agencies proposed to redesignate existing Q&A 67 as Q&A SFHDF 3 with only minor language modifications and no intended change in substance or meaning. This Q&A addresses the use of an SFHDF in electronic format. The Agencies received no specific comments on this Q&A and are adopting Q&A SFHDF 3 as proposed.

SFHDF 4. The Agencies proposed to redesignate existing Q&A 68 as Q&A SFHDF 4 with only minor language modifications and no intended change in substance or meaning. This Q&A addresses the circumstances when a lender may rely on a previous SFHDF. The Agencies received one specific comment on this proposed Q&A. The commenter suggested clarifying the Q&A to note that an SFHDF may be reused for the same collateral on a subsequent loan secured by the same

collateral. The Agencies note that the existing Q&A states ''if the same lender makes multiple loans to the same borrower secured by the same secured real estate, the lender may rely on its previous determination'' if the other requirements referenced in the answer are satisfied. Therefore, no changes to the Q&A are needed to address this comment and the Agencies are adopting Q&A SFHDF 4 as proposed.

Section VII. Flood Insurance Determination Fees (Fees)

The Agencies proposed in the July 2020 Proposed Questions and Answers to move existing section XIII, which contains questions and answers related to flood insurance determination fees, to proposed section V for organizational purposes. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Fees section as Section VII in the 2022 Interagency Questions and Answers.

Fees 1. The Agencies proposed to redesignate existing Q&A 69 as Q&A Fees 1 with only minor changes and no intended change in substance or meaning. This Q&A addresses when a lender or servicer can charge a borrower a fee for making a flood determination. The Agencies did not receive any specific comment on proposed Q&A Fees 1, and are adopting it as proposed.

Fees 2. The Agencies proposed to redesignate existing Q&A 70 as Q&A Fees 2 with only minor changes and no intended change in substance or meaning. This Q&A addresses whether charges made for life-of-loan reviews by flood determination firms may be passed along to the borrower. The Agencies did not receive any specific comment on proposed Q&A Fees 2 and are adopting it as proposed.

Section VIII. Flood Zone Discrepancies (Zone)

The Agencies proposed to redesignate the Q&As in existing section XIV, which addresses flood zone discrepancies, as section VI, and to redesignate current Q&As 71 and 72 as Q&As Zone 1 and 2. The Agencies also proposed to add new Q&A Zone 3 to address borrower disputes of a lender's flood zone determination. The Agencies proposed these changes in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Zone section as Section VIII in the 2022 Interagency Questions and Answers.

One commenter said that it supported the changes to this section because it is frustrating for agents when lenders demand that specific flood zones appear on a declarations page; the commenter believes that lenders should be concerned only with whether the structure is in an SFHA and the limit on the policy. Another commenter stated that all three Q&As in this section provide consistent clarification that the SFHDF is the dominant form when discrepancies arise.

Zone 1. The Agencies proposed to redesignate existing Q&A 71 as Q&A Zone 1. Q&A 71 addresses what a lender should do when there is a discrepancy between the flood hazard zone designation on the flood determination form and the flood insurance policy declarations page. The Agencies proposed to revise the answer to Q&A 71 to reflect a change in the Agencies' expectations regarding a lender's obligation in the event of such a discrepancy. The proposal stated that a lender is no longer required to attempt to resolve the discrepancy but that the lender should consider documenting the discrepancy in the loan file. The proposal further stated that if the flood determination form indicates that the building securing the loan is in an SFHA, the lender must require the appropriate amount of insurance coverage and is not otherwise required to attempt to resolve the discrepancy as previously indicated in current Q&A 71.

Since the Agencies proposed Q&A Zone 1 in July 2020, FEMA has begun to implement Risk Rating 2.0 effective October 1, 2021.[36] Under Risk Rating 2.0, the determination of insurance premiums for NFIP policies no longer relies on the flood zone. As such, the flood zone is no longer included on the declarations page for NFIP policies issued under Risk Rating 2.0. Consistent with changes brought on by Risk Rating 2.0, and after additional review, the Agencies are further revising this question and answer. Specifically, the Agencies are removing references to the declarations page and simplifying the answer to state that a lender need not reconcile or otherwise be concerned with a flood zone discrepancy to be in compliance with the Act and the Regulation. Finally, the Agencies are replacing references to the flood zone ''on the flood insurance policy declarations page'' with the flood zone ''associated with a flood insurance policy'' as a clarifying change.

Several commenters stated that they appreciate the Agencies' change in position that a lender is no longer required to reconcile discrepancies between the SFHDF and the declarations page.

Some commenters sought clarification of this proposed Q&A; they believed its language erroneously suggested that force placement is appropriate to cover a loss that has already occurred when a premium deficiency is discovered during the claim handling process. One commenter stated that the force placement requirement should apply during the life of the loan, whenever a discrepancy arises (such as with a policy renewal or replacement or a remapping event), not just if a discrepancy arises in connection with the making, increasing, refinancing, or extending of a loan (a triggering event). Another commenter stated that if permitted by the security instrument, a lender could satisfy its statutory and regulatory obligations by advancing the funds necessary to pay the additional premium. This commenter suggested adding language to the Q&A that would expressly permit this alternative. The Agencies note that lenders no longer need to be concerned with potential misratings resulting from an incorrect flood zone for NFIP policies due to changes made by FEMA in Risk Rating 2.0; therefore, the Agencies are revising the final Q&A to reflect this change.

A commenter asked if this Q&A should be understood to mean the lender is no longer required to send to the insurance agent and/or the underwriter a reminder of FEMA's letter of April 18, 2008 (W–08021).[37] Another commenter asked if the lender is allowed to continue the existing practice with respect to discrepancies, including providing notification to the insurance agent or company. A third commenter asked whether the guidance should speak to the lender addressing a discrepancy at the time it is discovered rather than at the time of a potential loss, which could benefit both the lender and the borrower. In response, the Agencies affirm that there is no expectation that lenders will continue the existing practice, or take any other action, with respect to discrepancies

[36] *See https://www.fema.gov/flood-insurance/risk-rating.*

[37] FEMA letter W–08021, dated April 16, 2008, set forth procedures for insurance companies relating to flood zone discrepancies. FEMA's letter attached a Financial Institution Letter, FIL–114–2007, issued by the FDIC and dated December 21, 2007, regarding managing risks associated with lapses in flood insurance coverage. FEMA letter W–08021 was archived in April 2018, and FIL–114–2007 was deactivated on December 1, 2018.

beyond what is described in this Q&A. The Agencies believe that Q&A 71, which sets forth expectations for resolving discrepancies, is unnecessarily burdensome. However, a lender is not prohibited from continuing the existing practice or otherwise attempting to resolve a discrepancy at any time. The Agencies are making no changes to the Q&A in response to these comments.

A few commenters asked the Agencies to clarify that before it initiates the force placement process, the lender or servicer must first receive notice that the borrower is not paying the additional premium and must determine that the coverage is inadequate. As noted above, for NFIP policies, lenders no longer need to be concerned with potential misratings resulting from an incorrect flood zone due to changes made by FEMA in Risk Rating 2.0; therefore, the Agencies are revising Q&A Zone 1 accordingly. In light of these revisions, there is no longer a need to address these comments regarding force placement in this context.

One commenter requested that the Agencies clarify that the reference to the ''appropriate amount of insurance coverage'' refers to the dollar limit of flood insurance required. The Agencies confirm that this language refers to the dollar amount of the required insurance coverage. The Agencies are making no changes to the Q&A in response to this comment.

One commenter sought clarification on how to handle zone discrepancies arising from flood insurance policies issued by private insurers, and another commenter stated that providing flexibility on how discrepancies are resolved with regard to flood insurance policies issued by private insurers is important. The Agencies note that companies that issue private flood insurance policies have discretion in how they may require lenders to handle flood insurance discrepancies. Accordingly, the Agencies are unable to provide clarification or guidance on this matter. Lenders may want to contact the insurers for information. The Agencies are making no changes to the Q&A in response to this comment.

One commenter asked the Agencies to add a statement regarding the acceptability of Newly Mapped rated policies that show a non-SFHA zone as the ''rated'' flood zone. The statement would provide that as long as the ''current'' flood zone matches the lender's determined zone, the policy satisfies the mandatory purchase requirement. The Agencies note that this request concerns FEMA policy, not Agency policy, and an Agency response to the request is beyond the scope of this Q&A.

The Agencies are adopting Q&A Zone 1 with the revisions discussed above.

Zone 2. The Agencies proposed to redesignate existing Q&A 72 as Q&A Zone 2. This Q&A addresses whether a lender is in violation of the Regulation if there is a discrepancy between the flood zone on the flood determination form and the policy declarations page. The Agencies proposed to revise this answer to reflect a change in the Agencies' views on this question. The proposed Q&A clarified that a lender is not in violation of the Regulation if there is a discrepancy between the flood zone on the flood determination form and the flood zone on the policy declarations page. This proposed change is consistent with the change in the Agencies' expectations regarding a lender's obligation when there is a discrepancy between the flood determination form and the flood insurance policy, discussed in connection with Q&A Zone 1, above. The Agencies received no specific comments on proposed Q&A Zone 2 and are adopting it as proposed with two changes. First, as in Q&A Zone 1, the Agencies are replacing references to the flood zone ''on the flood insurance policy declarations page'' with the flood zone ''associated with a flood insurance policy'' to conform with changes made by FEMA in Risk Rating 2.0.[38] Second, the Agencies are removing the language on documentation to reflect the changes made to Q&A Zone 1.

Zone 3. The Agencies proposed new Q&A Zone 3 to explain what a lender should do when a borrower disputes the lender's flood zone determination that a building securing the loan is located in an SFHA requiring mandatory flood insurance coverage. One commenter was strongly in favor of this Q&A. Another commenter appreciated the guidance and suggested adding emphasis in the first paragraph to the possible role of the flood determination vendor in resolving a dispute so that the dispute does not need to be elevated to FEMA. The Agencies encourage the parties to take appropriate actions to try to resolve disputes, and in some situations the appropriate actions could include seeking assistance from the vendor. However, the Agencies do not endorse particular actions, as appropriate actions are specific to particular situations. Accordingly, the Agencies are making no changes to this Q&A in response to this comment.

Another commenter said that although the Q&A is helpful, the statement that ''sufficient coverage must be in place . . . until FEMA has determined that the building is not in an SFHA,'' may result in significant closing delays. The commenter requested that the Agencies carefully consider this potential delay and evaluate potential opportunities to mitigate these negative effects. As the Regulation requires and the proposed Q&A states, if the lender's flood determination specifies that a building securing the loan is located in an SFHA and requires mandatory flood insurance coverage, sufficient coverage must be in place until FEMA has determined that the building is not in an SFHA. The Agencies are unable to mitigate the effects of any delays in the FEMA review process and are making no changes to the Q&A in response to this comment.

For the reasons discussed above, the Agencies are adopting Q&A Zone 3 as proposed, with one minor edit to remove the reference to Q&A Zone 1.

Section IX. Notice of Special Flood Hazards and Availability of Federal Disaster Relief (Notice)

The Agencies proposed moving existing section XV to the proposed new section VII. This proposed new section includes existing Q&As 73 through 75 and 78 through 80, which were redesignated as proposed Q&As Notice 1 through 3 and Notice 5 through 7, respectively. Existing Q&As 76 and 77 were combined into Q&A Notice 4. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Notice section as Section IX in the 2022 Interagency Questions and Answers.

Notice 1. The Agencies proposed to redesignate existing Q&A 73 as Q&A Notice 1, with minor language modifications for purposes of clarity with no change in meaning or substance. This Q&A explains that the Notice of Special Flood Hazards does not have to be provided to each borrower for a real estate related loan. In a transaction involving multiple borrowers, the lender need only provide the notice to any one of the borrowers in the transaction. The Agencies received one comment on this Q&A. The commenter asked the Agencies to clarify whether an electronic notice must meet the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). The

[38] *See https://www.fema.gov/flood-insurance/risk-rating.*

Agencies find that the requirements of the E-Sign Act are outside the scope of the Q&As and are adopting Q&A Notice 1 as proposed.

Notice 2. The Agencies proposed to redesignate existing Q&A 74 as Q&A Notice 2. This Q&A discusses the notice requirement for lenders making loans on mobile homes. In the proposal, the Agencies proposed to amend the Q&A to conform more closely to the Regulation. Proposed Q&A Notice 2 states that a lender must provide the Notice of Special Flood Hazards to the borrower within a reasonable time before the completion of the transaction, even if the lender only learns where the mobile home will be located just prior to closing and delivery of the Notice of Special Flood Hazards would delay closing.

The Agencies received a number of comments for this Q&A. The majority of commenters to this Q&A asked the Agencies to further define ''reasonable time.'' One commenter stated that proper compliance with the Regulation should not be dependent on an inconsistent interpretation of ''reasonable time'' from each of the Agencies. Another commenter believed lenders were frequently cited for not timely providing the Notice of Special Flood Hazards, even though no specific time frame is included in the Act or Regulation. This commenter cautioned the Agencies against using a time frame that would be unreasonable in certain situations, such as a refinance. A third commenter stated that it is common for a lender to receive an updated flood determination less than 10 days before closing. In such a case, the commenter suggested that ''reasonable'' would be the time between the revised finding and closing.

The Agencies also received two comments requesting the addition of a new Q&A to address the timing of when a lender must provide the Notice of Special Flood Hazards to the borrower. One commenter pointed out that the same comment was made in 2009 and stated that there should be an explicit reference to the fact that a notice period of fewer or greater than 10 days may also be ''reasonable'' according to circumstances. Another commenter noted that while a ten-day notice period is not a requirement of the Regulation, the ten-day period appears to be a well-established and generally accepted time period. Therefore, this commenter recommended the Agencies incorporate a new Q&A and provided sample language.

The Agencies acknowledge the difficulties lenders face with no defined period in the Act or the Regulation and have decided to modify the final Q&A Notice 2 to further define ''reasonable time.'' Therefore, in the final Q&A, the Agencies are incorporating language from the Interagency Examination Procedures for the Flood Disaster Protection Act [39] and the preamble to the 2009 Interagency Questions and Answers, both of which provided guidance on what constitutes a ''reasonable'' notice. This language is similar to the commenter's suggested language for a new Q&A.

Specifically, the Agencies are making three changes to the final Q&A Notice 2. First, the Agencies are revising the question to ask when a lender should provide the Notice of Special Flood Hazards to the borrower, and how this requirement applies in situations regarding mobile homes where the lender may not know where the home is to be located until just prior to, or sometimes after, the time of loan closing. Second, the Agencies are amending the answer to state that what constitutes ''reasonable'' notice will necessarily vary according to the circumstances of particular transactions. A lender should bear in mind, however, that a borrower should receive a timely notice to ensure that (1) the borrower has the opportunity to become aware of the borrower's responsibilities under the Act; and (2) where applicable, the borrower can purchase flood insurance before completion of the loan transaction. Lastly, the Agencies are revising the answer to state that the Agencies generally regard 10 calendar days before loan closing as a ''reasonable'' time interval.

In addition to comments regarding ''reasonable time,'' one commenter asked the Agencies to amend their examination manuals to reflect how lenders and/or their servicers are frequently unaware of mobile home movement(s) and may only learn of changes afterwards. The commenter wanted the examination manuals to align examiner methods with the realities of the business processes. The commenter explained that ''home only'' transactions, where loans are secured by mobile homes not located on a permanent foundation, raise safety and soundness concerns for lenders. The Agencies do not believe this information is appropriate for their examination manuals. These types of situations are fact specific and cannot be addressed in the Interagency Questions and Answers or examination guidance.

[39] The Task Force on Consumer Compliance of the FFIEC adopted revised interagency examination procedures for the Flood Disaster Protection Act in 2019. All of the Agencies, except the FCA, are members of the FFIEC.

Another commenter preferred the existing Q&A 74 as written, rather than the proposed Q&A Notice 2. This commenter believed that existing Q&A 74 gives the lender flexibility to provide the Notice of Special Flood Hazards to the borrower ''as soon as practicable after determination that the mobile home will be located in an SFHA,'' and it further provided that ''lenders should use their best efforts to provide adequate notice of flood hazards to borrowers'' as early as possible. The commenter stated that the existing Q&A 74 allows lenders the flexibility to incorporate their flood insurance compliance into the realities experienced in their business operations. The commenter recommended the Agencies revise this Q&A to retain this flexibility. As stated in the July 2020 Proposed Questions and Answers, the purpose of the proposed changes to existing Q&A 74 is to conform to the Regulation. The proposed answer, with the changes explained above, is consistent with the Regulation, and the Agencies decline to make any further changes that would be inconsistent with the Regulation.

Notice 3. The Agencies proposed to redesignate existing Q&A 75 as Q&A Notice 3 with no changes. This Q&A addresses when the lender is required to provide notice to the servicer of a loan that flood insurance is required. The Agencies received no specific comments on this Q&A and are adopting the Q&A as proposed.

Notice 4. The Agencies proposed to consolidate existing Q&As 76 and 77 for organizational reasons into Q&A Notice 4, with no substantive changes. This Q&A discusses the appropriate form of notice to the servicer and whether it is necessary to provide a notice to a servicer affiliated with the lender. The Agencies received no specific comments to this Q&A and are adopting the Q&A as proposed.

Notice 5. The Agencies proposed to redesignate existing Q&A 78 as Q&A Notice 5. This Q&A considers how long a lender must maintain the record of receipt by the borrower of the notice. The Agencies proposed amending this Q&A to list examples of what constitutes an acceptable record of receipt. The Agencies received one specific comment for proposed Q&A Notice 5. This commenter stated this proposed Q&A acknowledges that borrowers may be provided with an electronic notice. Therefore, this commenter recommended that for further clarity, the Agencies add an electronic example to the list in the answer. The Agencies agree with the commenter and are revising the answer's list of examples to include the

borrower's electronic signature that acknowledges receipt.

Notice 6. The Agencies proposed to redesignate existing Q&A 79 as Q&A Notice 6, with non-substantive edits to provide additional clarity. This Q&A addresses whether a lender can rely on a previous notice if it is less than seven years old and it is the same property, same borrower, and same lender. The Agencies received no specific comments on this Q&A and are adopting it as proposed with one minor non-substantive edit.

Notice 7. The Agencies proposed to redesignate existing Q&A 80 as Q&A Notice 7 with non-substantive edits to provide additional clarity. This Q&A discusses whether the use of the sample form notice is mandatory. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Section X. Determining the Appropriate Amount of Flood Insurance Required (Amount)

The Agencies proposed moving existing section II to a new section VIII and amending the section heading for streamlining purposes. The Agencies also proposed to redesignate existing Q&As 8, 9 and 11 through 17 as Amount 1, Amount 2, and Amount 3 through 9 respectively. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Amount section as Section X in the 2022 Interagency Questions and Answers.

Amount 1. The Agencies proposed to redesignate existing Q&A 8 as Q&A Amount 1. This Q&A addresses the maximum limit of coverage available for the particular type of property under the Act. The Agencies proposed to revise this Q&A to discuss NFIP coverage limits more fully and to include coverage for condominiums and contents coverage. One commenter suggested that the Agencies address commercial condominiums in the listed examples of coverage amount calculations to clarify that the NFIP does not provide coverage for such units other than contents coverage. The Agencies agree that clarification is needed with respect to non-residential condominiums and have added a new Q&A in Section XII, Q&A Condo and Co-Op 9, to clarify that there is no mandatory purchase requirement for a loan secured by an individual non-residential condominium unit. The Agencies are adopting Q&A Amount 1 as proposed, with minor non-substantive edits.

Amount 2. The Agencies proposed to redesignate existing Q&A 9, which defines ''insurable value,'' to Q&A Amount 2. The Agencies proposed to remove references in this Q&A to the rescinded FEMA *Mandatory Purchase of Flood Insurance Guidelines* and to provide greater clarity with no intended change in substance or meaning. One commenter requested clarification as to whether a lender or servicer may rely on the replacement cost value listed on the flood insurance policy declarations page to establish ''insurable value.'' The Agencies are revising the final answer to clarify that a lender may rely on the replacement cost value stated on the declarations page if the declarations page includes such information. As noted in the proposed Q&A, the Agencies recognize that the ''insurable value'' of a building may be established by any reasonable approach, as long as such approach can be supported.

Several commenters noted that since most home hazard insurance policies do cover foundations, the insurable value on a home hazard insurance policy may align with a flood insurance policy without the need for an adjustment. Based on the comment received, the Agencies have revisited the proposed answer and are removing the language that stated that hazard policies do not cover foundations in the final answer.

Some commenters raised concerns about language in the second paragraph in this Q&A that indicated that it would be reasonable for lenders, in determining the amount of flood insurance required, to consider the extent of recovery allowed under the NFIP or a flood insurance policy issued by a private insurer for the type of property being insured. These commenters noted that the settlement basis for an insurance policy is a separate and distinct concept from the insurable value of a building and has no impact on insurable value. While the Agencies had included such language in the answer to provide further background, the Agencies believe information on the extent of recovery allowed under the NFIP or a flood insurance policy issued by a private insurer is not necessary to answer the question. Accordingly, the Agencies are deleting this language in the final Q&A. The Agencies are adopting proposed Q&A Amount 2 with the revisions discussed above.

Amount 3. The Agencies proposed to redesignate existing Q&A 11, which provides examples of residential buildings, as Q&A Amount 3. The Agencies proposed to revise this Q&A to include more detailed definitions from the *NFIP Flood Insurance Manual* of the terms: single family dwelling, 2–4 family residential building, and other residential building. The Agencies did not receive any specific comment on proposed Q&A Amount 3. Additionally, the Agencies note that the proposed answer was based on language included in an earlier version of the *NFIP Flood Insurance Manual* and that the manual has since been revised. Accordingly, the Agencies are making some non-substantive edits to the final answer to be consistent with the terminology used in the most recent version of the *NFIP Flood Insurance Manual.* The Agencies are adopting this Q&A as proposed, subject to edits noted above.

Amount 4. The Agencies proposed to redesignate existing Q&A 12, which provides examples of non-residential buildings, as Q&A Amount 4. The Agencies proposed to revise this Q&A to provide a more detailed definition of non-residential building based on the *NFIP Flood Insurance Manual.* A few commenters requested that the Agencies revise the answer to remove the language stating that a non-residential building is one in which the named insured is a commercial enterprise. To address this comment, the Agencies are adding language in the answer to clarify that the description of a non-residential building is based on language in the *NFIP Flood Insurance Manual* and are revising the answer to more clearly indicate that the building need not be one in which the named insured is a commercial enterprise. Another commenter requested that the Agencies clarify that the lender may rely on borrower or agent assertions as to percentage of residential and commercial usage of a given property. The Agencies note that although a lender may rely on borrower or agent assertions as to percentage of residential and commercial usage of a given property, such language is not included in the *NFIP Flood Insurance Manual.* Therefore, the Agencies do not believe it would be appropriate to add such language to the answer.

Additionally, the Agencies note that the language in the proposed answer was based on language included in an earlier version of the *NFIP Flood Insurance Manual* and that the manual has since been revised. Accordingly, the Agencies are revising the final answer to be consistent with the most recent version of the *NFIP Flood Insurance Manual.* The Agencies are adopting the Q&A as proposed, subject to the edits discussed above and minor non-substantive edits.

Amount 5. The Agencies proposed to redesignate existing Q&A 13 as Q&A Amount 5 and to revise it to provide greater clarity with no intended change in substance or meaning. This Q&A addresses how much insurance is required on a building located in an SFHA in a participating community. The Agencies received no specific comment on this Q&A and are adopting it as proposed, with a minor non-substantive edit.

Amount 6. The Agencies proposed to redesignate existing Q&A 14 as Q&A Amount 6 and to revise it to provide greater clarity with no intended change in substance or meaning. This Q&A addresses flood insurance requirements when the real estate security contains more than one building located in an SFHA in a participating community. The Agencies received no specific comment on this Q&A and are adopting it as proposed, with a minor non-substantive edit.

Amount 7. The Agencies proposed to redesignate existing Q&A 15 as Q&A Amount 7 and to revise it by making minor language modifications, with no intended change in substance or meaning. This Q&A addresses the flood insurance requirements where the insurable value of a building or mobile home securing a designated loan is less than the outstanding principal balance of the loan. The last sentence in this Q&A states that since the NFIP policy does not cover land value, lenders determine the amount of insurance necessary based on the insurable value of the improvements. One commenter suggested that the Agencies change ''improvements'' to ''building'' because ''improvements'' would include items that, like land itself, are not insurable under the NFIP for flood loss, such as fencing or paving. The Agencies agree with the commenter and are revising the final answer accordingly. The Agencies otherwise are adopting Q&A Amount 7 as proposed.

Amount 8. The Agencies proposed to redesignate existing Q&A 16 as Q&A Amount 8 and to revise it to provide greater clarity with no intended change in substance or meaning. This Q&A addresses whether a lender may require more flood insurance than the minimum required by the Regulation. The Agencies received no specific comment on this Q&A and are adopting it as proposed.

Amount 9. The Agencies proposed to redesignate existing Q&A 17 as Q&A Amount 9 and to revise it by making minor language modifications, with no intended change in substance or meaning. This Q&A addresses lender considerations regarding the amount of the deductible on a flood insurance policy purchased by a borrower. One commenter recommended that the Agencies add language to Q&A Amount 9 to clarify that the answer refers to the maximum deductible offered by the NFIP as some private insurers offer higher deductibles than are offered under the NFIP. The Agencies decline to make this change as Q&A Amount 9 is not limited to policies issued by the NFIP.

Related to the topic addressed in Q&A Amount 9, one commenter recommended that the Agencies include a new Q&A that describes the function of a deductible and explains the role of the deductible in a safety and soundness consideration rather than discussing the deductible as related to the adequacy of coverage in satisfaction of the mandatory purchase requirement. The Agencies decline to add a new Q&A to address this topic as the topic is outside the scope of these Interagency Questions and Answers. Another commenter raised an issue that is related to, but distinct from the issue addressed in Q&A Amount 9. To address the issue raised by this commenter, the Agencies have added new Q&A Amount 10, discussed below. The Agencies therefore are adopting Q&A Amount 9 as proposed.

New Amount 10. In response to a comment raised on proposed Q&A Amount 9 that is related to, but distinct from the issue addressed in Q&A Amount 9, the Agencies have added new Q&A Amount 10. This commenter noted that the Agencies originally based the answer included in Q&A Amount 9 on guidance which assumed that the property is a single building covered by a single flood insurance policy. However, this commenter noted that it is common for flood insurance policies issued by private insurers to include multiple buildings of varying value. The commenter recommended that the Q&A clarify that it is acceptable to have buildings or structures included on the policy that have a value lower than the deductible amount of the policy. The commenter also recommended that the Agencies provide that the lender may not allow the borrower to use a deductible amount equal to the aggregate insurable value of the property to avoid the mandatory purchase requirement for flood insurance. The Agencies recognize that many flood insurance policies issued by private insurers, such as blanket insurance policies purchased by some commercial borrowers, are single policies that provide coverage for: (i) Two or more kinds of properties in the same location; (ii) the same kind of property in two or more locations; or (iii) two or more different kinds of properties in two or more locations. Blanket policies often cover multiple perils such as flood, earthquake, fire, etc. and are often used to insure commercial real estate such as multifamily housing, office buildings, hotels, or resorts. Such blanket multi-peril policies may also be used to insure a company's chain of locations or franchised properties.

The Agencies understand that generally, the deductible for a blanket flood insurance policy or multi-peril policy is in the form of a per-occurrence deductible that is applied to the covered loss arising from that occurrence. For example, a flood event that damages multiple buildings covered by this type of blanket flood insurance or multi-peril policy would incur the deductible once, not per building, and buildings covered under the terms of this type of policy are insured by the policy regardless of the policy deductible amount. The Agencies further understand that these types of private blanket flood insurance policies and blanket multi-peril policies provide coverage for each building covered by such a policy, without regard to the deductible and regardless of whether any individual building covered under the policy has a value that may be lower than the amount of the deductible.

Accordingly, the Agencies have included new Q&A Amount 10 to address the acceptability of a blanket flood insurance policy or blanket multi-peril policy that includes a deductible that may be higher than the insurable value of any individual building covered by the policy. The Q&A provides that a lender may accept a blanket flood insurance policy or blanket multi-peril policy that includes a per-occurrence deductible, regardless of whether any building covered by the policy has an insurable value lower than the amount of the deductible. The answer also provides that a lender may not allow the borrower to use a deductible amount equal to the aggregate insurable value of the property to avoid the mandatory purchase requirement. In addition, the answer provides that a lender should determine the reasonableness of the deductible on a case-by-case basis, taking into account the risk that such deductible would pose to the borrower and the lender.

Section XI. Flood Insurance Requirements for Construction Loans (Construction)

The Agencies proposed to move the prior section IV to the new section IX and redesignated prior Q&As 19 through 23 as Q&As Construction 1 through 5,

respectively, and added a new construction-related Q&A, as Q&A Construction 6. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Construction section as Section XI in the 2022 Interagency Questions and Answers.

Construction 1. The Agencies proposed to redesignate existing Q&A 19 as Q&A Construction 1 and to make minor non-substantive wording changes for clarity. This Q&A addresses the applicability of the flood insurance requirements to a loan secured only by land that will be developed into buildable lot(s). The Agencies did not receive any specific comment on Q&A Construction 1 and are adopting it as proposed.

Construction 2. The Agencies proposed to redesignate existing Q&A 20 as Q&A Construction 2 and to make minor wording changes for clarity. This Q&A addresses whether a loan secured or to be secured by a building in the course of construction that is located or to be located in an SFHA in which flood insurance is available under the Act is a designated loan. The Agencies did not receive any specific comment on Q&A Construction 2 and are adopting it as proposed.

Construction 3. The Agencies proposed to redesignate existing Q&A 21 as Q&A Construction 3 and to the revise the language by removing direct reference to the *NFIP Flood Insurance Manual* with no intended change in substance or meaning. This Q&A addresses whether a building in the course of construction that is located in an SFHA in which flood insurance is available under the Act is eligible for coverage under an NFIP policy. The Agencies received two comments on this Q&A. One commenter suggested that the Agencies edit the question to clarify that it is describing when construction is covered against loss by an NFIP policy. The commenter explained that the word ''eligible'' as used in the question could refer to the obligation to obtain insurance under the rule or coverage being effective under the policy. The Agencies clarify that proposed Q&A Construction 3 is addressing eligibility for coverage and not the obligation to obtain coverage nor the effectiveness of the coverage. The Agencies are revising the answer in final Q&A Construction 3 to explain when the NFIP will insure a building in the course of construction based on when the building is walled and roofed as well as when materials or supplies are eligible for coverage.

A commenter suggested that the answer to this Q&A, which states that ''buildings in the course of construction that have yet to be walled and roofed are eligible for coverage except when construction has been halted for more than 90 days,'' does not accurately describe what happens to NFIP coverage when construction is halted. Specifically, this commenter requested that the Agencies clarify that NFIP coverage ceases on day 91 of halted construction, as provided in the *NFIP Flood Insurance Manual,* and not on the day construction is halted for a period exceeding 90 days. In response to this comment, the Agencies are revising the answer in final Q&A Construction 3 to include the specific language from the *NFIP Flood Insurance Manual* that details the effect of a halt in construction on NFIP coverage. Specifically, buildings in the course of construction that are not walled and roofed are not eligible for coverage when construction stops for more than 90 days and/or if the lowest floor for rating purposes is below the Base Flood Elevation.

With these changes, the Agencies are adopting Q&A Construction 3.

Construction 4. The Agencies proposed to redesignate existing Q&A 22 as Q&A Construction 4. This Q&A addresses when a lender must require the purchase of flood insurance for a loan secured by a building in the course of construction that is located in an SFHA in which flood insurance is available. As in existing Q&A 22, the proposed answer provides that a lender may either require borrowers to have a flood insurance policy in place at the time of loan origination or allow a borrower to defer the purchase of flood insurance until either after a foundation slab has been poured and/or an Elevation Certificate has been issued or, if the building to be constructed will have its lowest floor below the Base Flood Elevation, when the building is walled and roofed. However, when flood insurance is deferred, the lender must require the borrower to have flood insurance in place before the lender disburses funds to pay for building construction (except as necessary to pour the slab or perform preliminary site work, such as laying utilities, clearing brush, or the purchase and/or delivery of building materials).

The Agencies proposed to revise the answer to incorporate the NFIP's removal of the waiver of the 30-day waiting period and to provide other clarifications. In particular, the Agencies proposed that if a lender requires a borrower to have flood insurance in place at the time of loan origination, a borrower should obtain a provisional rating based on the construction designs and intended use of the building to enable the placement of coverage prior to receipt of the Elevation Certificate (EC), based on FEMA guidance. The proposed Q&A further stated that in accordance with the NFIP requirement, it is expected that an EC will be secured and a full-risk rating completed within 60 days of the policy effective date. Under the proposed Q&A, failure to obtain the EC could result in reduced coverage limits at the time of loss. If the lender allows the borrower to defer the purchase of flood insurance, the lender should have adequate controls in place to ensure the borrower obtains flood insurance no later than 30 days prior to disbursement of funds to the borrower in light of the NFIP 30-day waiting period requirement, instead of no later than when the foundation slab has been poured and/or an EC has been issued as under existing Q&A 22.

One commenter asked the Agencies to clarify at exactly what point in time insurance is required if the lender chooses to defer the purchase of flood insurance, or whether the timing of this purchase is in the lender's discretion. This commenter also stated that the proposed answer contradicts itself by stating that, in order to comply with the Regulation, the lender must require the borrower to have flood insurance for the security property in place before the lender disburses funds to pay for building construction, such as foundations, walls and roofs. Another commenter suggested that the Agencies clarify the phrase ''as necessary'' in the statement in the proposed answer regarding exceptions to fund disbursement. The Agencies note that under both the existing and the proposed answer, a lender has the option to defer the requirement to purchase flood insurance until either one of the following events occur: a foundation slab has been poured and/or an elevation certificate has been issued, or if the building to be constructed will have its lowest floor below the Base Flood Elevation, when the building is walled and roofed. Further, the answer provides that pouring the slab or performing preliminary site work, such as laying utilities, clearing brush, or the purchase and/or delivery of building materials is exempted from the requirement to have flood insurance in place before the disbursement of funds. To address the commenter's concern

regarding the phrase ''as necessary,'' the Agencies are replacing this phrase with ''for funds to be used'' in the final Q&A.

The Agencies also are revising the answer to specifically reference the NFIP 30-day waiting period to provide further explanation and are making minor wording changes for clarity.

With the changes described above, the Agencies are adopting Q&A Construction 4.

Construction 5. The Agencies proposed to redesignate existing Q&A 23 as Q&A Construction 5. This Q&A addresses the application of FEMA's 30-day waiting period when deferring the purchase of the flood insurance policy in connection with a construction loan. The Agencies proposed to revise this Q&A to reflect the NFIP's change in policy regarding the 30-day waiting period. Specifically, the proposed answer indicated that the 30-day waiting period will apply if a lender allows a borrower to delay the purchase of flood insurance in connection with a construction loan. One commenter suggested that language should be added to allow lenders to rely on agent representations regarding the application of a waiting period, referencing the *NFIP Flood Insurance Manual.* The Agencies note that the *NFIP Flood Insurance Manual* permits insurers to rely on an insurance agent's representation that there is no waiting period in connection with the insured's application for flood insurance on or before the closing date of the loan transaction. Therefore, reliance on an agent's representation would not apply in the context of a construction loan where the lender allows the borrower to defer the purchase of flood insurance after the closing date. Accordingly, the Agencies believe that permitting agent reliance in this Q&A is not appropriate and are not adding language to the Q&A to address this comment.

The Agencies also proposed to state in the answer that under the NFIP, a 30-day waiting period applies anytime a lender requires flood insurance not in connection with the making, increasing, renewing or extending of a designated loan. After further review, the Agencies have decided to amend this statement so that it more clearly answers the question being asked, specifically, the application of the NFIP waiting period when the purchase of the flood insurance policy is delayed. The final answer states that a 30-day waiting period will apply if a lender allows a borrower to delay the purchase of flood insurance in connection with a construction loan after making, increasing, renewing or extending the loan. Further, as noted in the *NFIP Flood Insurance Manual,* the answer states that a borrower must apply for flood insurance on or before the closing date of a loan transaction for the NFIP 30-day waiting period to be waived. With these changes, the Agencies are adopting Q&A Construction 5.

Construction 6. The Agencies proposed new Q&A Construction 6 to explain when a lender must begin escrowing flood insurance premiums and fees if the borrower defers the purchase of flood insurance in connection with a construction loan. Specifically, this Q&A provides that if a lender allows a borrower to defer the purchase of flood insurance until either the foundation slab has been poured and/or an EC has been issued, or if the building to be constructed will have its lowest floor below Base Flood Elevation when the building is walled and roofed, the lender will need to begin escrowing flood insurance premiums and fees at the time of purchase of the flood insurance, unless one of the escrow exceptions applies. The Agencies received one comment requesting that the Agencies clarify that the question only applies to designated loans that do not otherwise qualify for an exception to the mandatory escrow requirement. The Agencies do not believe that further elaboration is necessary because the answer as proposed references the escrow exceptions. Accordingly, the Agencies are adopting Q&A Construction 6 as proposed with minor non-substantive clarifications.

Section XII. Flood Insurance Requirements for Residential Condominiums and Co-Ops (Condo and Co-Op)

The Agencies proposed moving existing section VI to the new section X and expanding the heading to section X to include other multi-family dwellings such as cooperatives. Proposed section X included existing Q&As 26 through 33, redesignated as proposed Q&As Condo and Co-Op 1 through 8, respectively and also one new Q&A. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Condo and Co-Op section as Section XII in the 2022 Interagency Questions and Answers.

Condo and Co-Op 1. The Agencies proposed to redesignate existing Q&A 26 as Q&A Condo and Co-Op 1, with minor revisions to provide greater clarity and accurate references with no intended change in substance or meaning. This Q&A discusses whether residential condominiums, including multi-story condominium complexes, are subject to the statutory and regulatory requirements for flood insurance. The Agencies received no specific comment on Q&A Condo and Co-Op 1 and are adopting it as proposed.

Condo and Co-Op 2. The Agencies proposed to redesignate existing Q&A 27, which describes an NFIP Residential Condominium Building Association Policy (RCBAP), as Q&A Condo and Co-Op 2 with no changes. The Agencies received no specific comment on Q&A Condo and Co-Op 2 and are adopting it as proposed.

Condo and Co-Op 3. The Agencies proposed to redesignate existing Q&A 28 as Q&A Condo and Co-Op 3, with minor revisions to provide greater clarity and accurate references with no intended change in substance or meaning. This Q&A addresses the amount of flood insurance coverage that a lender must require with respect to residential condominium units, including those located in multi-story condominium complexes, to comply with the mandatory purchase requirements under the Act and Regulation. The Agencies received no specific comment on Q&A Condo and Co-Op 3 and are adopting it as proposed with minor non-substantive edits.

Condo and Co-Op 4. The Agencies proposed to redesignate existing Q&A 29, which discusses the action a lender must take if there is no RCBAP coverage, as Q&A Condo and Co-Op 4. The Agencies proposed minor revisions to provide greater clarity and accurate references, with no intended change in substance or meaning. Two commenters addressed this Q&A. The first commenter requested that the Agencies address commercial condominiums and clarify that there is no mandatory purchase requirement for loans secured by individual commercial condominium units since the NFIP does not provide coverage for such units other than contents coverage. The Agencies agree with this commenter and are adding a new Q&A, Condo and Co-Op 9 that addresses the flood insurance requirements for loans secured by non-residential condominium units, described below.

The second commenter recommended that the Agencies clearly state that the mandatory purchase requirement only applies to non-residential condominium unit owners where the loan is also secured by condominium contents since contents coverage is the only coverage available from the NFIP. The Agencies

disagree with this commenter. Flood insurance on condominium contents is only required when the loan is secured by a building in an SFHA in which flood insurance is available under the Act and the loan also takes a security interest in the contents. As indicated above, the NFIP does not provide coverage for non-residential condominium units located in either a residential or non-residential condominium building. Therefore, the mandatory purchase requirement does not apply.

However, in reviewing this Q&A, and in light of new Condo and Co-Op 9, the Agencies believe that rewording the question would provide additional clarity. Therefore, the Agencies are revising the question in the final Q&A to ask what action must a lender take for an individual residential unit owner in a residential condominium building with no RCBAP coverage. The Agencies also are replacing the term ''individual unit owner/borrower'' with ''individual unit owner,'' for clarity. The Agencies are adopting Q&A Condo and Co-Op 4 as revised.

Condo and Co-Op 5. The Agencies proposed to redesignate Q&A 30 as Q&A Condo and Co-Op 5 with minor revisions to provide greater clarity and accurate references, with no intended change in substance or meaning. This Q&A discusses the action a lender must take if the RCBAP coverage is insufficient to meet the Regulation's mandatory purchase requirements for a loan secured by an individual residential condominium unit. The Agencies received one comment on this Q&A. The commenter expressed concern with the part of the answer that encourages lenders to apprise borrowers of an additional risk of loss that may arise when the unit owner purchases a separate policy because the RCBAP coverage is insufficient. The commenter believes this adds a new expectation that is not required by the Act or Regulation. The commenter also stated that lenders are not in the best position, nor do they have the level of insurance knowledge, to communicate the risk of loss to the borrower and therefore suggested the Agencies remove this expectation from the Q&A. The Agencies disagree with this commenter. The Agencies are only encouraging lenders to provide this information, not requiring that they do so. The Agencies therefore are adopting this Q&A as proposed with minor non-substantive edits.

Condo and Co-Op 6. The Agencies proposed to redesignate existing Q&A 31 as Q&A Condo and Co-Op 6 with minor revisions to provide greater clarity and no intended change in substance or meaning. This Q&A addresses what a lender must do when a loan secured by a residential condominium unit is in a complex whose condominium association allows its existing RCBAP to lapse. The Agencies received no specific comment on proposed Q&A Condo and Co-Op 6 and are adopting it as proposed with minor non-substantive edits.

Condo and Co-Op 7. The Agencies proposed to redesignate existing Q&A 32 as Q&A Condo and Co-Op 7 with minor revisions to provide greater clarity and no intended change in substance or meaning. This Q&A addresses how the RCBAP's co-insurance penalty applies in the case of residential condominiums, including those located in multi-story condominium complexes. The Agencies received no specific comment on Condo and Co-Op 7 and are adopting it as proposed.

Condo and Co-Op 8. The Agencies proposed to redesignate existing Q&A 33 as Q&A Condo and Co-Op 8 with minor revisions to provide greater clarity and no intended change in substance or meaning. This Q&A addresses the major factors that are involved with coverage limitations of the individual unit owner's dwelling policy with respect to the condominium association's RCBAP coverage. The Agencies received no specific comment on proposed Q&A Condo and Co-Op 8 and are adopting it as proposed.

New Condo and Co-Op 9. In response to public comment, as described above, the Agencies are adopting new Q&A Condo and Co-Op 9 to clarify the flood insurance requirements for non-residential condominium units as well as residential condominium units located in a non-residential condominium building. The answer provides that coverage is not available under the NFIP for an individual residential condominium unit or a non-residential condominium unit located in a non-residential condominium building. The answer further provides that NFIP coverage also is not available for a non-residential condominium unit located in a residential condominium building. Therefore, a loan secured by one of these types of units is not a designated loan under the Regulation, and the mandatory flood insurance requirement does not apply.

Condo and Co-Op 10 (Proposed Condo and Co-Op 9). The Agencies proposed a new Q&A, designated as Q&A Condo and Co-Op 9 in the proposal, to address flood insurance requirements for loans secured by a unit in a cooperative building located in an SFHA. The proposed answer provided that a loan to a cooperative unit owner is not a designated loan subject to the Act or Regulation because the unit owner does not own a title to the building but simply the right to occupy a particular unit based on the cooperative ownership structure. One commenter asked the Agencies to clarify that since loans to cooperative unit owners secured by the owner's share in the cooperative are not designated loans, lenders do not need to verify building-level coverage. The Agencies agree that lenders do not need to verify coverage on a cooperative building when a loan is secured by a share in a cooperative because this is not a designated loan subject to the Act or Regulation. However, the Agencies do not believe it is necessary to include this in the answer. The Agencies therefore are adopting this Q&A as proposed but renumbered as Q&A Condo and Co-Op 10 in the 2022 Interagency Questions and Answers and with a minor non-substantive change.

Section XIII. Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral (Contents) Located in an SFHA (Other Security Interests)

The Agencies proposed to amend the heading to this section for clarity. The Agencies also proposed to redesignate existing section VII, which addresses Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral, as section XI. This proposed section included current Q&As 34, 35 and 36–43, which were redesignated as Q&As Other Security Interests 1, Other Security Interests 2, and Other Security Interests 4 through 9 and 11 through 12, respectively. The Agencies also proposed to amend the heading to this section for clarity. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Other Security Interests section as Section XIII in the 2022 Interagency Questions and Answers.

Other Security Interests 1. The Agencies proposed to redesignate existing Q&A 34 as Q&A Other Security Interests 1 with no substantive changes. This Q&A addresses whether a home equity loan is considered a designated loan that requires flood insurance. The Agencies received one supportive

comment for this Q&A and are adopting it as proposed.

Other Security Interests 2. The Agencies proposed to redesignate existing Q&A 35 as Q&A Other Security Interests 2, with no substantive changes. This Q&A addresses if a draw against an approved line of credit secured by a building or mobile home, which is located in an SFHA in which flood insurance is available under the Act, requires a flood determination under the Regulation. The Agencies received one supportive comment for this Q&A and are adopting it as proposed.

Other Security Interests 3. The Agencies proposed new Q&A Other Security Interests 3, which addresses flood insurance coverage requirements for a line of credit secured by improved real property located in an SFHA. The proposed answer provided alternative approaches depending on when the lender requires flood insurance to be in place. The Agencies received two specific comments for this proposed Q&A.

One commenter raised concerns about the language in the Q&A that indicated a lender may ''actively review'' its records ''throughout the year'' to determine if the appropriate amount of insurance is in place, and strongly recommended the Agencies define these terms for clarity. The commenter stated that while this review provides the lender flexibility, it could result in a different coverage requirement (assuming the loan balance is the lesser of the three components) and could result in force placement several times throughout the life of the loan. This commenter also stated that the Agencies should remove the Q&A's language about informing the borrower of insurance risks because it is a new expectation from the Agencies and because monitoring for insurance risks is not the lender's area of specialty. If such notice expectation is retained, the commenter requested more detail regarding the timing and content of such notice.

The Agencies emphasize that the answer lists alternative approaches. Lenders may choose the option that works best for them and are not obligated to choose the second option where the lender actively reviews its records throughout the year. The Agencies anticipate that most lenders will choose the first option and believe that the answer provides enough guidance as proposed.

Another commenter recommended that the Agencies clarify that the active review applies only to the amount of coverage and does not trigger a new determination. The commenter explained that there are continuing concerns regarding the burdens the Regulation places on junior lienholders to obtain information and concessions from senior lienholders regarding flood insurance. The Agencies believe that the proposed answer clearly provides that the review is about the amount of coverage and is not a triggering event requiring a new determination. Therefore, the Agencies have decided not to make any changes in response to these comments and are adopting Q&A Other Security Interests 3 as proposed.

Other Security Interests 4. The Agencies proposed to redesignate Q&A 36 as Q&A Other Security Interests 4, with only minor changes and no intended change in substance or meaning. This Q&A considers how much flood insurance is required when a lender makes, increases, extends or renews a second mortgage secured by a building or mobile home located in an SFHA.

The Agencies received two specific comments for proposed Q&A Other Security Interests 4. One commenter recommended that the Agencies reconsider their approach to this question. The commenter believed that the Q&A continues to create practical challenges for the flood insurance operating model. For instance, the commenter explained that flood insurance administrators handling the junior lien are also required to monitor senior liens and corresponding coverage shortcomings to establish the proper amount of necessary coverage, even though the senior lien entity may not have a contractual relationship with the junior lien administrator. The commenter also explained that junior lien flood insurance administrators and/or insurers direct claim payments to their insured policyholders, not senior lienholders with which they have no contractual arrangement. Therefore, the commenter recommended an approach that requires each lienholder (and any servicer or administrator) to assure sufficient flood insurance coverage for their respective exposure in their lien position.

The Agencies acknowledge that although following the guidance in Q&A Other Security Interests 4 may be difficult for the junior lienholder, the junior lienholder is responsible for making sure the collateral is covered by the proper amount of flood insurance. As previously stated in the preamble to the 2009 Interagency Questions and Answers, the Agencies believe that, given the provisions of an NFIP policy, a lender cannot comply with Federal flood insurance requirements when it makes, increases, extends, or renews a loan by requiring the borrower to obtain NFIP flood insurance solely in the amount of the outstanding principal balance of the lender's junior lien without regard to the flood insurance coverage on any liens senior to that of the lender.[40] A junior lienholder's failure to take such a step can leave that lienholder partially or even fully unprotected by the borrower's NFIP policy in the event of a flood loss.[41] As such, the Agencies decline to include this commenter's suggested changes.

Another commenter stated that this proposed Q&A addresses the amount of coverage required when a lender makes, increases, extends, or renews a second mortgage. This commenter also stated that junior lienholders are not subject to the escrow requirements in the Regulation, and that the Agencies should not create such requirements through the Interagency Questions and Answers. As noted below in the discussion related to proposed Q&A Escrow 6, junior lienholders are generally not subject to the escrow requirements. The junior lienholder qualifies for the escrow requirement exception if there is adequate flood insurance coverage with respect to the loan issued by the primary lienholder.[42] However, this Q&A Other Security Interests 4 explains the responsibilities of the junior lienholder when there is a triggering event under the Regulation. This Q&A does not create new requirements for junior lienholders, as explained above to the other commenter. Therefore, the Agencies are adopting Q&A Other Security Interests 4 as proposed.

Other Security Interests 5. The Agencies proposed to redesignate Q&A 37 as Q&A Other Security Interests 5, with no substantive changes. This Q&A discusses whether a lender has to make a new determination or adjust insurance coverage if a borrower requesting a loan secured by a junior lien provides evidence that flood insurance coverage is in place. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Other Security Interests 6. The Agencies proposed to redesignate Q&A 38 as Q&A Other Security Interests 6, with no substantive changes. This Q&A addresses whether flood insurance is required if the loan request is to finance inventory stored in a building located within an SFHA, but the building is not security for the loan. The Agencies

[40] 74 FR 35913, 35923–35924 (July 21, 2009).

[41] 74 FR 35913, 35924 (July 21, 2009).

[42] 12 CFR 22.5(a)(2)(ii) (OCC); 12 CFR 208.25(e)(1)(ii)(B) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

received no specific comments on this Q&A and are adopting it as proposed.

Other Security Interests 7. The Agencies proposed to redesignate Q&A 39 as Q&A Other Security Interests 7. This Q&A considers if flood insurance is required if a building and its contents both secure a loan, and the building is located in an SFHA in which flood insurance is available. The Agencies proposed to revise the Q&A to clarify the application of Federal flood insurance requirements when both a building and its contents secure a loan. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Other Security Interests 8. The Agencies proposed to redesignate Q&A 40 as Q&A Other Security Interests 8, with no substantive changes. This Q&A provides that flood insurance is not required on contents securing a loan when the contents are stored in a building that does not also secure the loan. One commenter asked for clarification, stating that proposed Q&A Other Security Interests 10 appears to contradict proposed Q&A Other Security Interests 8 and may cause some confusion on how to handle contents located in a building in an SFHA. Q&A Other Security Interests 10 provides that flood insurance is required if the lender takes a security interest in contents located in a building in an SFHA securing the loan regardless of whether that security interest is perfected. The Agencies believe that the answers in both Q&As clearly provide that the building must secure the loan in order for flood insurance to be required for the contents located in that building. In addition, the Agencies do not think the Q&As are contradictory but provide complementary guidance. As such, the Agencies are adopting Q&A Other Security Interests 8 as proposed, with minor non-substantive edits.

Other Security Interests 9. The Agencies proposed to redesignate Q&A 41 as Q&A Other Security Interests 9. This Q&A discusses whether the Regulation applies when the lender takes a security interest in a building or mobile home and contents located in an SFHA only as an ''abundance of caution.'' The Agencies proposed to clarify the impact of including language regarding contents taken as security for a loan in the loan agreement. One commenter stated that it would be helpful if the Q&A provided further clarification with regard to the documentation that determines whether contents are taken as security for the loan. The commenter asked the Agencies to include language stating that the loan agreement, not the Uniform Commercial Code-1 or Deed of Trust, determines whether the contents are taken as security for the loan. The Agencies note that the answer already states that the language in the loan agreement is determinative and decline to include references to other documents.

In connection with the proposed applicability Q&As, one commenter requested a change more relevant to Other Security Interests 9. Specifically, this commenter asked the Agencies to address situations where a lender obtains a security interest in contents when there is a cross collateralization clause or in an abundance of caution, specifically in situations in which the lender may not realize that a cross collateralization clause is in an old deed of trust, such as when the loan has been acquired from another bank as a result of a merger or if the security agreement is within the deed of trust instead of in a stand-alone document. The commenter recommended that contents coverage not be required under these situations. This commenter also asked the Agencies to exempt from the coverage requirements contents of limited value that might be included in a deed of trust out of an abundance of caution, and asked for additional clarification on this scenario. The Agencies note that under the Act and the Regulation, if a lender takes a security interest in a building and its contents located in an SFHA in which flood insurance is available under the Act, then flood insurance coverage is required for both the building and the contents.[43] Therefore, the Agencies cannot exempt the building and its contents from required coverage even if the lender takes a security interest in the contents out of an abundance of caution. Lenders should review loan agreements and security instruments to verify that if they include language that takes a security interest in building and contents, flood insurance is purchased to cover the building and contents. If the lender does not secure a loan with building and contents, the loan agreement or security instrument should not include language to this effect, and language regarding taking contents as collateral should not be included out of an ''abundance of caution.'' The Agencies decline to make amendments to proposed Q&A Other Security Interests 9 based on this comment.

Therefore, the Agencies are adopting Q&A Other Security Interests 9 as proposed with clarifying amendments. To be more inclusive, the Agencies have added references to security instruments when discussing loan agreements and added references to improved real estate when discussing contents.

Other Security Interests 10. The Agencies proposed new Q&A Other Security Interests 10, which addresses whether flood insurance is required if the lender takes a security interest in contents located in a building in an SFHA securing the loan but does not perfect the security interest. As noted in the preamble discussion of Q&A Other Security Interests 8, above, the Agencies received one comment on this Q&A indicating that Q&As Other Security Interests 8 and 10 are in conflict. As previously stated, the Agencies do not think the two Q&As are contradictory and are adopting Q&A Other Security Interests 10 as proposed with one clarifying amendment. To be more inclusive, the Agencies have added a reference to a security instrument when discussing the loan agreement.

Other Security Interests 11. The Agencies proposed to redesignate Q&A 42 as Q&A Other Security Interests 11, with no substantive changes. This Q&A addresses whether a note on a single-family dwelling offered by a borrower as collateral for a loan is a designated loan that requires flood insurance if the lender does not take a security interest in the dwelling itself. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Other Security Interests 12. The Agencies proposed to redesignate Q&A 43 as Q&A Other Security Interests 12, with no substantive changes. This Q&A discusses whether a loan that is not secured by real estate, but is made on the condition of a personal guarantee by a third party who gives the lender a security interest in improved real estate owned by the third party that is located in an SFHA in which flood insurance is available would be considered a designated loan requiring flood insurance. The Agencies received no specific comments on this Q&A and are adopting Q&A Other Security Interests 12 as proposed.

Section XIV. Requirement To Escrow Flood Insurance Premiums and Fees—General (Escrow)

HFIAA significantly revised the escrow requirements for flood insurance premiums by introducing new escrow requirements not dependent on whether other insurance or taxes are escrowed, lender and loan-related exceptions to the escrow requirements, and an escrow notice. Accordingly, the Agencies proposed in the July 2020 Proposed

[43] 42 U.S.C. 4012a(b); 12 CFR 22.3(a); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

Questions and Answers a number of new escrow-related Q&As and revisions to the existing escrow-related Q&As. Further, the Agencies proposed to reorganize these Q&As into three separate sections addressing escrow considerations. Specifically, proposed section XII included Q&As covering the general escrow requirements for flood insurance premiums and fees. Proposed section XIII included Q&As related to the small lender exception to flood insurance escrow requirements. Proposed section XIV included Q&As related to loan-related exceptions to the requirement to escrow flood insurance premiums and fees. These three sets of Q&As on the escrow of flood insurance premiums and fees respond to a request for more guidance related to the escrow requirement, as documented in the EGRPRA report.

Proposed section XII included existing Q&As 51 and 52 and five new proposed Q&As pertaining to requirements to escrow flood insurance premiums and fees. In addition, the Agencies removed current Q&As 53 and 54 because they are no longer applicable.

Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering these Escrow-related sections as Sections XIV, XV, and XVI in the 2022 Interagency Questions and Answers.

Escrow 1. The Agencies proposed to redesignate Q&A 52 as Q&A Escrow 1. This Q&A addresses the general question of when a lender or servicer must establish an escrow account for flood insurance premiums and fees. The Agencies proposed to significantly revise the current Q&A to explain that the new escrow requirement applies only upon a triggering event that occurs on or after January 1, 2016 and would not apply if either the small lender exception or any of the loan-related exceptions apply. The proposed answer also addressed a lender's escrow obligations if the lender no longer qualifies for the small lender exception. The Agencies received one comment on this Q&A. The commenter requested that the Agencies expand the answer to explain that, if there is contractual authority to escrow and it is otherwise permitted by law, the lender may escrow flood premiums for safety and soundness reasons, even if the lender is not required to escrow under the Act and Regulation. The Agencies agree with the commenter that lenders could consider taking additional steps to ensure safety and soundness. However, the Agencies do not believe it is necessary to include this information in the answer as it is not relevant to the question asked in this Q&A. The Agencies are adopting this Q&A as proposed.

Escrow 2. The Agencies proposed new Q&A Escrow 2 to clarify that a lender must escrow flood insurance premium payments even if it does not escrow for taxes or homeowner's insurance, and is not required by the Regulation to escrow for taxes or homeowner's insurance if it does escrow for flood insurance. The Agencies received no specific comments on this proposed Q&A and are adopting Q&A Escrow 2 as proposed with minor non-substantive edits.

Escrow 3. The Agencies proposed new Q&A Escrow 3 to clarify that a lender must escrow force-placed flood insurance premium payments because there is no exception for force-placed insurance under the Act or Regulation. The Agencies received several comments on this Q&A. The commenters suggested the Agencies revise the answer to clarify that, if a lender is not eligible for the small servicer exemption, the RESPA requirements still apply.[44] Specifically, the commenter noted that under Regulation X, which implements RESPA,[45] the servicer must pay the borrower disbursements in a timely manner and the lender is required to continue to advance the funds from the escrow to pay the flood policy premium if the loan is current, even if the customer is not paying their escrow payments. As a result, the commenter noted that there would be no need to force place a flood insurance policy for a loan that has an escrow account as the premium for the borrower's policy would be paid. Another commenter noted that lenders that qualify for the small creditor exemption, in general, use provisions in a legal agreement or security document that allows the lender to make a protective advance to pay for insurance premiums to protect their collateral interest and therefore no escrow account would be required. The Agencies disagree with the commenters by noting that RESPA does not apply to flood insurance required under the Act.[46] Further, under the Act and Regulation, the lender must escrow force-placed flood insurance premiums and fees because there is no exception for force-placed insurance. Finally, another commenter suggested that the force placement of flood insurance is not a triggering event that would trigger escrow requirements. The Agencies have addressed this comment in proposed Q&A Applicability 13 above and Q&A Force Placement 10 discussed below. The commenter further recommended that the Agencies clarify that when a property is mapped in an SFHA, such event is not a triggering event that would trigger the escrow requirements. The Agencies note that proposed Q&A Applicability 13 and Q&A Escrow 4 address this issue. The Agencies therefore are adopting this Q&A as proposed.

Escrow 4. The Agencies proposed new Q&A Escrow 4 to address whether flood insurance premium payments must be escrowed when a loan has not experienced a triggering event but it has experienced a non-triggering event, such as a loan modification, a FEMA remapping, or the assumption of the loan by a new borrower. The Agencies explained in the proposed answer that, subject to certain exceptions, until a loan experiences a triggering event, the lender is not required to escrow flood insurance premiums and fees unless: (i) A borrower requests the escrow in connection with the requirement that the lender provide an option to escrow for outstanding loans; or (ii) the lender determines that a loan exception to the escrow requirement no longer applies. The Agencies received one comment on this Q&A. The commenter stated that the Q&A is confusing as the question includes references to the loan being remapped into an SFHA but does not specify that remapping and assumptions of the loan by a new borrower are merely examples of non-triggering events. The commenter further noted that the answer does not address assumptions or remapping. The Agencies agree with the commenter that providing examples of non-triggering events in the question may lead to confusion. Therefore, the Agencies are revising the question in the final Q&A by removing the examples of non-triggering events.

Escrow 5. The Agencies proposed to redesignate Q&A 51 as Q&A Escrow 5. The Agencies also proposed to revise this Q&A to clarify that multi-family buildings or mixed-use properties are included in the definition of ''residential improved real estate'' and, therefore, are subject to the escrow requirement unless an exception applies. The Agencies received no specific comments on this proposed Q&A and are adopting Q&A Escrow 5 as proposed, with a minor non-substantive edit.

Escrow 6. The Agencies proposed new Q&A Escrow 6 to address the situation in which a junior lienholder determines

[44] 12 U.S.C. 2601 *et seq.*

[45] 12 CFR 1024.17(k)(1).

[46] 12 CFR 1024.37(a)(2)(i).

that the primary lienholder does not have sufficient flood insurance coverage in place and is also not escrowing for flood insurance. The proposed answer clarified that if the primary lienholder has not obtained adequate flood insurance, the junior lienholder would need to ensure adequate flood insurance is in place and also would need to escrow for that flood insurance premium. The proposed answer also indicated that the escrow requirements would not apply to a junior lien that is a home equity line of credit (HELOC), since HELOCs have a separate escrow exception under the Act and Regulation. The Agencies received two comments on this Q&A. The commenters noted that the answer assumes the junior lienholder is notified regarding any lapse in coverage, despite the primary lienholder having no obligation to inform the junior lienholder of a lapse in coverage. Further, the commenters noted that junior lienholders are not given notice if or when the first lien is paid off or in the event of failure to escrow. The commenters also noted that there is no specific requirement in the Act or Regulation that requires junior lienholders to escrow. Therefore, the commenters conclude that the Agencies should not imply an expectation to escrow in the Q&A. The Agencies disagree with the commenters. The junior lienholder qualifies for the escrow requirement exception if there is adequate flood insurance coverage with respect to the loan issued by the primary lienholder.[47] Therefore, to qualify for the exception not to escrow, the junior lienholder would need to ensure that the borrower has obtained an insurance coverage amount that meets the mandatory purchase requirement. The Agencies therefore are adopting this Q&A as proposed.

Escrow 7. The Agencies proposed new Q&A Escrow 7 to address whether a lender or its servicer must escrow when real property securing the loan is not located in an SFHA, but the borrower chooses to buy flood insurance. The proposed answer clarified that a lender or its servicer is not required to escrow premium payments in this situation but may choose to do so. The Agencies received no specific comments on this proposed Q&A and are adopting it as proposed.

[47] 12 CFR 22.5(a)(2)(ii) (OCC); 12 CFR 208.25(e)(1)(ii)(B) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

Section XV. Requirement To Escrow Flood Insurance Premiums and Fees—Small Lender Exception (Escrow Small Lender Exception)

Proposed new section XIII included seven new Q&As related to the small lender exception to the requirement to escrow flood insurance premiums. The Agencies proposed the Q&As in this section in the July 2020 Proposed Questions and Answers. As indicated above, the Agencies are renumbering this section as Section XV in the 2022 Interagency Questions and Answers.

Several commenters suggested that as this section consists of Q&As that are fundamentally escrow-related, the Agencies should combine them with the Escrow Q&As. One of these commenters said that this change would also reduce confusion with the Exemptions section of the Q&As. The Agencies decline to make this change because the Agencies believe that more specific topic categories make it easier for users to find relevant guidance. To clarify that this topic relates to escrows, however, the Agencies are changing the heading of this section from ''Small Lender Exception'' to ''Escrow Small Lender Exception.'' This change also affects the name of each individual Q&A.

Escrow Small Lender Exception 1. The Agencies proposed this new Q&A to specify that the $1 billion threshold for the small lender exception is based on assets held at the regulated financial institution level and not at the holding company level. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Escrow Small Lender Exception 2. The Agencies proposed this new Q&A to address whether a qualifying lender must escrow flood insurance premiums if it was previously required to escrow only under the Higher-Priced Mortgage Loan (HPML) rules [48] or under specific Federal housing programs prior to July 6, 2012. The proposed answer clarified that the applicability of the first criterion of the small lender exception is dependent on whether the Federal or State law requirement to escrow was for the entire term of the loan. The Agencies received no specific comments on this Q&A and are adopting it as proposed, with minor formatting changes.

[48] Pursuant to the Dodd-Frank Act, an HPML loan is one where the Annual Percentage Rate exceeds certain specified thresholds with the result that certain consumer protections must be observed, such as the escrow of property taxes and insurance premiums. *See* section 129D of the Truth in Lending Act as amended by section 1461(a) of the Dodd-Frank Act, 15 U.S.C. 1639D. *See also* HPML escrow rules at 12 CFR 226.35(b)(3) (Board) and 12 CFR 1026.35(b) (Bureau of Consumer Financial Protection).

Escrow Small Lender Exception 3. The Agencies proposed this new Q&A to address whether a lender is disqualified from the exemption if it escrowed funds on behalf of a third party. The Agencies' proposed answer drew a distinction based on whether the lender established an individual escrow account for the loan. Specifically, the proposed answer provided that if a lender collected escrow funds at closing and maintained servicing of the loan, the lender would not qualify for the small lender exception because the lender would have had a policy of consistently and uniformly requiring the deposit of funds in an escrow account by establishing escrow accounts that the lender would service. The proposed answer further provided that if the lender collected the escrow funds at closing at the behest of a third party and then transferred those funds to the third party servicing that loan, the lender would qualify for the small lender exception under the answer, provided the lender did not establish an individual escrow account and the lender transferred the escrow funds to the third party as soon as reasonably practicable.

A commenter asked the Agencies to clarify what constitutes ''establishing an individual escrow account.'' The commenter asserted that for lenders subject to the escrow requirements, RESPA requires the lender to create and provide an initial escrow statement and to collect the initial escrow deposit. The originating lender then holds this deposit until the loan is sold. If the sale of the loan is delayed and the first payment is received by the original lender, the lender also must hold this payment. The commenter asked the Agencies to provide direction on how these funds should be held so as not to constitute ''establishing an individual escrow account.'' In response, the Agencies state that determining what constitutes an individual escrow account is beyond the scope of these Interagency Questions and Answers.

A commenter asked the Agencies to clarify or provide examples of the term ''as soon as reasonably practicable.'' By this term, the Agencies mean that there were no unreasonable delays considering the facts and circumstances of the situation. Whether the lender transferred the funds to the third party ''as soon as reasonably practicable'' is not a bright-line determination, and the Agencies believe there is no meaningful way to provide further clarification or examples.

The Agencies are adopting this new Q&A as proposed.

Escrow Small Lender Exception 4. The Agency proposed this new Q&A to address whether a lender is eligible for the escrow small lender exception if it escrows only upon a borrower's request. The proposed answer reiterated the explanation in the preamble to the 2015 Final Rule that a lender maintaining escrow accounts only on a borrower's request does not constitute a consistent or uniform policy of requiring escrow and therefore a lender could be eligible for the small lender exception if the other requirements are met. The proposed answer also explained that the small lender exception does not apply if, on or before July 6, 2012, the lender had a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for a loan secured by residential improved real estate or a mobile home.

The Agencies believe that the proposed question and the first sentence of the proposed answer, as described above, are confusing because they are written in the present tense, even though under the Regulation a lender's current escrow policy—whether it is to escrow upon a borrower' request or whether it is to consistently and uniformly require escrow—is not relevant to whether the small lender escrow exception applies to the lender. Rather, only a lender's escrow policy on or before July 6, 2012, is relevant.

Accordingly, in the final Q&A, the Agencies are revising the question to ask if a lender is eligible for the small lender exception if, on or before July 6, 2012, it offered escrow accounts only upon a borrower's request. The Agencies are revising the first sentence of the answer to state that if, on or before July 6, 2012, a lender offered escrow accounts only upon the request of borrowers, that practice did not constitute a consistent or uniform policy of requiring escrow and the lender is eligible for the exception, provided all other conditions for the exception are met. The Agencies are retaining the second sentence of the answer as proposed. That sentence reiterates the Regulation, which provides that the small lender exception does not apply if, on or before July 6, 2012, the lender had a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for a loan secured by residential improved real estate or a mobile home.

A commenter stated that while the Q&A provided helpful guidance, additional clarity regarding whether a policy ''consistently and uniformly require[s]'' the establishment of an escrow account would be helpful. The commenter asked for additional information to aid lenders in better understanding the intent of this language and suggested that the Agencies provide examples of policies that do and do not satisfy this provision.

Consistent with the Regulation, the revisions to the Q&A clarify that a lender's escrow policy after July 6, 2012, is not relevant to whether the escrow small lender exception applies. In addition, the final Q&A clearly states that a lender's policy, on or before July 6, 2012, of offering escrow accounts only upon the request of borrowers did not constitute a ''consistent or uniform'' policy of requiring escrow. In specific response to the commenter, for policies other than those in which a lender offered escrow accounts only upon the request of borrowers before July 6, 2012, the Agencies believe that whether a policy consistently and uniformly required escrow accounts is not a bright-line determination, and the Agencies do not believe they can provide meaningful examples. The Agencies are adopting this new Q&A with the revisions discussed above.

Escrow Small Lender Exception 5. The Agencies proposed this new Q&A to address whether the option to escrow notice is required for: (1) All outstanding loans not excepted from the escrow requirement and secured by residential real estate; and (2) outstanding loans not secured by buildings located in an SHFA. The proposed answer clarified that the option to escrow notice requirement only applies to lenders who have a change in status and no longer qualify for the small lender exception. Such lenders are required to provide the option to escrow notice by September 30 of the first calendar year in which the lender has had a change in status for all outstanding designated loans secured by residential improved real estate or a mobile home as of July 1 of the first calendar year in which the lender no longer qualifies for the small lender exception. The proposed answer also clarified that the option to escrow notice requirement does not apply to loans or lenders that are excepted by the Regulation from the escrow requirement, nor does it apply to loans not subject to the mandatory flood insurance purchase requirement. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Escrow Small Lender Exception 6. The Agencies proposed this new Q&A to explain that a lender must send to a borrower a notice of the option to escrow flood insurance premium payments when the borrower has previously waived escrow for flood insurance because it is possible the borrower's circumstances have changed and, if offered another chance to escrow, the borrower may desire to do so. The Agencies received no specific comments on this new Q&A and are adopting it as proposed.

Escrow Small Lender Exception 7. The Agencies proposed this new Q&A to clarify that lenders who qualify for the small lender exception are not required to provide borrowers with either the escrow notice or the option to escrow notice. The Agencies received no specific comments on this new Q&A and are adopting it as proposed.

Section XVI. Requirement To Escrow Flood Insurance Premiums and Fees—Escrow Loan Exceptions (Escrow Loan Exceptions)

Proposed new section XIV included existing Q&As 55 and 56 and three new Q&As, all regarding the loan-related exceptions to the escrow requirement. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. The Agencies are changing the proposed heading of this section from ''Loan Exceptions'' to ''Escrow Loan Exceptions'' to provide further clarity. Further, in response to a comment on proposed Q&As Escrow Loan Exceptions 1 and 5, discussed below, the Agencies are reordering the questions from general to specific, so that proposed Escrow Loan Exceptions Q&As 4 and 5 become Q&As Escrow Loan Exceptions Q&As 3 and 2, respectively, with the remaining Q&As renumbered accordingly. This reordering provides a more logical flow of the Escrow Loan Exception questions. As indicated above, the Agencies are renumbering this section as Section XVI in the 2022 Interagency Questions and Answers.

Escrow Loan Exceptions 1. The Agencies proposed to redesignate existing Q&A 55 as proposed Q&A Loan Exceptions 1. The Agencies revised this Q&A to address whether escrow accounts must be set up for commercial loans secured by residential buildings based on the new loan-related exceptions. Specifically, the proposed answer clarified that extensions of credit primarily for business, commercial, or agricultural purposes are not subject to the escrow requirement even if such loans are secured by residential improved real estate or a mobile home. The Agencies received a few comments on this Q&A. One commenter stated that this Q&A is helpful and appropriate. Another commenter noted that this proposed

Q&A mirrors proposed Escrow Loan Exceptions 5 and suggested that the Agencies reorder the questions so that the two Q&As would appear in close sequence. As indicated above, the Agencies agree and are moving proposed Q&A Loan Exceptions 5 so that it directly follows Q&A Escrow Loan Exceptions 1. Further, the Agencies also are removing references to ''multi-family'' properties in Q&A Escrow Loan Exceptions 1 as the Q&A can apply to more than the ''multi-family'' context. Another commenter suggested providing the definition of ''residential property'' or clarify that lenders may rely on assertions from the borrower or insurance agent regarding the property's intended use. As noted in Q&A Exemptions 1, a structure that is part of a residential property is a structure used primarily for personal, family, or household purposes, and not used primarily for agricultural, commercial, industrial, or other business purposes. The Agencies are adding a cross reference to Q&A Exemptions 1 in this Q&A to address this comment. With these changes, the Agencies are adopting Q&A Escrow Loan Exceptions 1.

Escrow Loan Exceptions 2 (Proposed Loan Exceptions 5). The Agencies proposed a new Q&A, designated as Q&A Loan Exceptions 5 in the proposal, to discuss whether there is an exception to the escrow requirement for loans secured by multi-family buildings. The Agencies clarified in the proposed answer that escrow requirements do not apply to a loan that is an extension of credit primarily for business, commercial, or agricultural purposes, even if the loan is secured by residential real estate such as a multi-family building, nor would it apply to a loan secured by a particular unit in a multi-family residential building if a condominium association, cooperative, homeowners association, or other applicable group provides an adequate policy and pays for the insurance as a common expense. Otherwise, under the proposed answer, the escrow requirements generally apply to loans for units in multi-family residential buildings.

As discussed above, and at the request of a commenter, the Agencies are re-numbering proposed Q&A Loan Exceptions 5 as Q&A Escrow Loan Exceptions 2 to ensure logical flow and clarity. The Agencies also are clarifying the question in this Q&A to ask whether escrow accounts for flood insurance premiums and fees are required for loans secured by particular units located in multi-family buildings by focusing this Q&A on escrow requirement for only loans secured by particular units located in multi-family buildings and removing the reference to the exception for commercial loans in the question. Q&A Escrow Loan Exceptions 1 would cover commercial loans secured by residential buildings. The Agencies are also adding a cross reference to Escrow Loan Exceptions 1 for reader reference. With these revisions, the Agencies are adopting renumbered Q&A Escrow Loan Exceptions 2.

Escrow Loan Exceptions 3 (Proposed Loan Exceptions 4). The Agencies proposed to redesignate existing Q&A 56 as proposed Q&A Loan Exceptions 4 in the proposal. The Agencies proposed to revise this Q&A to address an escrow account for insured real property covered by an RCBAP. The proposed answer noted that while escrow is not required for property covered by an RCBAP, if the RCBAP coverage is inadequate and the borrower obtains a separate dwelling policy, escrow would be required for such a policy unless an escrow exception applies. The Agencies received positive comment on this Q&A and are adopting it as proposed, but renumbering as Q&A Escrow Loan Exceptions 3.

Escrow Loan Exceptions 4 (Proposed Loan Exceptions 2). The Agencies proposed a new Q&A, designated as Q&A Loan Exceptions 2 in the proposal, to clarify that construction-permanent loans that have a construction phase before the loan converts into permanent financing do not qualify for the 12-month exception from escrow even if one phase of the loan is for 12 months or less. The Agencies received positive comment on this Q&A and are adopting it as proposed, but renumbered as Q&A Escrow Loan Exceptions 4.

Escrow Loan Exceptions 5 (Proposed Loan Exceptions 3). The Agencies proposed a new Q&A, designated as Q&A Loan Exceptions 3 in the proposal, to clarify that a subordinate lienholder must begin to escrow as soon as reasonably practicable after it becomes aware that it has moved into the primary lien position on a designated loan subject to the escrow requirement. The Agencies received one specific comment on this proposed Q&A. This commenter stated that this Q&A provides important clarification regarding escrow obligations and loan documentation regarding the payoff of a senior lien. The Agencies are adopting this Q&A as proposed, but renumbered as Q&A Escrow Loan Exceptions 5.

Section XVII. Force Placement of Flood Insurance (Force Placement)

The Agencies proposed to move current section X, which includes current Q&As 57 through 62, to proposed section XV, and add 10 new Q&As. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. As discussed in the preamble to the July 2020 Proposed Questions and Answers, this set of Q&As would respond to a request for more guidance related to force placement of flood insurance from commenters through the EGRPRA process.[49] Commenters were appreciative of the Agencies including Q&As on force placement and generally found these Q&As to be helpful. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Force Placement section as Section XVII in the 2022 Interagency Questions and Answers.

Force Placement 1. The Agencies proposed to redesignate current Q&A 57, re-proposed in 2011 but not finalized, as proposed Q&A Force Placement 1. This proposed Q&A discussed the requirements that must be fulfilled before force placement can occur, as well as the notice requirements a lender must follow prior to force-placing flood insurance. One commenter agreed with the Agencies' statement in the answer that neither the Act nor the Regulation require lenders to monitor flood insurance over the life of the loan. The commenter, however, stated its belief that a lender's safety and soundness is not protected by the lender monitoring for flood insurance but by contracting with lender-placed insurance providers to ensure that flood insurance is automatically and continuously provided on all collateral in the lender's portfolio upon any lapse or insufficiency in flood insurance coverage procured by the borrower. Consequently, the commenter recommended that the Agencies add language discussing the safety and soundness benefits of lender-placed insurance for lenders and the benefit provided to borrowers in the Q&As. The Agencies decline to add the suggested language as the Agencies believe this statement is outside the scope of the force-placed flood insurance requirement in the Regulation.

Another commenter noted that the proposed answer states that the lender may provide the amount of flood insurance needed in the force placement notice and that if the lender or servicer

[49] *See* FFIEC Joint EGRPRA Report to Congress, March 2017 at 6, 55–56, 124–25, *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

is aware that the borrower has obtained insurance that otherwise satisfies the flood insurance requirements but in an insufficient amount, the lender or servicer should inform the borrower that an additional amount of insurance is needed to comply with the Regulation. Because the amount of the insurance is not required to be included in the force placement notice, the commenter requested that the Agencies remove from the answer all references to including the amount in the force placement notice. However, the Agencies note that the answer does not require inclusion of this information. The Agencies continue to believe this information may be helpful to borrowers to the extent a lender chooses to include it in the force placement notice. Therefore, the Agencies are continuing to include this recommendation in the final Q&A Force Placement 1.

A few commenters suggested that the Agencies amend the last sentence of the proposed answer, which provided that if the lender or servicer is aware that a borrower has obtained insurance that otherwise satisfies the flood insurance requirements but in an insufficient amount, the lender or servicer should inform the borrower an additional amount of insurance is needed in order to comply with the Regulation before force-placing flood insurance. Specifically, these commenters expressed concern about the use of the phrase ''is aware'' and suggested the Agencies use ''determines'' instead. The Agencies disagree and believe that the use of the word ''determines'' would suggest that there is a new force placement determination necessitating a new force placement notice, and as discussed in detail below in connection with Q&A Force Placement 6, potentially could be interpreted as allowing lenders to ''restart'' the clock that would extend the time period beyond the 45 days permitted under the Regulation in which the lender or its servicer must force place flood insurance. Thus, the Agencies' use of a term other than ''determines'' is deliberate, and the Agencies are not modifying the language as suggested.

For the reasons discussed above, the Agencies are adopting Q&A Force Placement 1 as proposed.

Force Placement 2. The Agencies proposed new Q&A Force Placement 2 to clarify when a lender must provide a force placement notice to a borrower. The proposed answer provided that the Regulation requires the lender, or its servicer, to send the borrower the force placement notice upon making a determination that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under the Regulation. The proposed answer also stated that if there is a brief delay in providing the notice, the Agencies would expect the lender or servicer to provide a reasonable explanation for the delay and provided as an example for the delay the lender using batch processing to send the force placement notice to its borrowers. Several commenters requested that the Agencies amend the language from ''brief delay'' to ''reasonable delay.'' The Agencies disagree with these commenters and are retaining ''brief delay'' to emphasize to lenders that the delay should not be long. Another commenter also suggested that the Agencies provide additional examples of explanations for delays in providing the force placement notice other than batch processing of force placement notices. In response to this commenter, the Agencies are amending the proposed answer to include manual exception processing as another example. The Agencies are adopting Q&A Force Placement 2 with this change.

Force Placement 3. The Agencies proposed to redesignate existing Q&A 58 as proposed Q&A Force Placement 3 without any change. Proposed Q&A Force Placement 3 discussed whether a servicer could force place flood insurance on behalf of a lender. The Agencies did not receive any specific comment on Q&A Force Placement 3, and are adopting it as proposed.

Force Placement 4. The Agencies proposed new Q&A Force Placement 4, which discussed whether a lender can satisfy its notice requirement by sending the force placement notice to the borrower prior to the expiration of the flood insurance policy. Proposed Q&A Force Placement 4 was based on proposed Q&A 60 from 2011, which the Agencies did not finalize. The Agencies received one specific comment on this proposed Q&A, agreeing that the Agencies' wording reflects the intent of the Act and Regulation that lenders ensure that notice be provided upon determining that the flood insurance policy has actually lapsed or is insufficient. Therefore, the Agencies are adopting Q&A Force Placement 4 as proposed.

Force Placement 5. The Agencies proposed to redesignate existing Q&A 61 as proposed Q&A Force Placement 5 with minor revisions for clarity and no change in meaning or substance. This Q&A addresses when a lender must have flood insurance in place if the borrower has not obtained adequate insurance within 45 days of notification. A commenter recommended that the answer be updated to reflect information on the effective date of coverage, the timing for placing coverage, and the process for placing coverage. Given that lenders' particular processes may differ in force-placing flood insurance, the Agencies believe that amending the answer to include details on these additional steps would be confusing and that it is unnecessary to discuss how the lender complies with the Regulation. Therefore, the Agencies are adopting Q&A Force Placement 5 as proposed.

Force Placement 6. The Agencies proposed new Q&A Force Placement 6 to clarify that, once a lender makes a determination that a designated loan has no or insufficient flood insurance coverage, the lender must notify the borrower and, if the borrower fails to obtain sufficient flood insurance coverage within 45 days after the original notice, the lender must purchase coverage on the borrower's behalf and may not extend the period for obtaining force-placed coverage by sending another force placement notice during that time. Some commenters suggested that the Agencies reconsider the answer to permit subsequent determinations within the force placement process. As discussed above in connection with Q&A Force Placement 1, however, the Agencies do not believe that the answer should be amended to essentially permit lenders to extend the time to force place beyond the 45 days allowed by the Act and the Regulation, which would put both the borrower and the lender at greater risk of the property not being covered by sufficient flood insurance for longer periods of time. Therefore, the Agencies are adopting Q&A Force Placement 6 as proposed.

Force Placement 7. The Agencies proposed new Q&A Force Placement 7, which addressed when a force-placed policy should begin to provide coverage after an existing policy expires. The proposed answer also gave an example of the timing for the new policy. A few commenters stated that the Agencies' proposed example was not consistent with how policies expire and become effective in practice and that the answer needs to specifically include the time of day that the existing policy expires and the new policy becomes effective. One of these commenters noted that an expiring policy expires and a newly effective policy generally takes effect at 12:01 a.m. on the same date. As recommended by these commenters, the Agencies are revising the answer in Q&A Force Placement 7 to include an

example that provides if a policy expires at 12:01 a.m. on a certain day, the new policy should be effective as of 12:01 a.m. of the same day.

Force Placement 8. The Agencies proposed to redesignate existing Q&A 59 as proposed Q&A Force Placement 8. In the July 2020 Proposed Questions and Answers, the Agencies significantly revised this Q&A to discuss more fully the minimum amount of flood insurance coverage that is statutorily required and to illustrate this point through a hypothetical example. The proposed answer stated that if the outstanding principal balance is the basis for the minimum amount of required flood insurance, the lender must ensure that the force-placed policy amount covers the existing loan balance plus any additional force-placed premiums and fees that will be added to the loan balance.

Several commenters recommended that the Agencies revise proposed Q&A Force Placement 8, as well as Q&A Force Placement 10, to consistently use the term ''outstanding principal balance,'' which is the term used in the Regulation to determine the amount of minimum flood insurance coverage required. The proposed answer used ''outstanding principal balance'' interchangeably with ''loan balance.'' Similarly, commenters stated that the Agencies should amend the answer to use the term ''capitalized'' rather than ''added.'' These commenters stated that, consistent with accounting standards, fees, secured advances, interest and other amounts authorized by a loan agreement are treated distinctly from the outstanding principal balance of the loan unless they are capitalized into the outstanding principal balance. As a result, these commenters contended that fees that have not been capitalized into the outstanding principal balance should not be taken into account when determining the minimum amount of required flood insurance.

The Agencies agree with these commenters and are revising Q&A Force Placement 8 as suggested to consistently use the term ''outstanding principal balance'' and provide that if the outstanding principal balance is used as the basis for determining the minimum amount of required flood insurance, then the lender should take into account any premiums and fees that have been capitalized into the outstanding principal balance in determining the required minimum amount. For consistency, the Agencies also are making these changes in terminology in Q&A Force Placement 10, as discussed below. With the changes discussed above, the Agencies are adopting Q&A Force Placement 8, with a minor non-substantive change.

Force Placement 9. The Agencies proposed to redesignate existing Q&A 62 as proposed Q&A Force Placement 9. This Q&A addresses when a lender or its servicer may charge the borrower for the cost of force-placed flood insurance. The proposed answer clarified that a lender or servicer may charge a borrower for the cost of force-placed flood insurance beginning on the date of lapse or insufficient coverage, and would not need to wait 45 days after providing notification to force place insurance. As the Agencies stated in the preamble to the July 2020 Proposed Questions and Answers, lenders that monitor loans secured by property located in an SFHA for continuous coverage of flood insurance help ensure that they complete the force placement of flood insurance in a timely manner and minimize any gaps in coverage and any charge to the borrower for coverage for a timeframe prior to the lender's or its servicer's date of discovery and force placement. The proposed answer further explained that if a lender or its servicer, despite its monitoring efforts, discovers a loan with no or insufficient coverage, it may charge for the cost of premiums and fees incurred by the lender or servicer in purchasing the flood insurance on the borrower's behalf, including premiums and fees incurred for coverage beginning on the date of lapse or insufficient coverage, if the lender has purchased a policy on the borrower's behalf and that policy was effective as of the date of the insufficient coverage.

Several commenters suggested that the Agencies include an example with specific dates in the answer to Q&A Force Placement 9 to illustrate when it may be appropriate for a lender to ''backdate'' a force-placed flood insurance policy and charge the borrower. However, the Agencies note that evaluating such actions by a lender depends on the specific facts and circumstances. As a result, the Agencies believe that including a particular example in the answer that would not be broadly applicable would not provide helpful guidance.

Although the Regulation states that a lender may charge a borrower for the cost of force-placed insurance beginning on the date of lapse or insufficient coverage, the Agencies note that significant ''backdating'' of flood insurance policies could indicate that there are weaknesses with the lender's compliance management system. Therefore, rather than providing an example, which would be of limited utility, the Agencies are adding language stating that a lender's or servicer's frequent need to purchase policies on a borrower's behalf having coverage that precedes the date of purchase may, depending upon the facts and circumstances, indicate that there are weaknesses within the lender's or servicer's compliance management system. The Agencies believe that the addition of this language to Q&A Force Placement 9 would provide guidance on the Agencies' supervision of such practices and would be more helpful than a specific example.

Some commenters suggested that the Agencies amend the last sentence of the proposed answer, which stated that when a lender or its servicer purchases a policy on the borrower's behalf, the lender or its servicer may not charge for premiums and fees for coverage beginning on the date of lapse or insufficient coverage if that policy purchased on the borrower's behalf did not provide coverage for the borrower prior to purchase. These commenters noted that a policy may provide coverage effective to a date that precedes the date purchased. The Agencies decline to make this change. If there is no coverage for the borrower prior to purchase of the policy, such as coverage that may be provided under a dual interest master policy, then it would be inappropriate for a lender to charge a borrower for coverage the borrower did not have.

With the addition discussed above, the Agencies are adopting Q&A Force Placement 9.

Force Placement 10. The Agencies proposed new Q&A Force Placement 10 to discuss various methods of charging a borrower for the amount of force-placed flood insurance policy premiums and fees and when such methods would constitute an ''increase'' that would trigger the applicability of certain flood insurance regulatory requirements. Proposed Q&A Force Placement 10 described three options that the Agencies understand lenders may use to charge a borrower for force-placed flood insurance: adding the premium and fees to the ''mortgage loan balance;'' adding premiums and fees to an unsecured account; or billing the premium and fees directly to the borrower.

As discussed above with respect to Q&A Force Placement 8, several commenters requested that the Agencies consistently use the term ''outstanding loan balance'' and to distinguish between instances when fees from force-placed flood insurance are ''capitalized'' into the outstanding loan balance and when they are not. For the reasons discussed in connection with Q&A Force Placement 8, the Agencies are

revising Q&A Force Placement 10 to incorporate these changes in terminology. The Agencies also are revising the discussion of the second method to refer more generally to adding premiums and fees to an account, rather than an ''unsecured'' account, as the Agencies understand that amounts advanced to cover premiums and fees that have not been capitalized into the outstanding principal balance may still be secured by the property.

One of these commenters also noted that lenders may advance funds to cover force-placed flood insurance premiums and fees through an advance of the borrower's escrow account. The commenter further stated that such a method also would not cause an increase in the outstanding principal balance, and as a result, should not be considered an ''increase'' that would trigger the applicability of certain flood insurance regulatory requirements. The Agencies agree and are including this method as another example in Q&A Force Placement 10. With the changes discussed above, the Agencies are adopting Q&A Force Placement 10.

Force Placement 11. The Agencies proposed new Q&A Force Placement 11, which addressed the sufficiency of evidence of flood insurance in connection with refunding premiums paid by a borrower for force-placed insurance during any period of overlap with borrower-purchased insurance. The proposed answer provided that, as stated in the Regulation, a lender is required to refund premiums paid by a borrower for force-placed flood insurance during any period of overlap with borrower-purchased flood insurance. The proposed answer stated that in that scenario, a lender must accept a policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or its agent and that the Regulation does not require that the declarations page include any additional information. The proposed answer also discussed documentation with respect to situations not involving a lender's refund of premiums for force-placed insurance.

Several commenters requested guidance on whether and how Q&A Force Placement 11 applies to reviewing flood insurance policies issued by private insurers to determine whether they meet the private flood insurance requirements of the Regulation. In response, the Agencies are clarifying that the answer in Q&A Force Placement 11 relates to ascertaining the sufficiency of the policy to meet the mandatory flood insurance purchase requirement to determine whether a refund is required. In addition, the Agencies are including a cross-reference to Q&A Private Flood Compliance 5 for guidance relating to evaluating whether the policy meets the private flood insurance requirements of the Regulation.

Another commenter suggested that the Agencies require that the declarations page also include the coverage amount, deductible, and term of the policy. However, as noted, for the refund provision of the force placement requirement, the Act and the Regulation state that for purposes of confirming a borrower's existing flood insurance coverage, a lender or its servicer shall accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or its agent. Therefore, the Agencies cannot mandate that the declarations page include any additional information.

Force Placement 12. The Agencies proposed new Q&A Force Placement 12 to address whether a lender is required to refund any premiums to the borrower if the lender cannot obtain a refund from the insurance company because the borrower did not provide proof of coverage in a timely manner or the insurance company fails to provide the lender the refund within 30 days. The proposed answer clarified that the lender must refund any premiums and fees paid by the borrower for force-placed insurance that overlaps with a borrower-purchased flood insurance policy within 30 days of receipt of a confirmation of a borrower's existing flood insurance coverage. The lender must provide this refund to the borrower within the specified time period under the Regulation without exception, even when the lender has not yet received a refund from the insurance provider of the force-placed flood insurance policy. One commenter agreed with the proposed answer but thought the question proposed by the Agencies for Q&A Force Placement 12 was confusing and suggested that the Agencies reword the question. The Agencies agree with the commenter and are revising the question in Q&A Force Placement 12 to be similar to the language suggested by the commenter. Thus, the question, as adopted, asks if a lender receives confirmation of a borrower's existing flood insurance coverage evidencing an overlap in coverage with a force-placed flood insurance policy, but the lender does not receive a refund from the insurance provider of the force-placed flood insurance policy in a timely manner, is the lender still obligated to refund any premiums for overlapping coverage to the borrower within 30 days. The Agencies are adopting Q&A Force Placement 12 with the change to the question discussed above.

Force Placement 13. The Agencies proposed new proposed Q&A Force Placement 13 to explain that a lender can rely on a force-placed flood insurance policy to satisfy the mandatory purchase requirement for a refinance or loan modification if the borrower does not purchase his or her own policy. The proposed answer also suggested that lenders could encourage the borrower to purchase his or her own policy, likely at a reduced cost, prior to the loan closing. One commenter specifically agreed with the Agencies' proposed answer to the question. Another commenter suggested that the Agencies amend the answer to clearly note that the lender's encouragement of the borrower to purchase his or her own policy is at the lender's discretion. The Agencies are amending the answer in Q&A Force Placement 13 to include the phrase ''at its discretion'' to make clear that this suggested encouragement is optional. This same commenter also noted that stating that a borrower-purchased flood insurance policy would ''likely'' be at a reduced cost compared to the force-placed flood insurance policy may not always be true. In response, the Agencies are amending the language in Q&A Force Placement 13 to state that a borrower-purchased flood insurance policy ''may be available at a lower premium amount'' to soften the language and also make it consistent with similar language in Q&A Force Placement 14.

Another commenter suggested that the Agencies remove the term ''refinances'' from the proposed answer because the commenter did not believe that a refinancing is always a triggering event. The Agencies do not agree with this commenter's characterization of a refinancing. A refinancing is the termination of an old loan contract and the making of a new loan in its place; as a result, a refinancing is the ''making'' of a loan and does trigger flood insurance requirements under the Regulation. The Agencies are adding language to the Q&A to make this position clear. In addition, based on this comment, the Agencies reexamined the references to loan modifications in Q&A Force Placement 13 and are making revisions to the answer to clarify that the loan modifications discussed in the answer are only those that would result in the increase, renewal, or extension of a loan; in other words, those loan

modifications that would constitute a triggering event under the Regulation. The Agencies are also adding cross references to Q&As Applicability 6 and Applicability 13. Finally, the Agencies are making a minor non-substantive change to the answer.

Force Placement 14. The Agencies proposed new Q&A Force Placement 14 in response to an issue raised by EGRPRA commenters.[50] Under the proposed answer, a lender is not required to send a notice prior to force-placing insurance at the expiration of a force-placed policy, but the lender or its servicer, at its discretion, may notify the borrower about its plan to renew the force-placed policy. Commenters to the July 2020 Proposed Questions and Answers appreciated the flexibility and clarity provided in the proposed answer and noted that lenders typically choose one of two methods to notify borrowers of renewal of a lender-placed policy: (1) Renewal with a pre-expiration notice; or (2) renewal with a post-expiration notice. One of these commenters suggested language to expand the answer to explain these notice cycle methods. However, the Agencies note that the proposed answer already states that the lender or its servicer, at its discretion, may notify the borrower that the lender *is planning to renew or has renewed* the force-placed policy. Therefore, the answer already contemplates both notice cycle methods, and the Agencies are adopting Q&A Force Placement 14 as proposed.

Force Placement 15. The Agencies proposed new Q&A Force Placement 15 to indicate that, although there is no explicit duty to monitor flood insurance coverage over the life of the loan in the Act or Regulation, for purposes of safety and soundness, many lenders obtain ''life-of-loan'' monitoring. One commenter agreed with the Agencies' statement that neither the Act nor the Regulation require lenders to monitor flood insurance over the life of the loans but recommended that the answer be combined into the answer for Q&A Force Placement 1. The commenter also stated that the term ''life-of-loan'' monitoring is generally associated only with monitoring changes in flood zone maps. The Agencies believe that it is important to distinguish the guidance provided in Q&A Force Placement 15 from the general discussion on force placement in Q&A Force Placement 1. Consequently, the Agencies are keeping Q&A Force Placement 15 as a separate Q&A. However, to clarify that the ''life of loan'' monitoring referenced in Q&A Force Placement 15 is ''life of loan'' monitoring related to continuous coverage rather than monitoring for map changes, the Agencies are amending the question to denote that the Q&A concerns ''life of loan'' monitoring for continuous coverage of designated loans. With this change, the Agencies are adopting Q&A Force Placement 15.

Force Placement 16. The Agencies proposed new Q&A Force Placement 16 to address what a lender or its servicer must do if it receives a notice indicating that a property will be remapped into an SFHA as of a future effective date. Many commenters stated that lenders do not always receive advance notice of a remapping and requested that the Agencies also provide guidance to lenders when they receive notice that a property already has been remapped. In response to commenters' suggestions, the Agencies are expanding Q&A Force Placement 16 to include guidance on a lender's or servicer's responsibility when it receives notice after a property securing a designated loan has been remapped. In those cases, lenders should follow the requirements outlined in Q&A Force Placement 1. The adopted answer also adds a cross-reference to Q&A Force Placement 9 to address questions regarding when the lender or servicer may charge the borrower for a force-placed flood insurance policy.

One commenter was confused by the proposed answer's statement that the effective date of future remap is the date the lender or servicer must determine sufficiency of flood insurance coverage, but also providing that the lender or servicer may immediately force-place flood insurance as of the remapping effective date. The commenter stated that as written, the proposed answer seemed to suggest that two different effective dates are possible. To clarify, the Agencies' are amending the answer to state that as of the effective date of the remapping, if the lender makes a determination that the property securing a designated loan is not covered by sufficient flood insurance, the lender or servicer must begin the force placement process and may charge the borrower for the force-placed insurance policy.

With the changes described above, the Agencies are adopting Q&A Force Placement 16.

Other Comments. One commenter stated that the Q&As on force placement should generally reflect a consistent treatment of the sequence of the force placement process beginning with determination of absent or insufficient coverage, then notice, and finally placement of flood insurance throughout the duration of the loan. The Agencies have reviewed the force placement Q&As generally to ensure that they reflect this sequence. This commenter also requested that the Agencies define what lender actions constitute making a ''determination'' that flood insurance is absent or inadequate and whether that determination is conditional. The Agencies do not believe it is possible to define all instances of when a lender ''determines'' flood insurance is absent or inadequate and that determination is not necessarily ''conditioned'' on any specific actions or events.

Another commenter urged the Agencies to clarify when the insufficiency or inadequacy of a flood insurance policy necessitates starting the force placement process, such as when a lender receives a new flood insurance policy or when a flood insurance policy is renewed and coverage is determined insufficient or inadequate. The Agencies decline to limit determination of insufficiency or inadequacy of a flood insurance policy to the instances described by the commenter. Under the Regulation, this determination can occur at any point during the life of the loan.

XVIII. Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights (Servicing)

The Agencies proposed to move current section VIII, which provides guidance on flood insurance requirements in the event of the sale or transfer of a designated loan and/or its servicing rights, to proposed section XVI, and to redesignate current Q&As 44 through 50 as Q&As Servicing 1 through 7, respectively. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. The Agencies proposed to revise these questions and answers to account for the change in the title of the head of FEMA from ''Director'' to ''Administrator'' and received no specific comment on that proposed revision, which is included in the final Interagency Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Servicing section as Section XVIII in the 2022 Interagency Questions and Answers.

One commenter recommended that the Agencies clarify whether all Q&As in this section apply to flood insurance policies issued by private insurers. In response, the Agencies are revising the Q&As where appropriate to clarify that

[50] *See* FFIEC Joint EGRPRA Report to Congress, March 2017 at 124, *https://www.ffiec.gov/pdf/2017_FFIEC_EGRPRA_Joint-Report_to_Congress.pdf.*

the requirement that a regulated lender must provide notice of a new servicer's identity to the Administrator of FEMA (or the Administrator's designee) applies to NFIP policies. In the case of a flood insurance policy issued by a private insurer, the lender should provide notice of a new servicer's identity to the flood insurance provider, as FEMA does not accept these notices for policies issued by private insurers. If the lender did not provide notice of a new servicer's identity to the flood insurance provider, the provider would be unable to properly administer the policy, such as by providing notice to the servicer about the expiration of the flood insurance policy. The burden of such notification should be minor because exchanges of information between the lender and the insurance provider ordinarily occur as a matter of routine. Where appropriate, the final Servicing Q&As contain revisions that incorporate this clarification. These revisions are discussed below.

Servicing 1. The Agencies proposed to redesignate existing Q&A 44 as proposed Q&A Servicing 1. This proposed Q&A explained how the flood insurance requirements under the Regulation apply to lenders under two scenarios involving loan servicing. The Agencies received no specific comments on Q&A Servicing 1. However, the Agencies are clarifying in the final Q&A the applicability of the notice requirements to flood insurance policies issued by private insurers, as discussed above. The Agencies are adopting Servicing 1 with this change and with other minor non-substantive revisions.

Servicing 2. The Agencies proposed to redesignate existing Q&A 45 as proposed Q&A Servicing 2. This proposed Q&A addressed the question of when a lender must provide notice to FEMA or its designee when that lender will be the servicer of the loan. Several commenters recommended that the Agencies clarify in the answer that the notice requirement does not apply where the flood insurance policy is issued by a private insurer. The commenter stated that there appears to be no reason to notify FEMA or its designee that the lender is the servicer of the loan when the property securing the loan is not insured by an NFIP policy. In the alternative, a commenter suggested that the Agencies could add a new Q&A to the Private Flood Compliance Q&As that provides this clarification. This commenter also asserted that the Agencies should make a technical change to the Regulation to remedy the situation. Another commenter also identified this concern but did not provide specific suggestions or recommendations.

In response to these comments, the Agencies are clarifying the answer to provide that in the case of a flood insurance policy issued by a private insurer, the lender should provide notice of a new servicer's identity to the flood insurance provider. The Agencies also state in the revised answer that if the lender does not provide this notice to the flood insurance provider, the provider will be unable to properly administer the policy, such as by providing notice to the servicer about the expiration of the flood insurance policy. Revising the Regulation to address this point is beyond the scope of the Interagency Questions and Answers.

One commenter interpreted the Regulation to indicate that the process of acquiring or revising a flood insurance policy will fulfill the initial notification requirement. The commenter noted that the Regulation provides no exception for the notice when dealing with a scenario where an RCBAP provides sufficient coverage (*i.e.,* no additional individual flood insurance policy is required). The commenter stated that in this scenario, the Administrator of FEMA or the Administrator's designee would not receive notice, since a flood insurance policy is not purchased or updated. The commenter asked for clarification of the Agencies' expectation in this scenario. In response to this comment, the Agencies clarify that if a unit owner does not purchase or update a separate policy, then no notice is required. However, notice would be required if the unit owner purchases or updates a separate dwelling policy. The Agencies are not changing the Q&A in response to this comment.

The Agencies are adopting this Q&A with the changes discussed above, along with minor technical, non-substantive changes.

Servicing 3. The Agencies proposed to redesignate existing Q&A 46 as proposed Q&A Servicing 3. This proposed Q&A explained that a RESPA Notice of Transfer sent to the Administrator of FEMA (or the Administrator's designee, *i.e.,* the insurance provider) satisfies the requirements of the Act. The Agencies received no specific comments on Q&A Servicing 3 and are adopting it with a minor non-substantive change to the question but otherwise as proposed.

Servicing 4. The Agencies proposed to redesignate existing Q&A 47 as proposed Q&A Servicing 4. This proposed Q&A explained that delivery of the notice can be delivered electronically, including by batch transmission. The Agencies received no specific comments on Q&A Servicing 4 and are adopting it as proposed.

Servicing 5. The Agencies proposed to redesignate existing Q&A 48 as proposed Q&A Servicing 5. This proposed Q&A addressed the question of whether a lender is required to provide notice to the Administrator or the Administrator's designee (*i.e.,* the insurance provider) if a loan and its servicing rights are sold by the lender. The Agencies received no specific comments on Q&A Servicing 5. In the final Q&A, the Agencies are clarifying the applicability of the notice requirement to flood insurance policies issued by private insurers, as discussed above. With this change, the Agencies are adopting Q&A Servicing 5 otherwise as proposed.

Servicing 6. The Agencies proposed to redesignate existing Q&A 49 as proposed Q&A Servicing 6. This proposed Q&A addressed the question of whether a lender is required to provide notice when the servicer, not the lender, sells or transfers the servicing rights to another servicer. The proposed answer provided that after servicing rights are sold or transferred, the subsequent notification obligations applicable in connection with NFIP policies are the responsibility of the new servicer. The Agencies received no specific comments on Q&A Servicing 6. In the final Q&A, the Agencies are clarifying that in connection with a flood insurance policy issued by a private insurer the Agencies do not expect the lender to provide notice to the private insurance provider of any subsequent sale or transfer of the servicing rights because the new servicer should provide this notice. With this change, and a minor non-substantive edit, the Agencies are adopting Q&A Servicing 6 otherwise as proposed.

Servicing 7. The Agencies proposed to redesignate existing Q&A 50 as proposed Q&A Servicing 7. This proposed Q&A addressed the responsibilities of the parties for notifying the Administrator's designee (*i.e.,* the insurance provider) in the event of a merger or acquisition of one lender with another. The Agencies received no specific comments on Q&A Servicing 7. In the final Q&A, the Agencies are clarifying the applicability of the notice requirement to flood insurance policies issued by private insurers, as discussed above. With this change, the Agencies are adopting Q&A Servicing 7 otherwise as proposed.

Section XIX. Mandatory Civil Money Penalties (Penalty)

Section XVII includes questions and answers related to mandatory civil penalties. For organizational purposes, the Agencies proposed to move existing section XVI to proposed section XVII and redesignated existing Q&As 81 and 82 as proposed Q&A Penalty 1 and 2, respectively. The Agencies proposed changes to the Q&As in this section in the July 2020 Proposed Questions and Answers. Because the Agencies are combining the July 2020 Proposed Questions and Answers and the March 2021 Proposed Questions and Answers into one document, the Agencies are renumbering this Penalty section as Section XIX in the 2022 Interagency Questions and Answers.

Penalty 1. The Agencies proposed to redesignate existing Q&A 81 as proposed Penalty 1. This Q&A discusses which violations of the Act can result in a mandatory civil money penalty. The Agencies proposed to update this Q&A to reflect, as provided in the Biggert-Waters Act: (1) the increased maximum civil money penalty that the Agencies may impose per violation when there is a pattern or practice of flood violations; and (2) the elimination of the limit on the total amount of penalties that the Agencies may assess against a regulated lending institution during any calendar year.[51] Specifically, proposed Q&A Penalty 1 provides that the civil money penalty amount cannot exceed $2,000 per violation and that there is no ceiling on the total penalty amount that a Federal supervisory agency can assess for a pattern or practice of violations. This Q&A also notes that each Agency adjusts the limit pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990. For purposes of clarity and accuracy, the Agencies also proposed minor revisions with no intended change in substance or meaning. The Agencies received no specific comments on this Q&A and are adopting Q&A Penalty 1 as proposed, with the addition of more specific citations to the Federal Civil Penalties Inflation Adjustment Act of 1990.

Penalty 2. The Agencies proposed to redesignate existing Q&A 82 as proposed Q&A Penalty 2 with only minor revisions, with no intended change in substance or meaning. This Q&A addresses what constitutes a ''pattern or practice'' of violations for which civil money penalties must be imposed under the Act. The Agencies received no specific comments on this Q&A and are adopting it as proposed.

Redesignation Table

The following redesignation table is provided as an aid to assist the public.

2009 & 2011 Interagency Q&A	2022 Interagency Q&A
Section I. Determining When Certain Loans Are Designated Loans for Which Flood Insurance Is Required Under the Act and Regulation.	Section I. Determining the Applicability of Flood Insurance Requirements for Certain Loans.
Section 1, Question 1	Section I, Applicability 1
Section 1, Question 2	Section I, Applicability 4
Section 1, Question 3	Section I, Applicability 5
Section 1, Question 4	Section I, Applicability 9
Section 1, Question 5	Section I, Applicability 6
Section 1, Question 6	Section I, Applicability 7
Section 1, Question 7	Section I, Applicability 8
Section II. Determining the Appropriate Amount of Flood Insurance Required Under the Act and Regulation.	Section X. Determining the Appropriate Amount of Flood Insurance Required.
Section II, Question 8	Section X, Amount 1
Section II, Question 9	Section X, Amount 2
Section II, Question 10	Deleted
Section II, Question 11	Section X, Amount 3
Section II, Question 12	Section X, Amount 4
Section II, Question 13	Section X, Amount 5
Section II, Question 14	Section X, Amount 6
Section II, Question 15	Section X, Amount 7
Section II, Question 16	Section X, Amount 8
Section II, Question 17	Section X, Amount 9
Section III. Exemptions from the Mandatory Flood Insurance Requirements.	Section II. Exemptions from the Mandatory Flood Insurance Purchase Requirements.
Section III, Question 18	Section II, Exemptions 1
Section IV. Flood Insurance Requirements for Construction Loans	Section XI, Flood Insurance Requirements for Construction Loans.
Section IV, Question 19	Section XI, Construction 1
Section IV, Question 20	Section XI, Construction 2
Section IV, Question 21	Section XI, Construction 3
Section IV, Question 22	Section XI, Construction 4
Section IV, Question 23	Section XI, Construction 5
Section V. Flood Insurance Requirements for Non-Residential Buildings.	
Section V, Question 24	Section I, Applicability 2
Section V, Question 25	Section I, Applicability 3
Section VI. Flood Insurance Requirements for Residential Condominiums.	Section XII. Flood Insurance Requirements for Residential Condominiums and Co-Ops.
Section VI, Question 26	Section XII, Condo and Co-Op 1
Section VI, Question 27	Section XII, Condo and Co-Op 2
Section VI, Question 28	Section XII, Condo and Co-Op 3

[51] *See* 42 U.S.C. 4012a(f)(5). *See also* Public Law 112–141, 126 Stat. 916 (2012).

2009 & 2011 Interagency Q&A	2022 Interagency Q&A
Section VI, Question 29	Section XII, Condo and Co-Op 4
Section VI, Question 30	Section XII, Condo and Co-Op 5
Section VI, Question 31	Section XII, Condo and Co-Op 6
Section VI, Question 32	Section XII, Condo and Co-Op 7
Section VI, Question 33	Section XII, Condo and Co-Op 8
Section VII. Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral Located in an SHFA.	Section XIII. Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral Located in an SFHA.
Section VII, Question 34	Section XIII, Other Security Interests 1
Section VII, Question 35	Section XIII, Other Security Interests 2
Section VII, Question 36	Section XIII, Other Security Interests 4
Section VII, Question 37	Section XIII, Other Security Interests 5
Section VII, Question 38	Section XIII, Other Security Interests 6
Section VII, Question 39	Section XIII, Other Security Interests 7
Section VII, Question 40	Section XIII, Other Security Interests 8
Section VII, Question 41	Section XIII, Other Security Interests 9
Section VII, Question 42	Section XIII, Other Security Interests 11
Section VII, Question 43	Section XIII, Other Security Interests 12
Section VIII. Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights.	Section XVIII. Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights.
Section VII, Question 44	Section XVIII, Servicing 1
Section VII, Question 45	Section XVIII, Servicing 2
Section VII, Question 46	Section XVIII, Servicing 3
Section VII, Question 47	Section XVIII, Servicing 4
Section VII, Question 48	Section XVIII, Servicing 5
Section VII, Question 49	Section XVIII, Servicing 6
Section VII, Question 50	Section XVIII, Servicing 7
Section IX. Escrow Requirements	Section XIV–XVI. Requirement to Escrow Flood Insurance Premiums and Fees.
Section IX, Question 51	Section XIV, Escrow 5
Section IX, Question 52	Section XIV, Escrow 1
Section IX, Question 53	Deleted
Section IX, Question 54	Deleted
Section IX, Question 55	Section XVI, Escrow Loan Exceptions 1
Section IX, Question 56	Section XVI, Escrow Loan Exceptions 4
Section X. Force Placement	Section XVII. Force Placement of Flood Insurance.
Section X, Question 57	Section XVII, Force Placement 1
Section X, Question 58	Section XVII, Force Placement 3
Section X, Question 59	Section XVII, Force Placement 8
Section X, Question 60	Section XVII, Force Placement 4
Section X, Question 61	Section XVII, Force Placement 5
Section X, Question 62	Section XVII, Force Placement 9
Section XI. Private Flood Insurance	Section III–V. Private Flood Insurance.
Section XI, Question 63	Deleted
Section XI, Question 64	Section I, Applicability 14
Section XII. Required Use of Standard Flood Hazard Determination Form (SFHDF).	Section VI. Standard Flood Hazard Determination Form (SFHDF).
Section XII, Question 65	Section VI, SFHDF 1
Section XII, Question 66	Section VI, SFHDF 2
Section XII, Question 67	Section VI, SFHDF 3
Section XII, Question 68	Section VI, SFHDF 4
Section XIII. Flood Determination Fees	Section VII. Flood Insurance Determination Fees.
Section XIII, Question 69	Section VII, Fees 1
Section XIII, Question 70	Section VII, Fees 2
Section XIV. Flood Zone Discrepancies	Section VIII. Flood Zone Discrepancies.
Section XIV, Question 71	Section VIII, Zone 1
Section XIV, Question 72	Section VIII, Zone 2
Section XV. Notice of Special Flood Hazards and Availability of Federal Disaster Relief.	Section IX. Notice of Special Flood Hazards and Availability of Federal Disaster Relief.
Section XV, Question 73	Section IX, Notice 1
Section XV, Question 74	Section IX, Notice 2
Section XV, Question 75	Section IX, Notice 3
Section XV, Question 76	Section IX, Notice 4
Section XV, Question 77	Section IX, Notice 4
Section XV, Question 78	Section IX, Notice 5
Section XV, Question 79	Section IX, Notice 6

2009 & 2011 Interagency Q&A	2022 Interagency Q&A
Section XV, Question 80	Section IX, Notice 7
Section XVI. Mandatory Civil Money Penalties Section XVI, Question 81 Section XVI, Question 82	Section XIX. Mandatory Civil Money Penalties. Section XIX, Penalty 1 Section XIX, Penalty 2

Interagency Questions and Answers Regarding Flood Insurance

The Interagency Questions and Answers are organized by topic. Each topic addresses a major area of flood insurance law and regulations. For ease of reference, the following terms are used throughout this document: ''Act'' refers to the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973, as revised. ''Regulation'' refers to each Agency's current final rule.[1] ''Lenders'' refers only to regulated lending institutions as defined in the Act.[2] ''Designated loan'' means a loan secured by a building or mobile home that is located or to be located in a special flood hazard area (SFHA) in which flood insurance is available under the Act. The Office of the Comptroller of the Currency (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Farm Credit Administration (FCA); and National Credit Union Administration (NCUA) (collectively, ''the Agencies'') are providing answers to questions pertaining to the following topics:

I. Determining the Applicability of Flood Insurance Requirements for Certain Loans (Applicability)

APPLICABILITY 1. Does the Regulation apply to a loan where the building or mobile home securing such loan is located in a community that does not participate in the National Flood Insurance Program (NFIP)?

Yes, the Regulation does apply; however, a lender need not require borrowers to obtain flood insurance for a building or mobile home located in a community that does not participate in the NFIP, even if the building or mobile home securing the loan is located in an SFHA. Nonetheless, a lender, using the Standard Flood Hazard Determination Form, must still determine whether the building or mobile home is located in an SFHA.[3] If the building or mobile home is determined to be located in an SFHA, a lender is required to mail or deliver a written notice to the borrower.[4] In this case, a lender, generally, may make a conventional loan without requiring flood insurance. However, because Federal agencies such as the Small Business Administration, Veterans Administration, or Federal Housing Administration are prohibited from guaranteeing or insuring a loan secured by a building or mobile home located in an SFHA in a community that does not participate in the NFIP, a lender would not be able to make a federally guaranteed or insured loan. *See* 42 U.S.C. 4106(a). Also, a lender is responsible for exercising sound risk management practices to avoid making a loan secured by a building or mobile home located in an SFHA where no flood insurance is available, if doing so would pose an unacceptable risk to the lender.

APPLICABILITY 2. Some borrowers have buildings with limited utility or value and, in many cases, the borrower would not replace them if lost in a flood. Must a lender require flood insurance for such buildings?

Lenders must require flood insurance on a building or mobile home when those structures are part of the property securing the loan and are located in an SFHA in a participating community.[5] However, flood insurance is not required on a structure that is part of a residential property but is detached from the primary residential structure of such property and does not serve as a residence.[6] If the limited utility or value structure does not qualify for the detached structure exemption, a lender may consider ''carving out'' the building from the security it takes on the loan to avoid having to require flood insurance on the structure. However, the lender should fully analyze the risks of this option. In particular, a lender should consider whether and how it would be able to market and sell the property securing its loan in the event of foreclosure. *See also* Q&A Exemptions 1.

APPLICABILITY 3. What are a lender's requirements under the Regulation for a loan secured by multiple buildings when some of the buildings are located in an SFHA in which flood insurance is available and other buildings are not? What if the buildings are located in different communities and some of the communities participate in the NFIP and others do not?

A lender must determine whether a building securing the loan is in an SFHA.[7] In cases in which the loan is secured by multiple buildings and some of the buildings are located in an SFHA

[1] 12 CFR part 22 (OCC); 12 CFR 208.25 (Board); 12 CFR part 339 (FDIC); 12 CFR part 614, subpart S (FCA); and 12 CFR part 760 (NCUA).

[2] 42 U.S.C 4003(a)(10).

[3] 12 CFR 22.6(a) (OCC); 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6(a) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(a) (NCUA).

[4] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[5] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[6] 12 CFR 22.4(c) (OCC); 12 CFR 208.25(d)(3) (Board); 12 CFR 339.4(c) (FDIC); 12 CFR 614.4932(c) (FCA); and 12 CFR 760.4(c) (NCUA).

[7] 12 CFR 22.6(a) (OCC); 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6(a) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(a) (NCUA).

in which flood insurance is available under the Act, but other buildings are not located in an SFHA (or are located in an SFHA, but not in a participating community), a lender is required to obtain flood insurance only on the buildings securing the loan that are located in an SFHA in which flood insurance is available under the Act.[8] For example, assume a loan is secured by five buildings as follows:

- Buildings 1 and 2 are located in an SFHA and the community participates in the NFIP;
- Building 3 is not located in an SFHA; and
- Buildings 4 and 5 are located in an SFHA, but the communities do not participate in the NFIP.

In this scenario, the lender is required to obtain insurance only on buildings 1 and 2. As a matter of safety and soundness, however, a lender may decide to require the purchase of flood insurance (from a private insurer) on buildings 4 and 5 because these buildings are located in an SFHA. In addition, depending on the risk factors of building 3, the lender may elect to require flood insurance as a matter of safety and soundness, even if the building is not located in an SFHA.

Further, if any portion of a building is located in an SFHA in which flood insurance is available under the Act, the flood insurance requirement applies even if the entire structure is not located in the SFHA. However, a building located on a portion of a plat or lot that is not in an SFHA is not subject to the mandatory flood insurance purchase requirement even if a portion of the plat or lot not containing a building extends into an SFHA.[9]

APPLICABILITY 4. What is a lender's responsibility if a particular building or mobile home that secures a loan is not located within an SFHA, or is no longer located within an SFHA due to a map change?

Although a lender is not obligated to require mandatory flood insurance on a building or mobile home securing a loan that is not located within an SFHA or is no longer located within an SFHA, a lender may, at its discretion and taking into consideration State law, as appropriate, require flood insurance for property outside of SFHAs for safety and soundness purposes as a condition of a loan being made. Each lender should tailor its own flood insurance policies and procedures to suit its business needs and protect its ongoing interest in the collateral.

APPLICABILITY 5. Does a lender's purchase from another lender of a loan secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act trigger any requirements under the Regulation?

No. A lender's purchase of a loan, secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act, alone, is not an event that triggers the Regulation's requirements, such as making a new flood determination or requiring a borrower to purchase flood insurance. Requirements under the Regulation are triggered when a lender makes, increases, extends, or renews a designated loan.[10] A lender's purchase of a loan does not fall within any of those categories.

However, if a lender becomes aware at any point during the life of a designated loan that flood insurance is required, the requirements of the Regulation apply, including force-placing insurance, if necessary.[11] Depending on the circumstances, the lender may need to conduct due diligence for safety and soundness reasons, which could include determining whether flood insurance on purchased loans is required. Additionally, if the purchasing lender subsequently refinances, extends, increases, or renews a designated loan, it must comply with the Regulation.[12]

APPLICABILITY 6. If a loan is being restructured or modified, does that constitute a triggering event under the Regulation?

It depends. If a loan modification or restructuring involves recapitalizing into the loan's outstanding principal balance: (1) Delinquent payments and other amounts due under the loan and the maturity date of the loan otherwise stays the same, or (2) amounts that were otherwise originally contemplated to be part of the loan pursuant to the contract with the borrower and the maturity date of the loan otherwise stays the same, the Regulation would not apply because the modification or restructuring would not increase, extend, or renew the terms of the loan.

In contrast, if the loan modification or restructuring changes terms of the loan such as by increasing the outstanding principal balance beyond what was contemplated as part of the loan under the contract with the borrower, or by extending the maturity date of the loan, the Regulation would apply because the lender increased or extended the terms of the loan beyond what was originally contemplated to be part of the loan.[13]

APPLICABILITY 7. Are table funded loans treated as new loan originations?

Yes. Table funding, as defined in the Regulation, means a settlement at which a loan is funded by a contemporaneous advance of loan funds and an assignment of the loan to the person advancing the funds.[14] A loan made through a table funding process is treated as though the party advancing the funds has originated the loan.[15] The funding party is required to comply with the Regulation. The table funding lender can meet the administrative requirements of the Regulation by requiring the party processing and underwriting the application to perform those functions on its behalf.

APPLICABILITY 8. Is a lender required by the Act or the Regulation to perform a review of its, or of its servicer's, existing loan portfolio for compliance with the flood insurance requirements under the Act and Regulation?

No. Apart from the requirements mandated when a loan is made, increased, extended, or renewed,[16] a lender need only review and take action on any part of its existing portfolio for safety and soundness purposes, or if it knows or has reason to know of the need for NFIP coverage.[17] Regardless of the lack of such requirement in the Act and Regulation, however, sound risk management practices may lead a lender to conduct scheduled periodic reviews that track the need for flood insurance on a loan portfolio.

APPLICABILITY 9. Do the mandatory purchase requirements under the Act and Regulation apply when a lender participates in a loan syndication or participation?

The acquisition by a lender of an interest in a loan either by participation

[8] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[9] *See* 42 U.S.C. 4012a(b); FEMA Standard Flood Hazard Determination Form.

[10] 12 CFR 22.2(e), 22.3(a) (OCC); 12 CFR 208.25(b)(5) and (c)(1) (Board); 12 CFR 339.2, 339.3(a) (FDIC); 12 CFR 614.4925, 614.4930 (FCA); and 12 CFR 760.2, 760.3(a) (NCUA).

[11] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[12] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930 (FCA); and 12 CFR 760.3(a) (NCUA).

[13] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930 (FCA); and 12 CFR 760.3(a) (NCUA).

[14] 12 CFR 22.2(m) (OCC); 12 CFR 208.25(b)(11) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[15] 12 CFR 22.3(b) (OCC); 12 CFR 208.25(c)(2) (Board); 12 CFR 339.3(b) (FDIC); 12 CFR 614.4930(b) (FCA); and 12 CFR 760.3(b) (NCUA).

[16] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930 (FCA); and 12 CFR 760.3(a) (NCUA).

[17] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

or syndication after that loan has been made does not trigger the requirements of the Act or the Regulation, such as making a new flood determination or requiring a borrower to purchase flood insurance. Nonetheless, as with purchased loans, depending upon the circumstances, the lender may undertake due diligence for safety and soundness purposes to protect itself against the risk of flood or other types of loss.

Lenders who pool or contribute funds that will be simultaneously advanced to a borrower or borrowers as a loan secured by improved real estate would be making a loan that triggers the requirements of the Act and Regulation.[18] Federal flood insurance requirements also would apply when a group of lenders refinances, extends, renews or increases a loan.[19] Although the agreement among the lenders may assign compliance duties to a lead lender or agent, and include clauses in which the lead lender or agent indemnifies participating lenders against flood losses, each participating lender remains individually responsible for compliance with the Act and Regulation. Therefore, the Agencies will examine whether the regulated institution/participating lender has performed upfront due diligence to determine whether the lead lender or agent has undertaken the necessary activities to ensure that the borrower obtains appropriate flood insurance and that the lead lender or agent has adequate controls to monitor the loan(s) on an ongoing basis for compliance with the flood insurance requirements. Further, the Agencies expect the participating lender to have adequate controls to monitor the activities of the lead lender or agent for compliance with flood insurance requirements over the term of the loan. This due diligence and monitoring is especially important when the lead lender itself is not subject to Federal flood insurance requirements.

APPLICABILITY 10. Is a lender expected to consider any triggering event or any cashless roll of which it becomes aware in any tranche of a multi-tranche credit facility, regardless of whether the lender participates in the affected tranche?

No. Consistent with Q&A Applicability 9, the Agencies expect that a lender participating in a multi-tranche credit facility will perform upfront due diligence to determine whether the lead lender has adequate controls to monitor the loan on an ongoing basis for compliance with the flood insurance requirements. This due diligence is especially important when the lead lender itself is not subject to Federal flood insurance requirements. Even though each lender participating in a tranche in a multi-tranche credit facility remains individually responsible for compliance with the flood insurance requirements relating to structures securing the tranche in which it participates, this obligation can be achieved through the upfront due diligence process when determining the lead lender/administrative agent's ongoing monitoring for compliance with flood insurance requirements. A multi-tranche credit facility is analogous in many respects to a loan syndication or participation. Q&A Applicability 9 addresses applicability of the mandatory purchase requirements when a lender participates in a loan syndication or participation. Similar to a loan syndication or participation, a multi-tranche credit facility involves one credit agreement that describes and governs all the tranches. In addition, similar to a loan syndication or participation, a multi-tranche credit facility typically has one lead lender that acts as the administrative agent for the credit facility and its tranches. Thus, the Agencies do not expect a lender participating in one tranche in a multi-tranche credit facility to be responsible for taking direct steps to comply with flood insurance requirements in connection with a triggering event (*i.e.,* making, increasing, extending or renewing) or cashless roll that occurs in a tranche in which the lender does not participate.

A multi-tranche commercial credit facility is a loan arrangement containing more than one type of loan or tranche. Each loan within the overall credit facility is made to the same borrower or group of related borrowers, but the loans may have different lenders and different terms and conditions. For example, a credit facility might have one tranche that is a revolving line of credit with a one-year maturity date and one or more additional tranches that are fixed rate loans with different interest rates and different maturity dates. Various lenders may participate in each tranche. Generally, the tranches share the same collateral and there is one credit agreement that describes and governs all the tranches.

Under most multi-tranche credit facility agreements, a triggering event can occur within a particular tranche without any requirement to notify and obtain the consent of the lenders not participating in that tranche. Lenders may also participate in a cashless roll, which is an exchange of an existing loan for a new or amended loan without any transfer of cash. A cashless roll may be used to replace or supplement existing tranches, but not to increase the total amount of committed debt; therefore, this is not considered a triggering event.

APPLICABILITY 11. Does an automatic extension of a credit facility, that was agreed upon by the borrower and the lender at loan origination and memorialized in the loan agreement, constitute a triggering event i.e., making, increasing, extending or renewing) that would trigger the Federal flood insurance requirements?

No. An automatic extension of a credit facility that was agreed upon by the lender and the borrower at loan origination and memorialized in the loan agreement does not constitute a triggering event (*i.e.,* making, increasing, extending or renewing) that would trigger the Federal flood insurance requirements, because the automatic extension was agreed to in the original loan contract.

APPLICABILITY 12. What is the applicability of the mandatory purchase requirement during a period of time when coverage under the NFIP is not available?

During a period when coverage under the NFIP is not available, such as due to a lapse in authorization or in appropriations, lenders may continue to make loans subject to the Regulation without requiring flood insurance coverage. However, lenders must continue to make flood determinations,[20] provide timely, complete, and accurate notices to borrowers,[21] and comply with other applicable parts of the Regulation.

In addition, lenders should evaluate safety and soundness and legal risks and prudently manage those risks during a period when coverage under the NFIP is not available. Lenders should take appropriate measures or consider possible options in consultation with the borrower to mitigate loss exposures in the event of a flood during such periods. For example,

- Lenders may determine the risk of loss is sufficient to justify a postponement in closing the loan until the NFIP coverage is available again.
- Lenders may require the borrower to obtain private flood insurance if available, as a condition of closing the

[18] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[19] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[20] 12 CFR 22.6(a) (OCC); 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6(a) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(a) (NCUA).

[21] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

loan. However, after considering the cost of the private flood policy, a lender or the borrower may decide to postpone closing rather than incur a long-term obligation to address a possible short-term lapse.

• Lenders may make the loan without requiring the borrower to apply for flood insurance and pay the premium while NFIP coverage is unavailable. However, this option poses a number of risks that should be carefully evaluated. Moreover, once NFIP coverage becomes available again, the Agencies expect that flood insurance will be obtained for these loans, including, if necessary, by force placement.[22] Before making such loans, lenders should make borrowers aware of the flood insurance requirements and that force-placed insurance is typically more costly than borrower-obtained insurance. Lenders also should have a process to identify these loans to ensure that insurance is promptly purchased when NFIP coverage becomes available subsequent to their closing.

APPLICABILITY 13. What is a ''triggering event'' under the Regulation? If there is a triggering event, what is required under the Regulation?

Under the Regulation, a triggering event occurs when a designated loan is made, increased, extended, or renewed (also known as a ''MIER'' or ''MIRE'' event).[23] If a triggering event occurs with respect to a designated loan, the lender must comply with the Regulation as applicable, including the mandatory flood insurance purchase requirement, the requirement to provide the Notice of Special Flood Hazards to the borrower, the requirement to notify the Administrator of the Federal Emergency Management Agency (FEMA) or the Administrator's designee (the insurance provider) in writing of the identity of the servicer of the loan, and the requirement to escrow for a loan secured by residential property, unless either the lender or the loan qualifies for an exception.[24]

Examples of events that are not considered triggering events for purposes of the Regulation include: The purchase of a loan from another lender (*see* Q&A Applicability 5); a loan restructuring or modification that does not increase the amount of the loan nor extend or renew the terms of the loan (*see* Q&A Applicability 6); the assumption of the loan by another borrower; the remapping of a building securing the loan into an SFHA; the acquisition by a lender of an interest in a loan either by participation or syndication (*see* Q&A Applicability 9); a cashless roll (*see* Q&A Applicability 10); certain automatic extensions of credit (*see* Q&A Applicability 11); And certain treatments of force placement premiums and fees (*see* Q&A Force Placement 10).

APPLICABILITY 14. May a lender rely on an insurance policy providing portfolio-wide coverage to meet the flood insurance purchase requirement or the force placement requirement under the Regulation?

It depends. A lender may not rely on an insurance policy providing portfolio-wide coverage to meet the flood insurance purchase or force placement requirements if the policy only provides coverage to the lender (''single interest''). When a flood insurance policy has expired and the borrower has failed to renew coverage, insurance policies providing portfolio-wide coverage may be useful protection for the lender for a gap in coverage in the period of time before a force-placed policy takes effect. However, even if a lender has portfolio-wide coverage to address gaps, the lender must still ensure the flood insurance purchase requirement is satisfied at the time a loan is made, increased, renewed or extended, and the lender must still force place coverage on the borrower's behalf in a timely manner, as required,[25] and may not rely on an insurance policy that provides portfolio-wide coverage as a substitute for a force-placed policy.

In contrast, lenders may purchase a master flood insurance policy that provides coverage for its entire portfolio and covers both the lender and the borrower (''dual interest''). Such policies provide coverage for the entire portfolio as well as individual coverage, and include the issuance of an individual property policy or certificate after the required notice period.

APPLICABILITY 15. When does mandatory flood insurance on a designated loan need to be in place during the closing process?

The Regulation states that a lender cannot ''make'' a loan secured by a property in an SFHA without adequate flood insurance coverage being in place.[26] A lender should use the loan ''closing date'' to determine the date by which flood insurance must be in place for a designated loan. FEMA deems the ''closing date'' as the day the ownership of the property transfers to the new owner based on State law.

''Wet funding'' and ''dry funding,'' which varies by State, refer to when a mortgage is considered officially closed. In a ''wet'' settlement State, the signing of closing documents, funding, and transfer of title occur all on the same day. By contrast, in a ''dry'' settlement State, documents are signed on one date, but loan funding and/or transfer of title/recording occur on subsequent date(s). Therefore, in ''dry'' settlement States, the ''closing date'' is the date of property transfer, regardless of loan signing or funding date.

For transactions where there is no transfer of property ownership, such as a refinance, and the borrower is purchasing a new flood insurance policy or is required to increase flood insurance coverage, the lender should use the loan's consummation date as the effective date for the flood insurance policy, as noted above.

It is also important to note that the application and premium payment for NFIP flood insurance must be provided at or prior to the ''closing date'' since this impacts the FEMA flood insurance effective date and any resulting 30-day waiting period for new policies not made in connection with a triggering event. This application requirement applies for properties located in both dry and wet settlement States. *See* NFIP *Flood Insurance Manual.*

II. Exemptions From the Mandatory Flood Insurance Purchase Requirements (Exemptions)

EXEMPTIONS 1. What are the exemptions from the mandatory purchase requirement?

There are only three exemptions from the mandatory requirement to purchase flood insurance on a designated loan. The first applies to State-owned property covered under a policy of self-insurance satisfactory to the Administrator of FEMA.[27] The second applies if both the original principal balance of the loan is $5,000 or less, and the original repayment term is one year or less.[28] The third applies to any structure that is a part of any residential property but is detached from the primary residential structure of such property and does not serve as a residence. For purposes of the detached

[22] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[23] 12 CFR 22.3(a); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[24] *See* 12 CFR part 22 (OCC); 12 CFR 208.25 (Board); 12 CFR part 339 (FDIC); 12 CFR part 614 (FCA); and 12 CFR part 760 (NCUA).

[25] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[26] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[27] 12 CFR 22.4(a) (OCC); 12 CFR 208.25(d)(1) (Board); 12 CFR 339.4(a) (FDIC); 12 CFR 614.4932(a) (FCA); and 12 CFR 760.4(a) (NCUA).

[28] 12 CFR 22.4(b) (OCC); 12 CFR 208.25(d)(2) (Board); 12 CFR 339.4(b) (FDIC); 12 CFR 614.4932(b) (FCA); and 12 CFR 760.4(b) (NCUA).

structure exemption, a ''structure that is a part of residential property'' is a structure used primarily for personal, family, or household purposes, and not used primarily for agricultural, commercial, industrial, or other business purposes. In addition, a structure is ''detached'' from the primary residential structure if it is not joined by any structural connection to that structure. Furthermore, whether a structure ''does not serve as a residence'' is based upon the good faith determination of the lender that the structure is not intended for use or actually used as a residence, which generally includes sleeping, bathroom, or kitchen facilities.[29] *See also* Q&A Exemptions 2. If one of these exemptions applies, a borrower may still elect to purchase flood insurance. Also, a lender may require flood insurance as a condition of making the loan, as a matter of safety and soundness.

EXEMPTIONS 2. Does a lender have to take a security interest in the primary residential structure for detached structures to be eligible for the detached structure exemption? For example, suppose the house on a farm is not collateral, but all of the outbuildings including the barn, the equipment storage shed, and the silo (which are used for farm production), and a detached garage where the homeowner keeps his car, are taken as collateral. May the lender apply the detached structure exemption to the outbuildings?

The lender does not have to take a security interest in the primary residential structure for detached structures to be eligible for the exemption, but the lender needs to evaluate the uses of detached structures to determine if they are eligible.[30] The term ''a structure that is part of a residential property'' in the detached structure exemption applies only to structures for which there is a residential use and not to structures for which there is a commercial, agricultural, or other business use.[31] In this example, only the garage is serving a residential use, so it could qualify for the exemption. The barn, equipment storage shed, and silo, which are used for farm production, would not qualify for the exemption.

EXEMPTIONS 3. Is a flood hazard determination required even where the secured property may contain detached structures for which coverage is not required under the Regulation?

Yes, as required under the Regulation, a flood hazard determination is needed to determine whether a building or mobile home securing a loan is or will be located in an SFHA where flood insurance is available under the Act.

In order to determine whether the exemption for non-residential detached structures that are part of a residential property may apply, a flood hazard determination must be conducted first, without regard to whether there may be any detached structures that could be exempt.[32]

EXEMPTIONS 4. If a borrower currently has a flood insurance policy on a detached structure that is part of residential property and the detached structure does not serve as a residence, may the lender or its servicer cancel its requirement to carry flood insurance on that structure?

Yes. If a borrower has a flood insurance policy on a detached structure that is part of a residential property and does not serve as a residence, the lender is no longer mandated by the Act to require flood insurance on that structure.[33] The lender may allow the borrower to cancel the policy. If warranted as a matter of safety and soundness, the lender may continue to require flood insurance coverage on the detached structure.

EXEMPTIONS 5. In the event that a triggering event has occurred, is the lender required to review the intended use of each detached structure?

Yes, a lender must examine the status of a detached structure upon a qualifying triggering event to determine whether the detached structure exemption still applies.[34] *See* Applicability 13. There is no duty to monitor the status of a detached structure following the lender's initial determination unless a triggering event occurs. However, regardless of the absence of a duty to monitor the status of a detached structure in the Regulation, sound risk management practices may lead a lender to conduct scheduled periodic reviews that track the need for flood insurance on a loan portfolio.

EXEMPTIONS 6. May a lender review current loans in its portfolio as the flood insurance policies renew and determine that it will no longer require flood insurance on a detached structure in an SFHA if the structure does not contribute to the value of the property securing the loan?

A lender or servicer could initiate such a review; however, the Regulation does not permit the exemption of structures from the mandatory flood insurance purchase requirement based solely on whether the detached structure contributes value to the overall residential property securing the loan.[35] In the case of any residential property, flood insurance is not required on any structure that is part of such property as long as it is detached from the primary residential structure and does not serve as a residence.[36] In addition, there are other exemptions that could apply: The exemption for State-owned property covered under a policy of self-insurance satisfactory to the Administrator of FEMA or the exemption for property securing any loan with an original principal balance of $5,000 or less and a repayment term of one year or less.[37]

EXEMPTIONS 7. If a loan is secured by a residential property and the primary residential structure is joined to another building by a stairway or covered walkway, for purposes of Federal flood insurance requirements, would the other building qualify as a detached structure?

For purposes of the detached structure exemption, a structure is ''detached'' from the primary residential structure if it is not joined by any structural connection to that structure.[38] That is, a structure is ''detached'' if it stands alone. This definition is consistent with the coverage provision of the NFIP's Standard Flood Insurance Policy (SFIP) for additions and extensions to the dwelling unit. *See* the *NFIP Flood Insurance Manual.* In this case, the other building would not qualify as a detached structure because it is attached to the primary residential

[29] 12 CFR 22.4(c) (OCC); 12 CFR 208.25(d)(3) (Board); 12 CFR 339.4(c) (FDIC); 12 CFR 614.4932(c) (FCA); and 12 CFR 760.4(c) (NCUA).

[30] 12 CFR 22.4(c) (OCC); 12 CFR 208.25(d)(3) (Board); 12 CFR 339.4(c) (FDIC); 12 CFR 614.4932(c) (FCA); and 12 CFR 760.4(c) (NCUA).

[31] 12 CFR 22.4(c)(1) (OCC); 12 CFR 208.25(d)(3)(i) (Board); 12 CFR 339.4(c)(1)(FDIC); 12 CFR 614.4932(c)(1) (FCA); and 12 CFR 760.4(c)(1) (NCUA).

[32] 12 CFR 22.6(a) (OCC); 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6(a) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(a) (NCUA).

[33] 12 CFR 22.4(c) (OCC); 12 CFR 208.25(d)(3) (Board); 12 CFR 339.4(c) (FDIC); 12 CFR 614.4932(c) (FCA); and 12 CFR 760.4(c) (NCUA).

[34] 12 CFR 22.3(a) and 22.4(c) (OCC); 12 CFR 208.25(c)(1) and 208.25(d)(3) (Board); 12 CFR 339.3(a) and 339.4(c) (FDIC); 12 CFR 614.4930(a) and 614.4932(c) (FCA); and 12 CFR 760.3(a) and 760.4(c) (NCUA).

[35] 12 CFR 22.4(c) (OCC); 12 CFR 208.25(d)(3) (Board); 12 CFR 339.4(c) (FDIC); 12 CFR 614.4932(c) (FCA); and 12 CFR 760.4(c) (NCUA).

[36] *Id.*

[37] 12 CFR 22.4(a) and (b) (OCC); 12 CFR 208.25(d)(1) and (2) (Board); 12 CFR 339.4(a) and (b) (FDIC); 12 CFR 614.4932(a) and (b) (FCA); and 12 CFR 760.4(a) and (b) (NCUA).

[38] 12 CFR 22.4(c)(2) (OCC); 12 CFR 208.25(d)(3)(ii) (Board); 12 CFR 339.4(c)(2) (FDIC); 12 CFR 614.4932(c)(2) (FCA); and 12 CFR 760.4(c)(2) (NCUA).

structure by a stairway or covered walkway and does not stand alone.

III. Private Flood Insurance—Mandatory Acceptance (Mandatory)

MANDATORY 1. May a lender decide to only accept private flood insurance policies under the mandatory acceptance provision of the Regulation?

Yes. A lender is only required to accept flood insurance policies issued by a private insurer that meet the definition of ''private flood insurance'' under the Regulation, as long as the policy meets the amount of insurance required under the Regulation. A lender is not required to accept flood insurance policies that only meet the criteria set forth in the discretionary acceptance or mutual aid provision of the Regulation.

MANDATORY 2. If a lender has a policy not to originate a mortgage in non-participating communities or coastal barrier regions where the NFIP is not available, do the private flood insurance requirements under the Regulation require a lender to change its policy?

The Regulation does not require that a lender originate a loan that does not meet the lender's underwriting criteria. The flood insurance purchase requirement only applies to loans secured by structures located or to be located in an SFHA in which flood insurance is available under the Act.[39] The flood insurance purchase requirement does not apply within non-participating communities, where NFIP insurance is not available under the Act. *See* Q&A Applicability 1. Therefore, the lender does not need to change its policy of not originating mortgages in areas where NFIP insurance is unavailable solely because of the private flood insurance requirements under the Regulation.

MANDATORY 3. Did the Agencies intend the compliance aid statement to act as a conformity clause that would make a private policy conform to the definition of ''private flood insurance''?

No. The Agencies did not intend the compliance aid statement to act as a conformity clause. Rather, the compliance aid statement is intended to facilitate the ability of lenders, as well as consumers, to recognize policies that meet the definition of ''private flood insurance'' and promote the consistent acceptance of policies that meet this definition. The compliance aid statement is intended to leverage the expertise of insurers to assist lenders in satisfying the ''private flood insurance'' definition of the Regulation.

MANDATORY 4. Is a lender required to accept a flood insurance policy issued by a private insurer that includes the compliance aid statement? Conversely, may a lender reject a flood insurance policy issued by a private insurer solely because it does not contain the compliance aid statement?

If a flood insurance policy issued by a private insurer includes the compliance aid statement, the lender may choose to rely upon the statement and would not need to review the policy further to determine if the policy meets the definition of ''private flood insurance.''

However, the lender is not required to accept this policy based upon inclusion of the compliance aid statement alone and may choose to make its own determination about whether the policy meets the definition of ''private flood insurance'' or whether the policy is acceptable under the discretionary acceptance or mutual aid criteria.[40]

If a flood insurance policy issued by a private insurer does not include the compliance aid statement, the lender may not reject the policy solely because it does not include this statement. The lender is not relieved from the requirement to accept a policy that meets the definition of ''private flood insurance,'' as long as the policy meets the amount of insurance required under the Regulation.[41] Further, the lender may determine the policy is acceptable under the discretionary acceptance or mutual aid criteria.

MANDATORY 5. If a flood insurance policy issued by a private insurer includes the compliance aid statement, does a lender need to conduct an additional review of the policy for compliance with the mandatory acceptance provision of the Regulation?

No, under the mandatory acceptance provision of the Regulation, if a policy or an endorsement to the policy contains the compliance aid statement, further review is not necessary in order for the lender to determine that a policy meets the definition of ''private flood insurance.''[42] It is important to note that, in order for the lender to rely on the compliance aid statement without further review of the policy, the language of the compliance aid statement must be stated in the policy, or as an endorsement to the policy, as set forth in the Regulation.[43] If the language is different from the compliance aid statement set forth in the Regulation, the lender cannot rely on the protections of the compliance aid statement in the Regulation and should review the policy to determine if it meets the definition of ''private flood insurance.'' However, a policy containing the compliance aid statement need not be rejected if there are stylistic differences, such as formatting, font, and punctuation that do not change the substantive meaning of the clause, from the compliance aid statement included in the Regulation. *See also* Q&A Mandatory 6.

MANDATORY 6. Under the Regulation, what additional reviews does a lender need to conduct if the flood insurance policy issued by a private insurer includes the compliance aid statement?

Although a lender may rely on the compliance aid statement to determine that a flood insurance policy meets the definition of ''private flood insurance'' in the Regulation, the lender must also ensure that the amount of insurance is at least equal to the lesser of the outstanding principal balance of the designated loan, or the maximum limit of coverage available for the particular type of property under the Act.[44] *See also* Q&A Mandatory 5.

MANDATORY 7. If a flood insurance policy issued by a private issuer does not include a compliance aid statement, can a lender use the criteria under the discretionary acceptance provision to decide whether to accept the policy without first checking to see if the policy meets the criteria under the mandatory acceptance provision?

Yes, the lender may first review the policy to determine whether it meets the criteria under the discretionary acceptance provision.[45] However, if the policy does not meet the discretionary acceptance criteria, the lender will still need to determine whether it must accept the policy under the mandatory acceptance criteria.[46]

Note that if the lender accepts a policy under the discretionary

[39] Public Law 93–234, 87 Stat. 975 (1973).

[40] *See* 12 CFR 22.3(c) (OCC); 12 CFR 208.25(c)(3) (Board); 12 CFR 339.3(c) (FDIC); 12 CFR 614.4930(c) (FCA); and 12 CFR 760.3(c) (NCUA).

[41] 12 CFR 22.3(c)(1) (OCC); 12 CFR 208.25(c)(3)(i) (Board); 12 CFR 339.3(c)(1) (FDIC); 12 CFR 614.4930(c)(1) (FCA); and 12 CFR 760.3(c)(1) (NCUA).

[42] 12 CFR 22.3(c)(2) (OCC); 12 CFR 208.25(c)(3)(ii) (Board); 12 CFR 339.3(c)(2) (FDIC); 12 CFR 614.4930(c)(2) (FCA); and 12 CFR 760.3(c)(2) (NCUA).

[43] 12 CFR 22.3(c)(2) (OCC); 12 CFR 208.25(c)(3)(ii) (Board); 12 CFR 339.3(c)(2) (FDIC); 12 CFR 614.4930(c)(2) (FCA); and 12 CFR 760.3(c)(2) (NCUA).

[44] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[45] 12 CFR 22.3(c)(3) (OCC); 12 CFR 208.25(c)(3)(iii) (Board); 12 CFR 339.3(c)(3) (FDIC); 12 CFR 614.4930(c)(3) (FCA); and 12 CFR 760.3(c)(3) (NCUA).

[46] 12 CFR 22.3(c) (OCC); 12 CFR 208.25(c)(3) (Board); 12 CFR 339.3(c) (FDIC); 12 CFR 614.4930(c) (FCA); and 12 CFR 760.3(c) (NCUA).

acceptance provision, the Regulation requires the lender to document that the policy provides sufficient protection of the loan.[47] *See also* Q&A Discretionary 2.

MANDATORY 8. If a lender only receives a declarations page without receiving a copy of the policy, and the declarations page includes the compliance aid statement, may the lender accept the policy?

If the compliance aid statement is included on the declarations page, a lender may determine the policy meets the definition of ''private flood insurance'' without further review. However, a lender also must ensure that the policy meets the amount of insurance required under the Regulation. *See* Q&A Mandatory 6.

MANDATORY 9. May a lender accept a private flood insurance policy that includes a compliance aid statement, but also includes a disclaimer explaining that the ''insurer is not licensed in the State or jurisdiction in which the property is located,'' which suggests that the policy is issued by a surplus lines insurer?

Even if the policy includes a statement indicating that the insurer is not licensed in the State or jurisdiction in which the property is located, suggesting that the policy is issued by a surplus lines insurer, but contains a compliance aid statement, lenders may accept the policy as long as the policy complies with the Regulation and applicable State laws. *See* Q&A Private Flood Compliance 10.

IV. Private Flood Insurance—Discretionary Acceptance (Discretionary)

DISCRETIONARY 1. Are lenders required to accept flood insurance policies that meet the discretionary acceptance criteria?

No, the discretionary acceptance criteria in the Regulation sets forth the minimum acceptable criteria that a flood insurance policy must have for the lender to accept the policy under the discretionary acceptance provision. It is at the lender's discretion to accept a policy that meets the discretionary acceptance criteria so long as the policy does not meet the mandatory acceptance criteria.

DISCRETIONARY 2. If the lender determines that a flood insurance policy meets the discretionary acceptance criteria and accepts that policy, what documentation will demonstrate that the policy provides sufficient protection of the loan, consistent with general safety and soundness principles?

The Regulation requires the lender to document its conclusion in writing that the policy provides sufficient protection of the loan, consistent with general safety and soundness principles. *See also* Q&A Discretionary 4. This review may be performed and recorded electronically. While the Regulation does not require any specific documentation to demonstrate that the policy provides sufficient protection of the loan, lenders may include any information that reasonably supports the lender's conclusion following review of the policy.

DISCRETIONARY 3. How can a lender evaluate the sufficiency of an insurer's solvency, strength, and ability to satisfy claims when determining whether a flood insurance policy provides sufficient protection of the loan, consistent with general safety and soundness principles?

A lender may evaluate an insurer's solvency, strength, and ability to satisfy claims by obtaining information from the State insurance regulator's office of the State in which the property securing the loan is located, among other options. A lender can rely on the licensing or other processes used by the State insurance regulator for such an evaluation. *See* Q&A Discretionary 4.

DISCRETIONARY 4. What are some factors to consider when determining whether a flood insurance policy issued by a private insurer under the discretionary acceptance provision or a mutual aid plan provides sufficient protection of a loan secured by improved real property located in an SFHA, consistent with general safety and soundness principles?

Some factors, among others, that a lender could consider in determining whether a policy provides sufficient protection of a loan include whether: (1) A policy's deductible is reasonable based on the borrower's financial condition; (2) the insurer provides adequate notice of cancellation to the mortgagor and mortgagee to allow for timely force placement of flood insurance, if necessary; (3) the terms and conditions of the policy, with respect to payment per occurrence or per loss and aggregate limits, are adequate to protect the regulated lending institution's interest in the collateral; (4) the flood insurance policy complies with applicable State insurance laws; and (5) the private insurance company has the financial solvency, strength, and ability to satisfy claims.

V. Private Flood Insurance—General Compliance (Private Flood Compliance)

PRIVATE FLOOD COMPLIANCE 1. What is the maximum deductible a flood insurance policy issued by a private insurer can have for residential or commercial properties located in an SFHA?

The maximum deductible for a flood insurance policy issued by a private insurer varies depending on whether the lender accepts the policy under the mandatory acceptance or the discretionary acceptance provision. For purposes of compliance with the mandatory acceptance provision, the Regulation provides that a policy must provide coverage at least as broad as the coverage provided under an SFIP for the same type of property, including a deductible that is no higher than the specified maximum under an SFIP for any total coverage amount up to the maximum available under the NFIP at the time the policy is provided to the lender.[48] For a private policy with a coverage amount exceeding that available under the NFIP, the deductible may exceed the specific maximum deductible under an SFIP. However, for safety and soundness purposes, the lender should consider whether the deductible is reasonable based on the borrower's financial condition, among other factors. *See* Q&A Amount 9.

- For example, if a private policy for a commercial building provided $1,000,000 of flood insurance coverage, which is in excess of the NFIP maximum coverage of $500,000 for a commercial building, then it would be acceptable for a million-dollar policy to have a deductible higher than the maximum deductible for a policy available under the NFIP. The lender should consider whether the deductible is reasonable based on the borrower's financial condition.
- Similarly, if a private policy for a residential building provided $1,000,000 of flood insurance coverage, which is in excess of the NFIP maximum coverage of $250,000 for a residential building, then it would be acceptable for a million-dollar policy to have a deductible higher than the maximum deductible for a policy available under the NFIP. The lender should consider whether the deductible is reasonable based on the borrower's financial condition.

For purposes of compliance with the discretionary acceptance provision, the Regulation requires that the policy provide sufficient protection of the loan,

[47] 12 CFR 22.3(c)(3) (OCC); 12 CFR 208.25(c)(3)(iii) (Board); 12 CFR 339.3(c)(3) (FDIC); 12 CFR 614.4930(c)(3) (FCA); and 12 CFR 760.3(c)(3) (NCUA).

[48] 12 CFR 22.2(k) (OCC); 12 CFR 208.25(b)(9) (Board); 12 CFR 339.2 (FDIC): 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

consistent with safety and soundness principles.[49] Among the factors a lender could consider in determining whether a policy provides sufficient protection of a loan is whether the policy's deductible is reasonable based on the borrower's financial condition. Unlike the limitation on deductibles for policies accepted under the mandatory acceptance provision for any total coverage amount up to the maximum available under the NFIP, a lender can accept a flood insurance policy issued by a private insurer under the discretionary acceptance provision with a deductible higher than that for an SFIP for a similar type of property, provided the lender has determined the policy provides sufficient protection of the loan, consistent with safety and soundness principles.

Whether the lender is evaluating the policy under the mandatory acceptance provision or the discretionary acceptance provision, a lender may not allow the borrower to use a deductible amount equal to the insurable value of the property to avoid the mandatory purchase requirement for flood insurance.[50] However, a lender may accept a private flood insurance policy covering multiple buildings regardless of whether any single building covered by the policy has an insurable value lower than the amount of the per occurrence deductible. *See* Q&A Amount 9, Q&A Amount 10, and Q&A Private Flood Compliance 2.

PRIVATE FLOOD COMPLIANCE 2. May a lender require that the deductible of any flood insurance policy issued by a private insurer be lower than the maximum deductible for an SFIP?

Yes. If the lender is accepting the private flood insurance policy under the mandatory acceptance provision, the Regulation requires that the private flood insurance policy be at least as broad as an SFIP, which includes a requirement that the private flood insurance policy contain a deductible *no higher* than the specified maximum deductible for an SFIP.[51] The lender may require a borrower's private flood insurance policy deductible to be lower than the maximum deductible for an SFIP in connection with a policy that the lender accepts under the mandatory acceptance provision, consistent with general safety and soundness principles and based on a borrower's financial condition, among other factors.

If the lender is accepting a flood insurance policy issued by a private insurer under the discretionary acceptance provision, the lender need only consider whether the policy, including the stated deductible, provides sufficient protection of the loan, consistent with general safety and soundness principles.[52] *See also* Q&A Private Flood Compliance 1.

PRIVATE FLOOD COMPLIANCE 3. If a lender utilizes a third party to review flood insurance policies, would it be permissible for a lender to charge the borrower a fee for this review?

The Act and the Regulation do not prohibit lenders from charging fees to borrowers for contracting with third parties to review flood insurance policies issued by private insurers. As explained in Q&A Fees 1 and Q&A Fees 2, lenders may charge limited, reasonable fees for flood determinations and life-of-loan monitoring. Similarly, the Act and the Regulation do not prohibit lenders from charging a fee to a borrower when a third party reviews a flood insurance policy issued by a private insurer. However, lenders should be aware of any other applicable requirements regarding fees and disclosures of fees.

PRIVATE FLOOD COMPLIANCE 4. If the policy is not available prior to closing, what can the lender rely on to make sure the policy meets the private flood insurance requirements of the Regulation?

The Act and Regulation do not specify the acceptable types of documentation for a lender to rely on when reviewing a flood insurance policy issued by a private insurer. Lenders should determine whether they have sufficient evidence to show the policy meets the private flood insurance requirements under the Regulation.

Lenders can take steps to help mitigate against closing delays such as designating employees responsible for reviewing flood policies, training employees, and requesting additional information from insurers early in the process. If the lender does not have enough information to determine if the policy meets the private flood insurance requirements under the Regulation, then the lender should timely request additional information as necessary to complete its review. *See also* Q&A Private Flood Compliance 5.

PRIVATE FLOOD COMPLIANCE 5. Under existing force placement requirements, a declarations page is sufficient to evidence a borrower's purchase of a flood insurance policy. Does the declarations page have sufficient information for a lender to determine whether the policy complies with the private flood insurance requirements of the Regulation?

It depends. If the declarations page provides enough information for the lender to determine whether the policy meets the mandatory acceptance provision or discretionary acceptance provision of the Regulation or if the declarations pages contains the compliance aid statement, then the lender may rely on the declarations pages. However, if the declarations page does not provide enough information for the lender to determine whether the policy satisfies the mandatory acceptance provision or discretionary acceptance provision of the Regulation, the lender should request additional information about the policy to aid in making its determination.

PRIVATE FLOOD COMPLIANCE 6. May a lender accept a multiple-peril policy issued by a private insurer to satisfy the mandatory purchase of flood insurance requirement?

Yes. A lender can accept a multiple-peril policy that covers the hazard of flood, either in the policy or as an endorsement, under the private flood insurance provisions of the Regulation.

PRIVATE FLOOD COMPLIANCE 7. How do the private flood insurance requirements of the Regulation, especially the compliance aid statement, work in conjunction with the requirements from secondary market investors (for example, the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac))?

Lenders must comply with Federal flood insurance requirements. The requirements for the secondary market are separate from the Regulation. A lender should carefully review these separate requirements for secondary market investors regarding acceptable private flood insurance if the lender plans to sell loans to such investors and should direct questions regarding these requirements to the appropriate entities.

PRIVATE FLOOD COMPLIANCE 8. When servicing a loan covered by flood insurance pursuant to the Act and the Regulation, which requirements must a servicer follow in evaluating the acceptance of a flood insurance policy issued by a private insurer?

For loans serviced on behalf of lenders supervised by the Agencies, the servicer must comply with the

[49] 12 CFR 22.3(c)(3)(iv) (OCC); 12 CFR 208.25(c)(3)(iii)(D) (Board); 12 CFR 339.3(c)(3)(iv) (FDIC); 12 CFR 614.4930(c)(3)(iv) (FCA); and 12 CFR 760.3(c)(3)(iv) (NCUA).

[50] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[51] 12 CFR 22.2(k)(2)(iii) (OCC); 12 CFR 208.25(b)(9)(ii)(B) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[52] 12 CFR 22.3(c)(3)(iv)(D) (OCC); 12 CFR 208.25(c)(3)(iii)(D) (Board); 12 CFR 339.3(c)(3)(iv) (FDIC); 12 CFR 614.4930(c)(3)(iv) (FCA); and 12 CFR 760.3(c)(3)(iv) (NCUA).

Regulation in determining whether a flood insurance policy issued by a private insurer must be accepted under the mandatory acceptance provision or may be accepted under the discretionary acceptance provision or mutual aid provision. For loans serviced on behalf of other entities not supervised by the Agencies, the servicer should comply with the terms of its contract with that entity. For example, when servicing loans on behalf of Fannie Mae or Freddie Mac, where there are insurer rating requirements specified within those entities' servicing guidance or other relevant authorities that are not required in the Regulation, the servicer should adhere to those servicing requirements.

PRIVATE FLOOD COMPLIANCE 9. How can a lender determine: (i) whether an insurer is licensed or admitted in a particular State, (ii) or whether a surplus lines or nonadmitted alien insurer is permitted to issue an insurance policy in a particular State?

A lender may refer to the website of the State insurance regulator where the collateral property is located to determine whether a particular insurer is licensed, admitted, or otherwise permitted to issue an insurance policy in a particular State. If the lender cannot determine this information from the website, the lender could contact the State insurance regulator directly. Further, information with respect to surplus lines insurer eligibility also may be available in the Consumer Insurance Search (CIS) tool available on the National Association of Insurance Commissioners (NAIC) website. Lenders may consult commercial service providers regarding the eligibility of surplus lines insurers in particular States provided the lenders have a reasonable basis to believe that these service providers have reliable information. With regard to nonadmitted alien insurers in particular, lenders could review the NAIC's Quarterly Listing of Alien Insurers.[53]

PRIVATE FLOOD COMPLIANCE 10. May lenders accept policies issued by private insurers that are surplus lines insurers for noncommercial properties?

Yes, if the surplus lines insurer is eligible or not disapproved to place insurance in the State or jurisdiction in which the property to be insured is located, lenders may accept policies issued by surplus lines insurers as coverage for noncommercial (*i.e.,* residential) properties.

Consistent with the Act and the Regulation, the Agencies confirm that policies issued by surplus lines insurers for noncommercial properties are covered in the definition of ''private flood insurance'' and in the discretionary acceptance provision. In the definition of ''private flood insurance,'' surplus lines policies for noncommercial properties are covered as policies that are issued by insurance companies that are ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.'' [54] Similarly, within the discretionary acceptance provision, noncommercial residential policies issued by surplus lines carriers are covered as policies that are issued by private insurance companies that are ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.'' [55]

For purposes of the Regulation, the meaning of ''otherwise approved'' is based on whether applicable State law provides that the surplus lines insurer is eligible or not disapproved to place insurance in that State. Even if the surplus lines insurer is not considered to be engaged in the business of insurance under applicable State law, the surplus lines insurer would still be ''otherwise approved'' only for purposes of this provision of the Regulation if the insurer is eligible or not disapproved to place insurance in the State.

PRIVATE FLOOD COMPLIANCE 11. When must a lender review a flood insurance policy issued by a private insurer under the private flood insurance requirements of the Regulation?

Any time the borrower presents the lender with a new flood insurance policy issued by a private insurer, regardless of whether a triggering event occurred, the lender must review the policy to determine whether it meets the private flood insurance requirements of the Regulation.[56] A lender may determine that the policy meets the mandatory acceptance criteria without further review if the policy or an endorsement to the policy includes the compliance aid statement.[57] If there is no compliance aid statement, or the lender chooses not to rely on the compliance aid statement, the lender must conduct its own review to determine if the policy meets the mandatory acceptance criteria. *See* Q&A Mandatory 4. If the policy does not meet the mandatory acceptance criteria, the lender may still accept the policy if it meets the discretionary acceptance criteria, or, if applicable, the mutual aid plan criteria. *See also* Q&A Mandatory 7. If the policy does not meet the mandatory acceptance, discretionary acceptance, or mutual aid plan criteria, the lender may not accept the policy.[58]

If the lender has previously reviewed the flood insurance policy under the mandatory acceptance provision, the discretionary acceptance provision, or the mutual aid plan provision the lender may rely on its previous review, provided there are no changes to the terms of the policy that would affect the acceptance under the Regulation. The lender's previous written documentation will constitute the documentation required under the Regulation each time the policy comes up for renewal. The lender should have effective internal controls in place through appropriate policies, procedures, training, and monitoring to ensure compliance with the requirements of the Regulation.

VI. Standard Flood Hazard Determination Form (SFHDF)

SFHDF 1. Does the SFHDF replace the borrower notification form?

No. The SFHDF is used by the lender to determine whether the building or mobile home offered as collateral security for a loan is or will be located in an SFHA in which flood insurance is available under the Act.[59] The notification form, on the other hand, is used to notify the borrower(s) that the building or mobile home is or will be located in an SFHA and to inform the borrower(s) about flood insurance requirements and the availability of Federal disaster relief assistance.[60]

SFHDF 2. May a lender provide the SFHDF to the borrower?

[53] *https://www.naic.org/prod_serv_alpha_listing.htm#quarterly_alien.*

[54] *See* 84 FR 4953, 4955–4956 (Feb. 20, 2019). *See also* 12 CFR 22.2(k)(1)(i) (OCC); 12 CFR 208.25(b)(9)(i)(A) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[55] *See* 84 FR 4953, 4962 (Feb. 20, 2019). *See also* 12 CFR 22.3(c)(3)(ii) (OCC); 12 CFR 208.25(c)(3)(iii)(B) (Board); 12 CFR 339.3(c)(3)(ii) (FDIC); 12 CFR 614.4930(c)(3)(ii) (FCA); and 12 CFR 760.3(c)(3)(ii) (NCUA).

[56] *See* 12 CFR 22.3(c)(1) (OCC); 12 CFR 208.25(c)(3)(i) (Board); 12 CFR 339.3(c)(1) (FDIC); 12 CFR 614.4930(c)(1) (FCA); and 12 CFR 760.3(c)(1) (NCUA).

[57] 12 CFR 22.3(c)(2) (OCC); 12 CFR 208.25(c)(3)(ii) (Board); 12 CFR 339.3(c)(2) (FDIC); 12 CFR 614.4930(c)(2) (FCA); and 12 CFR 760.3(c)(2) (NCUA).

[58] 12 CFR 22.3(c) (OCC); 12 CFR 208.25(c) (Board); 12 CFR 339.3(c) (FDIC); 12 CFR 614.4930(c) (FCA); and 12 CFR 760.3(c) (NCUA).

[59] 12 CFR 22.6(a) (OCC); 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6 (FDIC); 12 CFR 614.4940 (FCA); and 12 CFR 760.6 (NCUA).

[60] 12 CFR 22.9 (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9 (FDIC); 12 CFR 614.4955 (FCA); and 12 CFR 760.9 (NCUA).

Yes. Although not a statutory requirement, a lender may provide a copy of the flood determination to the borrower. In the event a lender provides the SFHDF to the borrower, the signature of the borrower is not required to acknowledge receipt of the form. The Agencies note that under the FEMA process for a Letter of Determination Review (LODR), a lender would need to make the determination available to the borrower.

SFHDF 3. May the SFHDF be used in electronic format?

Yes.[61] In the final rule adopting the SFHDF, FEMA stated: ''If an electronic format is used, the format and exact layout of the Standard Flood Hazard Determination Form is not required, but the fields and elements listed on the form are required. Any electronic format used by lenders must contain all mandatory fields indicated on the form.'' It should be noted that the lender must be able to reproduce the form upon receiving a document request by its Federal supervisory agency.

SFHDF 4. May a lender rely on a previous determination for a refinancing or assumption of a loan or multiple loans to the same borrower secured by the same property?

It depends. The Act (42 U.S.C. 4104b(e)) permits a lender to rely on a previous flood determination using the SFHDF when it increases, extends, renews, or purchases a loan secured by a building or a mobile home. Under the Act, the ''making'' of a loan is not listed as a permissible event that permits a lender to rely on a previous determination. When the loan involves a refinancing or assumption by the same lender who obtained the original flood determination on the same property, the lender may rely on the previous determination only if the original determination was made not more than seven years before the date of the transaction, the basis for the determination was set forth on the SFHDF, and there were no map revisions or updates affecting the security property since the original determination was made. Further, if the same lender makes multiple loans to the same borrower secured by the same improved real estate, the lender may rely on its previous determination if the original determination was made not more than seven years before the date of the transaction, the basis for the determination was set forth on the SFHDF, and there were no map revisions or updates affecting the security property since the original determination was made. These loans are extended by the same lender, to the same borrower, and are secured by the same improved real estate, and, therefore, these types of transactions are the functional equivalent of an increase of a loan.

When the loan involves a refinancing or assumption made by a lender different from the one who obtained the original determination, this would constitute the making of a new loan, thereby requiring a new determination.

VII. Flood Insurance Determination Fees (Fees)

FEES 1. When can lenders or servicers charge the borrower a fee for making a determination?

There are four instances under the Act and Regulation when the borrower can be charged a fee for a flood determination:

- When the determination is made in connection with the making, increasing, extending, or renewing of a loan that is initiated by the borrower;
- When the determination reflects a revision or updating by FEMA of floodplain areas or flood-risk zones;
- When the determination reflects FEMA's publication of a notice or compendium that affects the area in which the security property is located, or FEMA requires a determination as to whether the building securing the loan is located in an SFHA; or
- When the determination results in force placement of insurance.[62]

Loan or other contractual documents between the parties may also permit the imposition of fees.

FEES 2. May charges made for life-of-loan reviews by flood determination firms be passed along to the borrower?

Yes, with limitations noted below. In addition to the initial determination at the time a loan is made, increased, renewed, or extended, many flood determination firms provide a service to the lender to review and report changes in the flood status of a dwelling for the entire term of the loan (*i.e.,* life-of-loan monitoring). The fee charged for the service at loan closing is a composite fee for conducting both the original and subsequent reviews. Charging a fee for the original determination is clearly authorized by the Act. The Agencies agree that a determination fee may include, among other things, reasonable fees for a lender, servicer, or third party to monitor the flood hazard status of property securing a loan in order to make determinations on an ongoing basis.

However, the life-of-loan fee is based on the authority to charge a determination fee and, therefore, the composite determination/life-of-loan monitoring fee may be charged only if the events specified in the answer to Q&A Fees 1 occur.[63] Further, a lender may not charge a composite determination and life-of-loan fee if the loan does not close, because such life-of loan fee would be an unearned fee in violation of the Real Estate Settlement Procedures Act.[64]

VIII. Flood Zone Discrepancies (Zone)

ZONE 1. Does a lender need to reconcile a discrepancy between the flood zone designation on the flood determination form and the flood zone associated with a flood insurance policy?

No, a lender need not reconcile or otherwise be concerned with a flood zone discrepancy. For NFIP policies issued under FEMA's Risk Rating 2.0—Equity in Action (Risk Rating 2.0), [65] premium rates are no longer determined by the flood zone in which the property is located. Moreover, the flood zone is no longer included on the declarations page for NFIP policies issued under Risk Rating 2.0.

Flood insurance policies issued by a private insurer may still include the flood zone on the declarations page. Further, NFIP policies that have not been issued or renewed under Risk Rating 2.0 will include the flood zone on the declarations page.[66] In these cases, lenders also need not reconcile any discrepancy.

The flood zone determination is still necessary to determine if a property is located in an SFHA. If the SFHDF indicates that the building securing the loan is in an SFHA, the lender must require the appropriate amount of insurance coverage in accordance with the Act and Regulation.[67] For disputes regarding whether a property is located in an SFHA, *see* Q&A Zone 3.

ZONE 2. Is a lender in violation of the Regulation if there is a discrepancy

[61] 12 CFR 22.6(b) (OCC); 12 CFR 208.25(f)(2) (Board); 12 CFR 339.6(b) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(b) (NCUA).

[62] 12 CFR 22.8(b) (OCC); 12 CFR 208.25(h)(2) (Board); 12 CFR 339.8(b) (FDIC); 12 CFR 614.4950(b) (FCA); and 12 CFR 760.8(b) (NCUA).

[63] 12 CFR 22.8 (OCC); 12 CFR 208.25(h) (Board); 12 CFR 339.8 (FDIC); 12 CFR 614.4950 (FCA); and 12 CFR 760.8 (NCUA).

[64] 12 U.S.C. 2607. *See* 12 CFR 1024.14(c).

[65] *See https://www.fema.gov/flood-insurance/risk-rating.*

[66] New NFIP policies starting October 1, 2021 have been issued under Risk Rating 2.0. NFIP policies that renew between October 1, 2021, and March 31, 2022, may or may not be renewed under Risk Rating 2.0. All NFIP policies that renew on or after April 1, 2022 will be renewed under Risk Rating 2.0.

[67] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

between the flood zone on the SFHDF and the flood zone associated with a flood insurance policy?

No, a lender is not in violation of the Regulation if there is a discrepancy between the flood zone on the SFHDF and the flood zone associated with the policy. *See* Q&A Zone 1.

ZONE 3. What should a lender do when the lender's flood zone determination specifies that a building securing the loan is located in an SFHA requiring mandatory flood insurance coverage, but the borrower disputes that determination?

If a borrower disputes a lender's determination that the building securing the loan is located in an SFHA requiring mandatory flood insurance coverage, the parties involved in making the determination are encouraged to resolve the flood zone discrepancy before contacting FEMA for a final determination. If the flood zone discrepancy cannot be resolved, an appeal may be filed with FEMA. Depending on the nature of the dispute, FEMA has different options for review, including:

- Letters of Determination Review (LODR), and
- Letters of Map Change (LOMC), which include Letters of Map Amendment (LOMA), Letters of Map Revision (LOMR), and Letters of Map Revision Based on Fill (LOMR–F).

Lenders and borrowers should consult FEMA guidance on the appropriate process to follow, any applicable fees, and any deadlines by which the request to review must be made. However, as long as the lender's flood determination specifies that a building securing the loan is located in an SFHA and requires mandatory flood insurance coverage, sufficient coverage must be in place in accordance with the Act and the Regulation until FEMA has determined that the building is not in an SFHA.[68]

IX. Notice of Special Flood Hazards and Availability of Federal Disaster Relief (Notice)

NOTICE 1. Does the Notice of Special Flood Hazards have to be provided to each borrower for a real estate related loan?

No. The Notice of Special Flood Hazards must be provided to one borrower when the lender determines that the property securing the loan is or will be located in an SFHA.[69] In a transaction involving multiple borrowers, the lender need only provide the Notice of Special Flood Hazards to any one of the borrowers in the transaction. Lenders may provide multiple notices if they choose. The lender and borrower(s) typically designate the borrower to whom the Notice of Special Flood Hazards will be provided.

NOTICE 2. When should a lender provide the Notice of Special Flood Hazards to the borrower? How does this requirement apply in situations regarding mobile homes where the lender may not know where the home is to be located until just prior to, or sometimes after, the time of loan closing?

As required by the Regulation, a lender must provide the Notice of Special Flood Hazards to the borrower within a reasonable time before the completion of the transaction.[70] What constitutes ''reasonable'' notice will necessarily vary according to the circumstances of particular transactions. A lender should bear in mind, however, that a borrower should receive timely notice to ensure that (1) the borrower has the opportunity to become aware of the borrower's responsibilities under the Act; and (2) where applicable, the borrower can purchase flood insurance before completion of the loan transaction. The Agencies generally regard 10 calendar days as a ''reasonable'' time interval.

If a lender determines that a mobile home securing a designated loan will be located in an SFHA just prior to closing, the lender may need to delay the closing until the Notice of Special Flood Hazards has been provided in accordance with the Regulation.

In the case of loan transactions secured by mobile homes not located on a permanent foundation, the Agencies note that such ''home only'' transactions are excluded from the definition of mobile home and the notice requirements would not apply to these transactions. However, the Agencies encourage a lender to advise the borrower that if the mobile home is later located on a permanent foundation in an SFHA, flood insurance will be required. If the lender, when notified of the location of the mobile home subsequent to the loan closing, determines that it has been placed on a permanent foundation and is located in an SFHA in which flood insurance is available under the Act, flood insurance coverage becomes mandatory and a force placement notice must be given to the borrower under those provisions.[71] If the borrower fails to purchase flood insurance coverage within 45 days after notification, the lender must force-place the insurance.[72]

NOTICE 3. When is the lender required to provide notice to the servicer of a loan that flood insurance is required?

Because the servicer of a loan is often not identified prior to the closing of a loan, the Regulation requires that notice be provided no later than the time the lender transmits other loan data, such as information concerning hazard insurance and taxes, to the servicer.[73]

NOTICE 4. What will constitute appropriate form of notice to the servicer?

Delivery to the servicer of a copy of the notice given to the borrower is appropriate notice. The Regulation also provides that the notice can be made either electronically or by a written copy.[74]

In the case of a servicer affiliated with the lender, the Act requires the lender to notify the servicer of special flood hazards and the Regulation reflects this requirement. Neither the Act nor the Regulation contains an exception for affiliates.[75]

NOTICE 5. How long must the lender maintain the record of receipt by the borrower of the Notice of Special Flood Hazards?

The record of receipt provided by the borrower must be maintained for the period of time that the lender owns the loan.[76] Examples of a record of receipt include: the borrower's signed acknowledgment of receipt of the Notice of Special Flood Hazards; the borrower's initials on a form that acknowledges receipt; the borrower's electronic signature that acknowledges receipt, or a certified return receipt if the Notice of Special Flood Hazards was mailed to the borrower. Lenders may keep the record in the form that best suits the lender's business practices. Lenders may retain the record electronically, but

[68] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[69] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[70] 12 CFR 22.9(c) (OCC); 12 CFR 208.25(i)(2) (Board); 12 CFR 339.9(c) (FDIC); 12 CFR 614.4955(c) (FCA); and 12 CFR 760.9(c) (NCUA).

[71] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[72] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[73] 12 CFR 22.9(c) (OCC); 12 CFR 208.25(i)(2) (Board); 12 CFR 339.9(c) (FDIC); 12 CFR 614.4955(c) (FCA); and 12 CFR 760.9(c) (NCUA).

[74] 12 CFR 22.9(c) (OCC); 12 CFR 208.25(i)(2) (Board); 12 CFR 339.9(c) (FDIC); 12 CFR 614.4955(c) (FCA); and 12 CFR 760.9(c) (NCUA).

[75] 12 U.S.C. 4104a(a)(1); 12 CFR 22.9(c) (OCC); 12 CFR 208.25(i)(2) (Board); 12 CFR 339.9(c) (FDIC); 12 CFR 614.4955(c) (FCA); and 12 CFR 760.9(c) (NCUA).

[76] 12 CFR 22.9(d) (OCC); 12 CFR 208.25(i)(3) (Board); 12 CFR 339.9(d) (FDIC); 12 CFR 614.4955(d) (FCA); and 12 CFR 760.9(d) (NCUA).

they must be able to retrieve the record within a reasonable time pursuant to a document request from their Federal supervisory agency.

NOTICE 6. Can a lender rely on a previous Notice of Special Flood Hazards if it is less than seven years old, and it is the same property, same borrower, and same lender?

The Regulation does not waive the requirement to provide the Notice of Special Flood Hazards to the borrower. Although subsequent transactions by the same lender with respect to the same property are the functional equivalent of a renewal and do not require a new determination, the lender must still provide a new Notice of Special Flood Hazards to the borrower.[77]

NOTICE 7. Is use of the sample form of Notice of Special Flood Hazards mandatory?

Although lenders are required to provide a Notice of Special Flood Hazards to a borrower when they make, increase, extend, or renew a loan secured by an improved structure located in an SFHA,[78] use of the sample form of Notice of Special Flood Hazards provided in appendix A of the Regulation is not mandatory. It should be noted that the sample form includes other information in addition to what is required by the Act and the Regulation. Lenders may personalize, change the format of, and add information to the sample form of notice, if they choose. However, a lender-revised Notice of Special Flood Hazards must provide the borrower with at least the minimum information required by the Act and Regulation.[79] Therefore, lenders should consult the Act and Regulation to determine the information needed.

X. Determining the Appropriate Amount of Flood Insurance Required (Amount)

AMOUNT 1. The Regulation states that the amount of flood insurance required ''must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act.'' What is meant by the ''maximum limit of coverage available for the particular type of property under the Act''?

The maximum limit of coverage available for the particular type of property under the Act depends on the value of the secured collateral. First, under the NFIP, there are maximum caps on the amount of insurance available for buildings located in a participating community under the Regular Program. For single-family and two-to-four family dwellings and individually owned condominium units insured under the Dwelling Form policy, the maximum limit is $250,000. For a residential condominium building insured under the Residential Condominium Building Association Policy (RCBAP) form, the maximum amount of insurance available is $250,000 multiplied by the number of units. For all other buildings insured under the General Property Form, the maximum limit of building coverage available is $500,000. This includes all non-residential buildings, mixed-use condominium buildings not eligible for coverage under the RCBAP, and other residential buildings of five or more families, such as cooperatives or apartment buildings in the non-condominium form of ownership. (In participating communities that are under the emergency program phase, the maximum limits of insurance are different.) The maximum limit for contents insured under the Dwelling Form and RCBAP is $100,000 ($100,000 total, not per unit) and $500,000 for contents insured under the General Property Form. *See NFIP Flood Insurance Manual.*

In addition to the maximum caps under the NFIP, the Regulation also provides that ''flood insurance coverage under the Act is limited to the building or mobile home and any personal property that secures a loan and not the land itself,'' which is commonly referred to as the ''insurable value'' of a structure.[80] The NFIP does not insure land; therefore, land values are not included in the calculation.[81]

An NFIP policy will not cover an amount exceeding the ''insurable value'' of the structure, so the maximum amount of insurance coverage is the applicable limit available under the NFIP or the insurable value, whichever is less. In determining coverage amounts for flood insurance, lenders often follow the same practice used to establish other hazard insurance coverage amounts. However, unlike the insurable valuation used to underwrite most other hazard insurance policies, the insurable value of improved real estate for flood insurance purposes also includes the repair or replacement cost of the foundation and supporting structures. It is very important to calculate the correct insurable value of the property; otherwise, the lender might inadvertently require the borrower to purchase too much or too little flood insurance coverage. For example, if the lender fails to exclude the value of the land when determining the insurable value of the improved real estate, the borrower will be asked to purchase coverage that exceeds the amount the NFIP will pay in the event of a loss. (Please note, however, when taking a security interest in improved real estate where the value of the land, excluding the value of the improvements, is sufficient collateral for the debt, the lender must nonetheless require flood insurance to cover the value of the structure if it is located in a participating community's SFHA.)[82]

AMOUNT 2. What is the ''insurable value'' of a building and how is it used to determine the required amount of flood insurance?

The insurable value of the building may generally be the same as 100 percent Replacement Cost Value (RCV), which is the cost to replace the building with the same kind of material and construction without deduction for depreciation. In calculating the amount of insurance to require, the lender and borrower (either by themselves or in consultation with the flood insurance provider or other appropriate professional) may choose from a variety of approaches or methods to establish the insurable value. They may use an appraisal based on a cost-value (not market-value) approach, a construction-cost calculation, the insurable value used on a hazard insurance policy (recognizing that the insurable value for flood insurance purposes may differ from the coverage provided by the hazard insurance and that adjustments may be necessary), the replacement cost value listed on the flood insurance policy declarations page, or any other reasonable approach, so long as it can be supported.

AMOUNT 3. What are examples of residential buildings?

A residential building is a non-commercial building designed for habitation by one or more families or a mixed-use building that qualifies as a *single-family, 2–4 family,* or *other residential building.*

[77] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[78] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[79] 12 U.S.C. 4104a(a)(3); 12 CFR 22.9(b) (OCC); 12 CFR 208.25(i)(1) (Board); 12 CFR 339.9(b) (FDIC); 12 CFR 614.4955(b) (FCA); and 12 CFR 760.9(b) (NCUA).

[80] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[81] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[82] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

The NFIP provides the following definitions:

• A *single family* dwelling is either a residential single-family building in which the total floor area devoted to non-residential uses is less than 50 percent of the building's total floor area, *or* a single-family residential unit within a 2–4 family building, other-residential building, business, or non-residential building, in which commercial uses within the unit are limited to less than 50 percent of the unit's total floor area.

• A *2–4 family residential building* is a residential building, containing 2–4 residential units and in which non-residential uses are limited to less than 25 percent of the building's total floor area. This category includes apartment buildings and condominium buildings. It excludes hotels and motels with normal room rentals for less than six months.

• An *other residential building* is a residential building containing five or more residential units or a mixed-use building in which the total floor area devoted to non-residential uses is less than 25 percent of the building's total floor area. This category includes condominium and apartment buildings as well as hotels, motels, tourist homes, and rooming houses where the normal occupancy of a guest is six months or more. Additional examples of other residential buildings include dormitories and assisted-living facilities.

For more complete information, refer to the *NFIP Flood Insurance Manual.*

AMOUNT 4. What are examples of non-residential buildings?

Pursuant to the *NFIP Flood Insurance Manual,* a non-residential building includes:

1. A building in which the named insured is a commercial enterprise primarily carried out to generate income and the coverage is for:

• A building not designed for habitation or residential uses;

• A mixed-use building in which the total floor area devoted to residential uses is 50 percent or less of the total floor area within the building if the residential building is a single-family property; *or* 75 percent or less of the total floor area within the building for all other residential properties; *or*

• A building designed for use as office or retail space, wholesale space, hospitality space, or for similar uses.

• The following buildings where the normal occupancy of a guest is less than six months: Condominium buildings, apartment buildings, hotels and motels, tourist homes, or rooming houses.

2. Other non-residential buildings including, but not limited to the following: Houses of worship, schools, agricultural structures, garages, pool houses, clubhouses, and recreational buildings.

For more complete information, refer to the *NFIP Flood Insurance Manual.*

AMOUNT 5. How much insurance is required on a building located in an SFHA in a participating community?

The amount of insurance required by the Act and Regulation is the lesser of:

• The outstanding principal balance of the loan(s); or

• The maximum amount of insurance available under the NFIP, which is the lesser of:

○ The maximum limit available for the type of structure; or

○ The ''insurable value'' of the structure.[83]

Example: (Calculating insurance required on a non-residential building):

Loan security includes one equipment shed located in an SFHA in a participating community under the Regular Program.

• Outstanding loan principal balance is $300,000.

• Maximum amount of insurance available under the NFIP:

○ Maximum limit available for type of structure is $500,000 per building (non-residential building).

○ Insurable value of the equipment shed is $30,000.

The minimum amount of insurance required by the Regulation for the equipment shed is $30,000.

AMOUNT 6. Is flood insurance required for each building when the real estate security contains more than one building located in an SFHA in a participating community? If so, how much coverage is required?

Yes. The lender must determine the amount of insurance required on each building and add these individual amounts together.[84] The total amount of required flood insurance is the lesser of:

• The outstanding principal balance of the loan(s); or

• The maximum amount of insurance available under the NFIP, which is the lesser of:

○ The maximum limit available for the type of structures; or

○ The ''insurable value'' of the structures.

The amount of total required flood insurance can be allocated among the secured buildings in varying amounts, but all buildings in an SFHA must be covered in accordance with the statutory requirement.[85]

Example: Lender makes a loan in the principal amount of $150,000 secured by five non-residential buildings, only three of which are located in SFHAs within participating communities.

• Outstanding loan principal is $150,000.

• Maximum amount of insurance available under the NFIP.

○ Maximum limit available for the type of structure is $500,000 per building for non-residential buildings (or $1.5 million total); or

○ Insurable value ($100,000 for each non-residential building for which insurance is required, or $300,000 total).

Amount of insurance required for the three buildings is $150,000. This amount of required flood insurance could be allocated among the three buildings in varying amounts, so long as each is covered in accordance with the statutory requirement.

AMOUNT 7. If the insurable value of a building or mobile home securing a designated loan is less than the outstanding principal balance of the loan, must a lender require the borrower to obtain flood insurance up to the balance of the loan?

No. The Regulation provides that the amount of flood insurance must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for a particular type of property under the Act.[86] The Regulation also provides that flood insurance coverage under the Act is limited to the building or mobile home and any personal property that secures a loan and not the land itself. [87] Since the NFIP policy does not cover land value, lenders determine the amount of insurance necessary based on the insurable value of the building.

AMOUNT 8. Can a lender require more flood insurance than the minimum required by the Regulation?

Yes. Lenders are permitted to require more than the minimum amount of flood insurance required by the Regulation, taking into consideration applicable State and Federal law and safe and sound banking practices, as appropriate. However, the borrower or lender may have to seek such coverage

[83] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[84] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[85] *See* 42 U.S.C. 4012a; 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[86] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[87] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

outside the NFIP. Although a lender has the responsibility to tailor its own flood insurance policies and procedures to suit its business needs and protect its ongoing interest in the collateral, it should consider the extent of recovery allowed under the NFIP or a private policy for the type of property being insured to assist the borrower in avoiding paying for coverage that exceeds the amount the insured would recover in the event of a loss.

AMOUNT 9. Can a lender allow the borrower to use the maximum deductible to reduce the cost of flood insurance?

Yes. However, it may not be a sound business practice for a lender, as a matter of policy, to always allow the borrower to use the maximum deductible. A lender should determine the reasonableness of the deductible on a case-by-case basis, taking into account the risk that such a deductible would pose to the borrower and lender. A lender may not allow the borrower to use a deductible amount equal to the insurable value of the property to avoid the mandatory purchase requirement for flood insurance.[88]

AMOUNT 10. Can a lender accept a blanket flood insurance policy or blanket multi-peril policy covering multiple buildings that includes a per-occurrence deductible, regardless of whether any single building covered by the policy has an insurable value lower than the amount of the deductible?

Yes, a lender may accept a blanket flood insurance policy or blanket multi-peril policy covering multiple buildings that includes a per-occurrence deductible, regardless of whether any single building covered by the policy has an insurable value lower than the amount of the deductible. A blanket flood insurance policy or blanket multi-peril policy that includes a per-occurrence deductible provides coverage for each building covered by such a policy, regardless of whether any individual building covered under the policy has an insurable value that may be lower than the amount of the deductible. However, a lender may not allow the borrower to use a deductible amount equal to the aggregate insurable value of the property to avoid the mandatory purchase requirement. A lender should determine the reasonableness of the deductible on a case-by-case basis, taking into account the risk that such deductible would pose to the borrower and lender. *See* Q&A Amount 9.

XI. Flood Insurance Requirements for Construction Loans (Construction)

CONSTRUCTION 1. Is a loan secured only by land, which is located in an SFHA in which flood insurance is available under the Act and that will be developed into buildable lot(s), a designated loan that requires flood insurance?

No. A designated loan is a loan secured by a building or mobile home that is located or to be located in an SFHA in which flood insurance is available under the Act.[89] Any loan secured only by land that is located in an SFHA in which flood insurance is available is not a designated loan since it is not secured by a building or mobile home.

CONSTRUCTION 2. Is a loan secured or to be secured by a building in the course of construction that is located or to be located in an SFHA in which flood insurance is available under the Act a designated loan?

Yes. A lender must always make a flood determination prior to loan origination to determine whether a building to be constructed that is security for the loan is located or will be located in an SFHA in which flood insurance is available under the Act.[90] If the building or mobile home is located or will be located in an SFHA, then the loan is a designated loan and the lender must provide the requisite notice to the borrower prior to loan origination.[91] The lender must then comply with the mandatory purchase requirement under the Act and Regulation.[92]

CONSTRUCTION 3. Is a building in the course of construction that is located in an SFHA in which flood insurance is available under the Act eligible for coverage under an NFIP policy?

Yes. The NFIP will insure a building in the course of construction before it is walled and roofed using the NFIP-issued rates based on the construction designs and the intended use of the building. However, buildings in the course of construction that are not walled and roofed are not eligible for coverage when construction stops for more than 90 days and/or if the lowest floor for rating purposes is below the Base Flood Elevation. The NFIP will not insure materials or supplies intended for use in such construction, alteration, or repair unless they are contained within an enclosed building on the premises or adjacent to the premises. (*See NFIP Flood Insurance Manual;* the NFIP Dwelling Form for an SFIP.)

The *NFIP Flood Insurance Manual* defines ''start of construction'' in the case of new construction as ''either the first placement of permanent construction of a building on site, such as the pouring of a slab or footing, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured (mobile) home on a foundation.''

Although an NFIP policy may be purchased prior to the start of construction, as a practical matter, coverage under an NFIP policy is not effective until actual construction commences or when materials or supplies intended for use in such construction, alteration, or repair are contained in an enclosed building on the premises or adjacent to the premises.

CONSTRUCTION 4. When must a lender require the purchase of flood insurance for a loan secured by a building in the course of construction that is located in an SFHA in which flood insurance is available?

Under the Act, as implemented by the Regulation, a lender may not make, increase, extend, or renew any loan secured by a building or a mobile home, located or to be located in an SFHA in which flood insurance is available, unless the property is covered by adequate flood insurance for the term of the loan.[93] The NFIP provides that lenders may comply with the mandatory purchase requirement for a loan secured by a building in the course of construction that is located in an SFHA by requiring borrowers to have a flood insurance policy in place at the time of loan origination. Such a policy is issued based upon the construction designs and intended use of the building. A borrower should obtain a provisional rating (available only if certain criteria are met) to enable the placement of coverage prior to receipt of the Elevation Certificate (EC). In accordance with the NFIP requirement, it is expected that an EC will be secured and a full-risk rating completed within 60 days of the policy effective date. Failure to obtain the EC could result in reduced coverage limits

[88] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[89] 12 CFR 22.2(e) (OCC); 12 CFR 208.25(b)(5) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[90] 12 CFR 22.6(a) (OCC): 12 CFR 208.25(f)(1) (Board); 12 CFR 339.6(a) (FDIC); 12 CFR 614.4940(a) (FCA); and 12 CFR 760.6(a) (NCUA).

[91] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[92] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[93] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

at the time of a loss. (*See NFIP Flood Insurance Manual*.)

Alternatively, a lender may allow a borrower to defer the purchase of flood insurance until either after a foundation slab has been poured and/or an Elevation Certificate has been issued or, if the building to be constructed will have its lowest floor below the Base Flood Elevation, when the building is walled and roofed. However, in order to comply with the Regulation,[94] the lender must require the borrower to have flood insurance for the security property in place before the lender disburses funds to pay for building construction (except for funds to be used to pour the slab or perform preliminary site work, such as laying utilities, clearing brush, or the purchase and/or delivery of building materials). If the lender elects this approach and does not require the borrower to obtain flood insurance at loan origination, then it should have adequate internal controls in place at origination to ensure that the borrower obtains flood insurance no later than 30 days prior to disbursement of funds to the borrower in light of the NFIP 30-day waiting period requirement. (*See NFIP Flood Insurance Manual.*) *See also* Q&A Construction 5.

CONSTRUCTION 5. Does the NFIP 30-day waiting period apply when the purchase of the flood insurance policy is deferred in connection with a construction loan?

Yes. A 30-day waiting period will apply if a lender allows a borrower to delay the purchase of flood insurance in connection with a construction loan after making, increasing, renewing, or extending the loan. A borrower must apply for flood insurance on or before the closing date of a loan transaction for the NFIP 30-day waiting period to be waived. *See NFIP Flood Insurance Manual. See also* Q&A Construction 4.

CONSTRUCTION 6. If a lender allows a borrower to defer the purchase of flood insurance until either a foundation slab has been poured and/or an Elevation Certificate has been issued, or if the building to be constructed will have its lowest floor below Base Flood Elevation when the building is walled and roofed, when must the lender begin escrowing flood insurance premiums and fees?

If the lender allows a borrower to defer the purchase of flood insurance until either the foundation slab has been poured and/or an Elevation Certificate has been issued, or if the building to be constructed will have its lowest floor below Base Flood Elevation when the building is walled and roofed, a lender must escrow flood insurance premiums and fees at the time of purchase of the flood insurance, unless one of the escrow exceptions applies.[95]

XII. Flood Insurance Requirements for Residential Condominiums and CO–Ops (Condo and Co-Op)

CONDO AND CO-OP 1. Are residential condominiums, including multi-story condominium complexes, subject to the statutory and regulatory requirements for flood insurance?

Yes. The mandatory flood insurance purchase requirements under the Act and Regulation apply to loans secured by individual residential condominium units, including those located in multi-story condominium complexes, located in an SFHA in which flood insurance is available under the Act.[96] The mandatory purchase requirements also apply to loans secured by other residential condominium property, such as loans to a developer for construction of the condominium or loans to a condominium association.

CONDO AND CO-OP 2. What is an NFIP Residential Condominium Building Association Policy (RCBAP)?

The RCBAP is a master policy for residential condominiums issued by FEMA. A residential condominium building is defined as having 75 percent or more of the building's floor area in residential use. It may be purchased only by condominium owners associations. The RCBAP covers both the common and individually owned building elements within the units, improvements within the units, and contents owned in common (if contents coverage is purchased). The maximum amount of building coverage that can be purchased under an RCBAP is either 100 percent of the replacement cost value of the building, including amounts to repair or replace the foundation and its supporting structures, or the total number of units in the condominium building times $250,000, whichever is less. RCBAP coverage is available only for residential condominium buildings in Regular Program communities.

CONDO AND CO-OP 3. What is the amount of flood insurance coverage that a lender must require with respect to residential condominium units, including those located in multi-story residential condominium complexes, to comply with the mandatory purchase requirements under the Act and the Regulation?

To comply with the Regulation, the lender must ensure that the minimum amount of flood insurance covering the condominium unit is the lesser of:

- The outstanding principal balance of the loan(s); or
- The maximum amount of insurance available under the NFIP, which is the lesser of:
  - The maximum limit available for the residential condominium unit; or
  - The ''insurable value'' allocated to the residential condominium unit, which is the replacement cost value of the condominium building divided by the number of units.[97]

FEMA requires agents to provide on the declarations page of the RCBAP the replacement cost value of the condominium building and the number of units. Lenders may rely on the replacement cost value and number of units on the RCBAP declarations page in determining insurable value unless they have reason to believe that such amounts clearly conflict with other available information. If there is a conflict, the lender should notify the borrower of the facts that cause the lender to believe there is a conflict. If the lender determines that the borrower is underinsured, it must require the purchase of supplemental coverage.[98] However, coverage under the supplemental policy may be limited depending on other coverage that may be applicable including the RCBAP insuring the condominium building and the terms and conditions of the policy.

Assuming that the maximum amount of coverage available under the NFIP is less than the outstanding principal balance of the loan, the lender must require a borrower whose loan is secured by a residential condominium unit to either:

- Ensure the condominium owners association has purchased an NFIP RCBAP covering either 100 percent of the insurable value (replacement cost) of the building, including amounts to repair or replace the foundation and its supporting structures, or the total number of units in the condominium building times $250,000, whichever is less; or
- Obtain flood insurance coverage if there is no RCBAP, as explained in Q&A Condo and Co-Op 4, or if the RCBAP

[94] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[95] 12 CFR 22.5(a)(1) (OCC); 12 CFR 208.25(e)(1)(i) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a)(1) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[96] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[97] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[98] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

coverage is less than 100 percent of the replacement cost value of the building or the total number of units in the condominium building times $250,000, whichever is less, as explained in Q&A Condo and Co-Op 5.

Example: Lender makes a loan in the principal amount of $300,000 secured by a condominium unit in a 50-unit condominium building, which is located in an SFHA within a participating community, with a replacement cost of $15 million and insured by an RCBAP with $12.5 million of coverage.

- Outstanding principal balance of loan is $300,000.
- Maximum amount of coverage available under the NFIP, which is the lesser of:
  - Maximum limit available for the residential condominium unit is $250,000; or
  - Insurable value of the unit based on 100 percent of the building's replacement cost value ($15 million ÷ 50 = $300,000).

The lender does not need to require additional flood insurance since the RCBAP's $250,000 per unit coverage ($12.5 million ÷ 50 = $250,000) satisfies the Regulation's mandatory flood insurance purchase requirement. (This is the lesser of the outstanding principal balance ($300,000), the maximum coverage available under the NFIP ($250,000), or the insurable value ($300,000)). *See NFIP Flood Insurance Manual.*

The requirement discussed in this Q&A applies to any loan that is made, increased, extended, or renewed after October 1, 2007. This requirement does not apply to any loans made prior to October 1, 2007, until a triggering event occurs (that is, the loan is refinanced, extended, increased, or renewed) in connection with the loan. Absent a new triggering event, loans made prior to October 1, 2007, will be considered compliant if the lender complied with the Agencies' previous guidance that an RCBAP with 80 percent RCV coverage was sufficient. FEMA issued guidance effective October 1, 2007, requiring NFIP insurers to add the RCV of the condominium building and the number of units to the RCBAP declarations page of all new and renewed policies.

CONDO AND CO-OP 4. For residential condominiums with no RCBAP coverage, what action must a lender take for an individual unit owner?

If there is no RCBAP on the residential condominium building, then the lender must require the individual unit owner to obtain coverage in an amount sufficient to meet the requirements outlined in Q&A Condo and Co-Op 3.[99]

Under the NFIP, a Dwelling Policy is available for condominium unit owners' purchase when there is no or inadequate RCBAP coverage.

Example: The lender makes a loan in the principal amount of $175,000 secured by a residential condominium unit in a 50-unit residential condominium building, which is located in an SFHA within a participating community, with a replacement cost value of $10 million; however, there is no RCBAP.

- Outstanding principal balance of loan is $175,000.
- Maximum amount of coverage available under the NFIP, which is the lesser of:
  - Maximum limit available for the residential condominium unit is $250,000; or
  - Insurable value of the unit based on 100 percent of the building's replacement cost value ($10 million ÷ 50 = $200,000).

The lender must require the individual unit owner to purchase flood insurance coverage in the amount of at least $175,000, since there is no RCBAP, to satisfy the Regulation's mandatory flood insurance purchase requirement. (This is the lesser of the outstanding principal balance ($175,000), the maximum coverage available under the NFIP ($250,000), or the insurable value ($200,000).)

CONDO AND CO-OP 5. What action must a lender take if the RCBAP coverage is insufficient to meet the Regulation's mandatory purchase requirements for a loan secured by an individual residential condominium unit?

If the lender determines that flood insurance coverage purchased under the RCBAP is insufficient to meet the Regulation's mandatory purchase requirements, then the lender should request that the individual unit owner ask the condominium association to obtain additional coverage that would be sufficient to meet the Regulation's requirements. *See* Q&A Condo and Co-Op 3. If the condominium association does not obtain sufficient coverage, then the lender must require the individual unit owner to purchase supplemental coverage in an amount sufficient to meet the Regulation's flood insurance requirements.[100] The amount of supplemental coverage required to be purchased by the individual unit owner would be the difference between the RCBAP's coverage allocated to that unit and the Regulation's mandatory flood insurance purchase requirements. *See* Q&A Condo and Co-Op 4.

Example: Lender makes a loan in the principal amount of $300,000 secured by a condominium unit in a 50-unit condominium building, which is located in an SFHA within a participating community, with a replacement cost value of $10 million; however, the RCBAP is at 80 percent of replacement cost value ($8 million or $160,000 per unit).

- Outstanding principal balance of loan is $300,000.
- Maximum amount of coverage available under the NFIP, which is the lesser of:
  - Maximum limit available for the residential condominium unit ($250,000); or
  - Insurable value of the unit based on 100 percent of the building's replacement value ($10 million ÷ 50 = $200,000).

The lender must require the individual unit owner to purchase supplemental flood insurance coverage in the amount of $40,000 to satisfy the Regulation's mandatory flood insurance purchase requirement of $200,000. (This is the lesser of the outstanding principal balance ($300,000), the maximum coverage available under the NFIP ($250,000), or the insurable value ($200,000).) The RCBAP fulfills only $160,000 of the Regulation's flood insurance requirement.

While the individual unit owner's purchase of a separate policy that provides for adequate flood insurance coverage under the Regulation will satisfy the Regulation's mandatory flood insurance purchase requirements, the lender and the individual unit owner may still be exposed to additional risk of loss. Lenders are encouraged to apprise borrowers of this risk. For example, the NFIP Dwelling Policy provides individual unit owners with supplemental building coverage that is in excess to the RCBAP. The policies are coordinated such that the Dwelling Policy purchased by the unit owner responds to shortfalls on building coverage pertaining either to improvements owned by the insured unit owner or to assessments. However, the Dwelling Policy does not extend the RCBAP limits, nor does it enable the condominium association to fill in gaps in coverage.

CONDO AND CO-OP 6. What must a lender do when a loan secured by a residential condominium unit is in a complex whose condominium

[99] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[100] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

association allows its existing RCBAP to lapse?

If a lender determines at any time during the term of a designated loan that the loan is not covered by flood insurance or is covered by such insurance in an amount less than that required under the Act and the Regulation, the lender must notify the individual unit owner of the requirement to maintain flood insurance coverage sufficient to meet the Regulation's mandatory requirements.[101] The lender should encourage the individual unit owner to work with the condominium association to acquire a new RCBAP in an amount sufficient to meet the Regulation's mandatory flood insurance purchase requirement. *See* Q&A Condo and Co-Op 3. Failing that, the lender must require the individual unit owner to obtain a flood insurance policy in an amount sufficient to meet the Regulation's mandatory flood insurance purchase requirement. S*ee* Q&As Condo and Co-Op 4 & 5. If the borrower/unit owner or the condominium association fails to purchase flood insurance sufficient to meet the Regulation's mandatory requirements within 45 days of the lender's notification to the individual unit owner of inadequate insurance coverage, the lender must force place the necessary flood insurance on the borrower's behalf.[102]

CONDO AND CO-OP 7. How does the RCBAP's co-insurance penalty apply in the case of residential condominiums, including those located in multi-story condominium complexes?

In the event the RCBAP's coverage on a condominium building at the time of loss is less than 80 percent of either the building's replacement cost or the maximum amount of insurance available for that building under the NFIP (whichever is less), then the loss payment, which is subject to a coinsurance penalty, is determined as follows (subject to all other relevant conditions in the policy, including those pertaining to valuation, adjustment, settlement, and payment of loss):

A. Divide the actual amount of flood insurance carried on the condominium building at the time of loss by 80 percent of either its replacement cost or the maximum amount of insurance available for the building under the NFIP, whichever is less.

B. Multiply the amount of loss, before application of the deductible, by the figure determined in A above.

C. Subtract the deductible from the figure determined in B above.

The policy will pay the amount determined in C above, or the amount of insurance carried, whichever is less.

Example 1: (Inadequate insurance amount to avoid penalty).

Replacement value of the building: $250,000.

80% of replacement value of the building: $200,000.

Actual amount of insurance carried: $180,000.

Amount of the loss: $150,000.

Deductible: $500.

Step A: 180,000 ÷ 200,000 = .90

(90% of what should be carried to avoid coinsurance penalty)

Step B: 150,000 × .90 = 135,000

Step C: 135,000 − 500 = 134,500

The policy will pay no more than $134,500. The remaining $15,500 is not covered due to the co-insurance penalty ($15,000) and application of the deductible ($500).

Example 2: (Adequate insurance amount to avoid penalty).

Replacement value of the building: $250,000.

80% of replacement value of the building: $200,000.

Actual amount of insurance carried: $200,000.

Amount of the loss: $150,000.

Deductible: $500.

Step A: 200,000 ÷ 200,000 = 1.00

(100% of what should be carried to avoid coinsurance penalty)

Step B: 150,000 × 1.00 = 150,000

Step C: 150,000 − 500 = 149,500

In this example there is no co-insurance penalty, because the actual amount of insurance carried meets the 80 percent requirement to avoid the co-insurance penalty. The policy will pay no more than $149,500 ($150,000 amount of loss minus the $500 deductible). This example also assumes a $150,000 outstanding principal loan balance.

CONDO AND CO-OP 8. What are the major factors involved with the individual unit owner's NFIP Dwelling Policy's coverage limitations with respect to the condominium association's RCBAP coverage?

The following examples demonstrate how the unit owner's NFIP Dwelling Policy may cover in certain loss situations:

Example 1: RCBAP

If the unit owner purchases building coverage under the Dwelling Policy and if there is an RCBAP covering at least 80 percent of the building replacement cost value, the loss assessment coverage under the Dwelling Policy will pay that part of a loss that exceeds 80 percent of the association's building replacement cost allocated to that unit.

The loss assessment coverage under the Dwelling Policy will not cover the association's policy deductible purchased by the condominium association.

If building elements within units have also been damaged, the Dwelling Policy pays to repair building elements after the RCBAP limits that apply to the unit have been exhausted. Coverage combinations cannot exceed the total limit of $250,000 per unit.

Example 2: No RCBAP

If the unit owner purchases building coverage under the Dwelling Policy and there is no RCBAP, the Dwelling Policy covers assessments against unit owners for damages to common areas up to the Dwelling Policy limit.

However, if there is damage to the building elements of the unit (*e.g.,* inside the individual unit) as well, the combined payment of unit building damages, which would apply first, and the loss assessment may not exceed the building coverage limit under the Dwelling Policy.

CONDO AND CO-OP 9. What are the flood insurance requirements for a residential condominium unit or a non-residential condominium unit located in a non-residential condominium building? What are the flood insurance requirements for a non-residential condominium unit located in a residential condominium building?

Coverage is not available under the NFIP for an individual residential condominium unit or a non-residential condominium unit located in a non-residential condominium building. NFIP coverage is also not available for a non-residential condominium unit located in a residential condominium building. Therefore, a loan secured by one of these types of units is not a designated loan under the Regulation, and the mandatory flood insurance requirement does not apply. The Agencies note, however, that contents coverage is available through the NFIP for these types of units. *See NFIP Flood Insurance Manual.*

CONDO AND CO-OP 10. What flood insurance requirements apply to a loan secured by a share in a cooperative building that is located in an SFHA?

It is important to recognize the difference between ownership of a condominium and a cooperative. Although an owner of a condominium owns title to real property, a cooperative unit holder holds stock in a corporation with the right to occupy a particular unit, but owns no title to the building.

[101] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[102] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

As a result, a loan to a cooperative unit owner, secured by the owner's share in the cooperative, is not a designated loan that is subject to the Act or the Regulation.

Although there is no requirement under the Act or Regulation to purchase flood insurance on the cooperative building if the loan is secured by the unit owner's share in the cooperative, for safety and soundness purposes, residential or non-residential cooperative buildings may be insured by the association or corporation under the General Property Form. The entity that owns the cooperative building, not the individual unit members, is the named insured.

XIII. Flood Insurance Requirements for Home Equity Loans, Lines of Credit, Subordinate Liens, and Other Security Interests in Collateral (Contents) Located in an SFHA (Other Security Interests)

OTHER SECURITY INTERESTS 1. Is a home equity loan considered a designated loan that requires flood insurance?

Yes. A home equity loan is a designated loan, regardless of the lien priority, if the loan is secured by a building or a mobile home located in an SFHA in which flood insurance is available under the Act.[103]

OTHER SECURITY INTERESTS 2. Does a draw against an approved line of credit secured by a building or mobile home, which is located in an SFHA in which flood insurance is available under the Act, require a flood determination under the Regulation?

No. While a line of credit secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act is a designated loan and, therefore, requires a flood determination before the loan is made, draws against an approved line do not require further determinations.[104] However, a request made for an increase in an approved line of credit may require a new determination, depending upon whether a previous determination was done. *See* Q&A SFHDF 4.

OTHER SECURITY INTERESTS 3. What is the amount of flood insurance coverage required on a line of credit secured by a residential improved real estate?

A lender may take the following alternative approaches:

- For administrative convenience in complying with the flood insurance requirements, upon origination, a lender may require the purchase of flood insurance for the total amount of all loans or the maximum amount of flood insurance coverage available, whichever is less; [105] or
- A lender may actively review its records throughout the year to determine whether the appropriate amount of flood insurance coverage is maintained, considering the draws made against the line or repayments made to the account. In those instances in which there is no policy on the collateral at time of origination, the borrower must, at a minimum, obtain a policy as a requirement for drawing on the line. Lenders that choose to actively review the line should inform the borrower that this option may have more risks, such as inadequate flood insurance coverage during the 30-day waiting period for an NFIP flood policy to become effective. Lenders should be prepared to initiate force placement procedures if at any time the lender determines a lack of adequate flood insurance coverage for a designated line of credit, as required under the Regulation.[106]

OTHER SECURITY INTERESTS 4. When a lender makes, increases, extends or renews a second mortgage secured by a building or mobile home located in an SFHA, how much flood insurance must the lender require?

The lender must ensure that adequate flood insurance is in place or require that additional flood insurance coverage be added to the flood insurance policy in the amount of the lesser of either the combined total outstanding principal balance of the first and second loan, the maximum amount available under the Act (currently $250,000 for most residential buildings and $500,000 for other buildings), or the insurable value of the building or mobile home.[107] The junior lienholder should also have the borrower add the junior lienholder's name as mortgagee/loss payee to the existing flood insurance policy. Given the provisions of NFIP policies, a lender cannot comply with the Act and Regulation by requiring the purchase of an NFIP flood insurance policy only in the amount of the outstanding principal balance of the second mortgage without regard to the amount of flood insurance coverage on a first mortgage.

A junior lienholder should work with the senior lienholder, the borrower, or with both of these parties, to determine how much flood insurance is needed to cover improved real estate collateral. A junior lienholder should obtain the borrower's consent in the loan agreement or otherwise for the junior lienholder to obtain information on balance and existing flood insurance coverage on senior lien loans from the senior lienholder.

Junior lienholders also have the option of pulling a borrower's credit report and using the information from that document to establish how much flood insurance is necessary upon increasing, extending, or renewing a junior lien, thus protecting the interests of the junior lienholder, the senior lienholder(s), and the borrower. In the limited situation in which a junior lienholder or its servicer is unable to obtain the necessary information about the amount of flood insurance in place on the outstanding balance of a senior lien (for example, in the context of a loan renewal), the lender may presume that the amount of insurance coverage relating to the senior lien in place at the time the junior lien was first established (provided that the amount of flood insurance relating to the senior lien was adequate at the time) continues to be sufficient.

Example 1: Lender A makes a first mortgage with a principal balance of $100,000, but improperly requires only $75,000 of flood insurance coverage, which the borrower satisfied by obtaining an NFIP policy. Lender B issues a second mortgage with a principal balance of $50,000. The insurable value of the residential building securing the loans is $200,000. Lender B must ensure that flood insurance in the amount of $150,000 is purchased and maintained. If Lender B were to require additional flood insurance only in an amount equal to the principal balance of the second mortgage ($50,000), its interest in the secured property would not be fully protected in the event of a flood loss because Lender A would have prior claim on $100,000 of the loss payment towards its principal balance of $100,000, while Lender B would receive only $25,000 of the loss payment toward its principal balance of $50,000.

Example 2: Lender A, who is not directly covered by the Act or Regulation, makes a first mortgage with a principal balance of $100,000 and does not require flood insurance. Lender B, who is directly covered by the Act and Regulation, issues a second

[103] 12 CFR 22.2(e) (OCC); 12 CFR 208.25(b)(5) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[104] 12 CFR 22.2(e) and 22.3(a) (OCC); 12 CFR 208.25(b)(5) and (c)(1) (Board); 12 CFR 339.2 and 339.3(a) (FDIC); 12 CFR 614.4925 and 614.4930(a) (FCA); and 12 CFR 760.2 and 760.3(a) (NCUA).

[105] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[106] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[107] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

mortgage with a principal balance of $50,000. The insurable value of the residential building securing the loans is $200,000. Lender B must ensure that flood insurance in the amount of $150,000 is purchased and maintained. If Lender B were to require flood insurance only in an amount equal to the principal balance of the second mortgage ($50,000) through an NFIP policy, then its interest in the secured property would not be protected in the event of a flood loss because Lender A would have prior claim on the entire $50,000 loss payment towards its principal balance of $100,000.

Example 3: Lender A made a first mortgage with a principal balance of $100,000 on improved real estate with a fair market value of $150,000. The insurable value of the residential building on the improved real estate is $90,000; however, Lender A improperly required only $70,000 of flood insurance coverage, which the borrower satisfied by purchasing an NFIP policy. Lender B later takes a second mortgage on the property with a principal balance of $10,000. Lender B must ensure that flood insurance in the amount of $90,000 (the insurable value) is purchased and maintained on the secured property to comply with the Act and Regulation. If Lender B were to require flood insurance only in an amount equal to the principal balance of the second mortgage ($10,000), its interest in the secured property would not be protected in the event of a flood loss because Lender A would have prior claim on the entire $80,000 loss payment towards the insurable value of $90,000.

OTHER SECURITY INTERESTS 5. If a borrower requesting a loan secured by a junior lien provides evidence that flood insurance coverage is in place, does the lender have to make a new determination? Does the lender have to adjust the insurance coverage?

It depends. Assuming the requirements in Section 528 of the Act (42 U.S.C. 4104b) are met and the same lender made the first mortgage, then a new determination may not be necessary when the existing determination is not more than seven years old, there have been no map changes, and the determination was recorded on an SFHDF. If, however, a lender other than the one that made the first mortgage loan is making the junior lien loan, a new determination would be required because this lender would be deemed to be ''making'' a new loan.[108] In either situation, the lender will need to determine whether the amount of insurance in effect is sufficient to cover the lesser of the combined outstanding principal balance of all loans (including the junior lien loan), the insurable value, or the maximum amount of coverage available on the improved real estate. This will hold true whether the subordinate lien loan is a home equity loan or some other type of junior lien loan.

OTHER SECURITY INTERESTS 6. If the loan request is to finance inventory stored in a building located within an SFHA, but the building is not security for the loan, is flood insurance required?

No. The Act and the Regulation provide that a lender shall not make, increase, extend, or renew a designated loan, that is, a loan secured by a building or mobile home located or to be located in an SFHA, ''unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan.'' [109] In this example, the loan is not a designated loan because it is not secured by a building or mobile home; rather, the collateral is the inventory alone.

OTHER SECURITY INTERESTS 7. Is flood insurance required if a building and its contents both secure a loan, and the building is located in an SFHA in which flood insurance is available?

Yes. Flood insurance is required for the building located in the SFHA and any personal property securing the loan.[110] The method for allocating flood insurance coverage among multiple buildings, as described in Q&A Amount 6, would be the same method for allocating flood insurance coverage among contents and buildings. That is, both contents and building will be considered to have a sufficient amount of flood insurance coverage for regulatory purposes so long as some reasonable amount of insurance is allocated to each category.

Example: Lender A makes a loan for $200,000 that is secured by a warehouse with an insurable value of $150,000 and inventory in the warehouse worth $100,000. The Act and Regulation require that flood insurance coverage be obtained for the lesser of the outstanding principal balance of the loan or the maximum amount of flood insurance that is available under the NFIP. The maximum amount of insurance that is available for both building and contents is $500,000 for each category. In this situation, Federal flood insurance requirements could be satisfied by placing $150,000 worth of flood insurance coverage on the warehouse, thus insuring it to its insurable value, and $50,000 worth of contents flood insurance coverage on the inventory, thus providing total coverage in the amount of the outstanding principal balance of the loan. Note that this holds true even though the inventory is worth $100,000.

OTHER SECURITY INTERESTS 8. If a loan is secured by Building A, which is located in an SFHA, and contents located in Building B where building B does not secure the loan, is flood insurance required on the contents securing the loan?

No. If collateral securing the loan is stored in Building B, where Building B does not secure the loan, then flood insurance is not required on those contents whether or not Building B is located in an SFHA.

OTHER SECURITY INTERESTS 9. Does the Regulation apply when the lender takes a security interest in improved real estate and contents located in an SFHA only as an ''abundance of caution''?

Yes. The Act and Regulation look to the collateral securing the loan. If the lender takes a security interest in improved real estate and contents located in an SFHA, then flood insurance is required.[111]

The language in the loan agreement or security instrument determines whether the improved real estate and contents are taken as security for the loan. If a lender intends to take a security interest in the improved real estate and contents, the loan agreement or security instrument should include language indicating that the improved real estate and contents are security for the loan. If the lender does not intend to take a security interest in either the improved real estate and/or contents, the loan agreement or security instrument should not include language to this effect, including language inserted out of an ''abundance of caution.''

OTHER SECURITY INTERESTS 10. Is flood insurance required if the lender takes a security interest in contents located in a building in an SFHA securing the loan but does not perfect the security interest?

Yes, flood insurance is required. The language in the loan agreement or

[108] 12 CFR 22.3(a), 22.6(a) (OCC); 12 CFR 208.25(c)(1) and (f)(1) (Board); 12 CFR 339.3(a), 339.6(a) (FDIC); 12 CFR 614.4930(a), 614.4940(a) (FCA); and 12 CFR 760.3(a), 760.6(a) (NCUA).

[109] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[110] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[111] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

security instrument determines whether the contents are taken as security for the loan. If the lender takes a security interest in contents located in a building in an SFHA securing the loan, flood insurance is required for the contents, regardless of whether that security interest is perfected.[112]

OTHER SECURITY INTERESTS 11. If a borrower offers a note on a single-family dwelling as collateral for a loan but the lender does not take a security interest in the dwelling itself, is this a designated loan that requires flood insurance?

No. A designated loan is a loan secured by a building or mobile home that is located or to be located in an SFHA in which flood insurance is available under the Act.[113] In this example, the lender did not take a security interest in the building; therefore, the loan is not a designated loan.

OTHER SECURITY INTERESTS 12. If a lender makes a loan that is not secured by real estate, but is made on the condition of a personal guarantee by a third party who gives the lender a security interest in improved real estate owned by the third party that is located in an SFHA in which flood insurance is available, is it a designated loan that requires flood insurance?

Yes. In this scenario, a loan is made on condition of a personal guarantee by a third party and further secured by improved real estate, which is located in an SFHA and owned by that third party. Under these circumstances, the security of improved real estate in an SFHA is so closely tied to the making of the loan that it is considered a designated loan that requires flood insurance.[114]

XIV. Requirement To Escrow Flood Insurance Premiums and Fees—General (Escrow)

ESCROW 1. When must escrow accounts be established for flood insurance purposes?

A lender, or a servicer acting on its behalf, must escrow all premiums and fees for any flood insurance required under the mandatory purchase of flood insurance requirement for any designated loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed on or after January 1, 2016. The escrow must be payable with the same frequency as payments on the designated loan are required to be made for the duration of the loan, unless the loan or lender is subject to one of the exceptions.[115]

A lender is not required to escrow for flood insurance if it qualifies for the small lender exception [116] or the loan qualifies for one of the following loan-related exceptions [117] in the Regulation:

- A loan that is an extension of credit primarily for business, commercial, or agricultural purposes;
- A loan that is in a subordinate position to a senior lien secured by the same property for which the borrower has obtained adequate flood insurance coverage;
- A loan that is covered by a condominium association, cooperative, homeowners association or other applicable group's adequate flood insurance policy;
- A loan that is a home equity line of credit;
- A loan that is a nonperforming loan that is 90 or more days past due; or
- A loan that has a term not longer than 12 months.

If a lender no longer qualifies for the small lender exception, it must escrow all premiums and fees for any flood insurance required under the mandatory purchase of flood insurance requirement for any designated loan secured by residential improved real estate or a mobile home that is made, increased, extended, or renewed on or after July 1 of the first calendar year in which a lender has a change in status, unless a loan qualifies for another exception.[118] If a lender, other than a lender that qualifies for the small lender exception, determines at any time during the term of a designated loan secured by residential improved real estate or a mobile home that an exception from the escrow requirement that previously applied to a particular loan no longer applies to the loan, the lender must escrow flood insurance premiums and fees as soon as reasonably practicable.[119]

ESCROW 2. If a lender does not escrow for taxes or homeowner's insurance, is it required to escrow for flood insurance under the Regulation? If yes, is the lender obligated to escrow for taxes and other insurance because it escrows for flood insurance pursuant to the rule?

If a lender or its servicer is required to escrow for flood insurance under the Regulation, it must do so even if it does not escrow for taxes or other insurance.[120] A lender or servicer is not, however, obligated to escrow for taxes and other insurance solely because it must escrow for flood insurance pursuant to the Regulation, though there may be other laws or regulations that require that additional escrow.

ESCROW 3. Are lenders required to escrow force-placed insurance?

Yes, the Regulation requires lenders or their servicers to escrow flood insurance premiums for any residential designated loan made, increased, extended, or renewed on or after January 1, 2016, unless the lender or the loan qualifies for an exception from the escrow requirement.[121] The Act and Regulation do not include an exception to the escrow requirement for force-placed insurance.

ESCROW 4. Does the requirement to escrow flood insurance premiums and fees apply when a loan does not experience a triggering event?

No, subject to certain exceptions. The Regulation provides that a lender or its servicer is required to escrow flood insurance premiums and fees when a designated loan is made, increased, extended, or renewed (a triggering event), unless either the lender or the loan is excepted from the escrow requirement.[122] Until the loan experiences a triggering event, the lender is not required to escrow flood insurance premiums and fees, unless: (i) A borrower requests the escrow in connection with the requirement that the lender provide an option to escrow for outstanding loans; [123] or (ii) the lender determines that a loan exception

[112] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[113] 12 CFR 22.2(e) (OCC); 12 CFR 208.25(b)(5) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[114] 12 CFR 22.2(e) (OCC); 12 CFR 208.25(b)(5) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[115] 12 CFR 22.5(a) (OCC); 12 CFR 208.25(e)(1) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a)(1) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[116] 12 CFR 22.5(c) (OCC); 12 CFR 208.25(e)(3) (Board); 12 CFR 339.5(c) (FDIC); 12 CFR 614.4935(c) (FCA); and 12 CFR 760.5(c) (NCUA).

[117] 12 CFR 22.5(a)(2) (OCC); 12 CFR 208.25(e)(1)(ii) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

[118] 12 CFR 22.5(c)(2) (OCC); 12 CFR 208.25(e)(3)(ii) (Board); 12 CFR 339.5(c)(2) (FDIC); 12 CFR 614.4935(c)(2) (FCA); and 12 CFR 760.5(c)(2) (NCUA).

[119] 12 CFR 22.5(a)(3) (OCC); 12 CFR 208.25(e)(1)(iii) (Board); 12 CFR 339.5(a)(3) (FDIC); 12 CFR 614.4935(a)(3) (FCA); and 12 CFR 760.5(a)(3) (NCUA).

[120] 12 CFR 22.5(a)(1) (OCC); 12 CFR 208.25(e)(1)(i) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a)(1) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[121] 12 CFR 22.5(a) (OCC); 12 CFR 208.25(e)(1) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a)(1) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[122] 12 CFR 22.5(a) (OCC); 12 CFR 208.25(e)(1) (Board); 12 CFR 339.5(a) (FDIC); 12 CFR 614.4935(a) (FCA); and 12 CFR 760.5(a)(NCUA).

[123] 12 CFR 22.5(d) (OCC); 12 CFR 208.25(e)(4) (Board); 12 CFR 339.5(d) (FDIC); 12 CFR 614.4935(d) (FCA); and 12 CFR 760.5(d) (NCUA).

to the escrow requirement no longer applies.[124]

ESCROW 5. Are multi-family buildings or mixed-use properties included in the definition of ''residential improved real estate'' under the Regulation for which escrows are required (unless an exception applies)?

Yes. For the purposes of the Act and the Regulation, the definition of residential improved real estate does not make a distinction between whether a building is single- or multi-family, or whether a building is owner- or renter-occupied.[125] Single-family dwellings (including mobile homes), two-to-four family dwellings, and multi-family properties containing five or more residential units are considered residential improved real estate.

However, with regard to mixed-use properties, the lender should look to the primary use of a building to determine whether it meets the definition of ''residential improved real estate.'' *See* Q&As Amount 3 and 4 for guidance on residential and non-residential buildings. A loan secured by residential improved real estate is not subject to the escrow requirement if the loan is an extension of credit primarily for business, commercial or agricultural purposes.[126]

ESCROW 6. If a borrower obtains a second mortgage loan for a property located in an SFHA, and it is determined that the first lienholder does not have sufficient flood insurance coverage for both liens and is not currently escrowing for flood insurance, does the junior lienholder have to escrow for the additional amount of flood insurance coverage?

Under the Regulation, for a closed-end second mortgage loan, junior lienholders are not required to escrow for flood insurance as long as the borrower has obtained flood insurance coverage that meets the mandatory purchase requirement. Thus, the junior lender or its servicer must ensure that adequate flood insurance is in place. *See* Q&A Other Security Interests 4 for junior lienholder requirements.[127] Q&A Other Security Interests 4 explains the requirements for junior lienholders. If adequate flood insurance has not been obtained by the first lienholder and insurance must be purchased in connection with the second mortgage loan to meet the mandatory purchase requirement, the junior lender or its servicer would need to escrow the insurance obtained in connection with the second mortgage loan.[128] However, the escrow requirements do not apply to a junior lien that is a home equity line of credit (HELOC) since HELOCs have a separate escrow exception under the Act and Regulation.[129]

ESCROW 7. Does a lender or servicer have to escrow for loans when the security property is not located in an SFHA, but the borrower chooses to buy flood insurance?

Under the Regulation, lenders and servicers are only required to escrow for loans that are secured by residential improved real estate or a mobile home located or to be located in SFHAs where flood insurance is available under the NFIP and that experience a triggering event (made, increased, extended, or renewed) on or after January 1, 2016, unless either the lender or the loan qualifies for an exception.[130] If the property securing the loan is not located in an SFHA, it is not a designated loan, and the lender or its servicer is not required to escrow, although the lender or servicer may offer escrow service to the borrower.

XV. Requirement To Escrow Flood Insurance Premiums and Fees—Escrow Small Lender Exception (Escrow Small Lender Exception)

ESCROW SMALL LENDER EXCEPTION 1. Is the $1B small lender exception for the mandatory escrow of flood insurance premiums at the lending institution level or bank holding company level?

By its own terms, the small lender exception to the flood insurance escrow requirement applies to lenders rather than holding companies.[131] Therefore, the $1 billion requirement is calculated based on the assets held at the lending institution level, rather than at the holding company level.

ESCROW SMALL LENDER EXCEPTION 2. If a lender was required to escrow for taxes and hazard insurance solely under the (a) Higher-Priced Mortgage Loan (HPML) rules or (b) U.S. Department of Agriculture (USDA) or Federal Housing Administration (FHA) programs on or before July 6, 2012, is such a lender, who otherwise qualifies for the small lender exception, required to escrow the premiums and fees for flood insurance?

The Act and Regulation provide that a small lender is eligible for the exception only if, on or before July 6, 2012, the lender: (1) was not required under Federal or State law to deposit taxes, insurance premiums, fees, or any other charges in an escrow account for the entire term of any loan secured by residential improved real estate or a mobile home; and (2) did not have a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or other charges in an escrow account for any loans secured by residential improved real estate or a mobile home.[132]

- With respect to an HPML, Federal law in effect on or before July 6, 2012, permitted a borrower to request cancellation of the escrow rather than have it apply for the entire term of the loan. Therefore, HPML escrow requirements would not result in the loss of the escrow exception for a small lender that made an HPML-covered loan prior to July 6, 2012, because the lender was not required under Federal law to escrow for the entire term of the loan. Note that the phrase ''entire term'' applies only with respect to the Federal or State law requirements criterion of the exception. In addition, if a lender required escrow for an HPML solely to comply with Federal law, a lender complying with that law would not be considered to have its own separate policy of consistently and uniformly requiring escrow.
- With respect to loans under the USDA or FHA programs, under Federal law, such loans require the deposit of taxes, insurance premiums, fees and other charges in an escrow account for the entire term of the loan. Therefore, the first criterion of the exception would not be met and would disqualify the lender from the small lender exception under the Act and the Regulation.

ESCROW SMALL LENDER EXCEPTION 3. Is a lender disqualified

[124] 12 CFR 22.5(a)(3) (OCC); 12 CFR 208.25(e)(1)(iii) (Board); 12 CFR 339.5(a)(3) (FDIC); 12 CFR 614.4935(a)(3) (FCA); and 12 CFR 760.5(a)(3) (NCUA).

[125] 12 CFR 23.2(j) (OCC); 12 CFR 208.25(b)(8) (Board); 12 CFR 339.2 (FDIC); 12 CFR 614.4925 (FCA); and 12 CFR 760.2 (NCUA).

[126] 12 CFR 22.5(a)(2)(i) (OCC); 12 CFR 208.25(e)(1)(ii)(A) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

[127] 12 CFR 22.5(a)(2)(ii) (OCC); 12 CFR 208.25(e)(1)(ii)(B) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

[128] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[129] 12 CFR 22.5(a)(2)(iv) (OCC); 12 CFR 208.25(e)(1)(ii)(D) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

[130] 12 CFR 22.5(a)(1) (OCC); 12 CFR 208.25(e)(1)(i) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[131] 12 CFR 22.5(c)(1) (OCC); 12 CFR 208.25(e)(3)(i) (Board); 12 CFR 339.5(c) (FDIC); 12 CFR 614.4935(c) (FCA); and 12 CFR 760.5(c) (NCUA).

[132] 12 CFR 22.5(c)(1) (OCC); 12 CFR 208.25(e)(3)(i) (Board); 12 CFR 339.5(c) (FDIC); 12 CFR 614.4935(c) (FCA); and 12 CFR 760.5(c) (NCUA).

from the small lender escrow exception if it is required to collect escrowed funds on a mortgage loan on behalf of a third party?

To qualify for the small lender exception, one requirement is the lender must not have had a policy on or before July 6, 2012, of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for any loans secured by residential improved real estate or a mobile home.[133]

- With regard to mortgage loans for which the lender had a policy on or before July 6, 2012, of collecting escrow funds at closing and the lender maintained servicing of the loan, the lender would not qualify for the exception because the lender established an individual escrow account for the loan it would then service.
- With regard to mortgage loans for which the lender did not have a policy on or before July 6, 2012, of collecting the escrow funds on its own behalf at closing, but escrowed funds on behalf of a third party and then transferred those escrow funds to the third party servicing that loan, the lender would be able to qualify for the small lender exception provided the lender did not establish an individual escrow account and the lender transferred the funds to the third party as soon as reasonably practicable. The small lender must also satisfy the other requirements for the exception, but because no individual escrow account was established for the loan whose servicing rights were transferred pursuant to a third party's requirements, the lender would not have had a policy of consistently and uniformly requiring the deposit of funds in an escrow account.

ESCROW SMALL LENDER EXCEPTION 4. Is a lender eligible for the small lender exception if, on or before July 6, 2012, it offered escrow accounts only upon a borrower's request?

Yes. If, on or before July 6, 2012, a lender offered escrow accounts only upon the request of borrowers, this practice did not constitute a consistent or uniform policy of requiring escrow and the lender is eligible for the exception, provided all other conditions for the exception are met. The small lender exception does not apply if, on or before July 6, 2012, the lender had a policy of consistently and uniformly requiring the deposit of taxes, insurance premiums, fees, or any other charges in an escrow account for a loan secured by residential improved real estate or a mobile home.[134]

ESCROW SMALL LENDER EXCEPTION 5. Is the option to escrow notice required for all outstanding loans secured by residential real estate that are not excepted from the escrow requirement? What about outstanding loans that are not secured by buildings located in SFHAs?

Under the Regulation, lenders or their servicers are required to offer and make available the option to escrow flood insurance premiums and fees for all outstanding designated loans secured by residential improved real estate or a mobile home located in an SFHA as of January 1, 2016, or July 1 of the first calendar year in which the lender no longer qualifies for the small lender exception to the escrow requirement.[135] With the expiration of the June 30, 2016, deadline to comply with the option to escrow notice requirement for outstanding loans as of January 1, 2016, that requirement currently applies only to lenders who have a change in status and no longer qualify for the small lender exception.[136] Such lenders will be required to provide the option to escrow notice by September 30 of the first calendar year in which the lender has had a change in status pursuant to the Regulation.[137] The requirement to provide the option to escrow notice does not apply to outstanding loans or to lenders that are excepted from the general escrow requirement under the Regulation. The option to escrow notice requirement also does not apply to loans that are not subject to the mandatory flood insurance purchase requirement.

ESCROW SMALL LENDER EXCEPTION 6. If the borrower has waived escrow of flood insurance premiums and fees, does the lender or its servicer still need to send a notice to offer the ability to escrow for the flood insurance?

Yes, if the small lender exception no longer applies. *See* Q&A Escrow Small Lender Exception 5. The Regulation does not exclude loans for which borrowers have previously waived escrow from the requirement to offer and make available the option to escrow flood insurance premiums and fees. Consequently, lenders or their servicers must send a notice of the option to escrow flood insurance premiums and fees to borrowers who have previously waived escrow or for whom lenders previously offered an option to escrow.[138] Although a borrower may have previously decided to waive escrow or been offered an option to escrow, it is possible that the borrower's circumstances have changed, and if offered another chance to escrow, the borrower may desire to do so.

ESCROW SMALL LENDER EXCEPTION 7. Is it correct that lenders that qualify for the small lender exception are not required to provide borrowers the escrow notice or the option to escrow notice?

Yes. Lenders that qualify for the small lender exception are not required to provide borrowers either the escrow notice or the option to escrow notice unless the lender ceases to qualify for the small lender exception.[139]

XVI. Requirement To Escrow Flood Insurance Premiums and Fees—Escrow Loan Exceptions (Escrow Loan Exceptions)

ESCROW LOAN EXCEPTIONS 1. Are escrow accounts for flood insurance premiums and fees required for commercial loans that are secured by residential property?

No. Extensions of credit primarily for business, commercial or agricultural purposes are not subject to the escrow requirement for flood insurance premiums and fees, even if such loans are secured by residential improved real estate or a mobile home.[140] *See* Q&A Exemptions 1 for further information on the definition of residential property.

ESCROW LOAN EXCEPTIONS 2. Are escrow accounts for flood insurance premiums and fees required for loans secured by particular units located in multi-family buildings?

The escrow requirements in the Regulation would not apply to a loan secured by a particular unit in a multi-family residential building if a

[133] 12 CFR 22.5(c)(1)(ii)(B) (OCC); 12 CFR 208.25(e)(3)(i)(B)(*2*) (Board); 12 CFR 339.5(c)(1)(ii)(B) (FDIC); 12 CFR 614.4935(c)(1)(ii)(B) (FCA); and 12 CFR 760.5(c)(1)(ii)(B) (NCUA).

[134] 12 CFR 22.5(c)(1)(ii)(B) (OCC); 12 CFR 208.25(e)(3)(i)(B)(*2*) (Board); 12 CFR 339.5(c)(1)(ii)(B) (FDIC); 12 CFR 614.4935(c)(1)(ii)(B) (FCA); and 12 CFR 760.5(c)(1)(ii)(B) (NCUA).

[135] 12 CFR 22.5(d) (OCC); 12 CFR 208.25(e)(4) (Board); 12 CFR 339.5(d) (FDIC); 12 CFR 614.4935(d) (FCA); and 12 CFR 760.5(d) (NCUA).

[136] 12 CFR 22.5(c)(2) (OCC); 12 CFR 208.25(e)(3)(ii) (Board); 12 CFR 339.5(c)(2) (FDIC); 12 CFR 614.4935(c)(2) (FCA); and 12 CFR 760.5(c)(2) (NCUA).

[137] 12 CFR 22.5(d)(2) (OCC); 12 CFR 208.25(e)(4)(ii) (Board); 12 CFR 339.5(d)(2) (FDIC); 12 CFR 614.4935(d)(2) (FCA); and 12 CFR 760.5(d)(2) (NCUA).

[138] 12 CFR 22.5(d)(2) (OCC); 12 CFR 208.25(e)(4)(ii) (Board); 12 CFR 339.5(d)(2) (FDIC); 12 CFR 614.4935(d)(2) (FCA); and 12 CFR 760.5(d)(2) (NCUA).

[139] 12 CFR 22.5(d)(1) (OCC); 12 CFR 208.25(e)(4)(i) (Board); 12 CFR 339.5(d)(1) (FDIC); 12 CFR 614.4935(d)(1) (FCA); and 12 CFR 760.5(d)(1) (NCUA).

[140] 12 CFR 22.5(a)(2) (OCC); 12 CFR 208.25(e)(1)(ii) (Board); 12 CFR 339.5(a)(2) (FDIC); 12 CFR 614.4935(a)(2) (FCA); and 12 CFR 760.5(a)(2) (NCUA).

condominium association, cooperative, homeowners association, or other applicable group provides an adequate policy and pays for the insurance as a common expense.[141] *See* Q&A Exemptions 1. Otherwise, the escrow requirements generally would apply to loans for particular units in multi-family residential buildings.

ESCROW LOAN EXCEPTIONS 3. Which requirements for an escrow account apply to a property covered by an RCBAP?

An RCBAP (Residential Condominium Building Association Policy) is a policy purchased by the condominium association on behalf of itself and the individual unit owners in the condominium. Typically, a portion of the periodic dues paid to the association by the condominium owners applies to the premiums on the policy. When a lender makes, increases, renews, or extends a loan secured by a condominium unit that is adequately covered by an RCBAP and RCBAP premiums are paid by the condominium association as a common expense, an escrow account is not required.[142] However, if the RCBAP coverage is inadequate and the unit is also covered by a flood insurance policy for supplemental coverage, premiums for the supplemental policy would need to be escrowed, provided the lender or the loan did not qualify for any other exception from the Regulation's escrow requirement.[143] Lenders should exercise due diligence with respect to continuing compliance with the insurance requirements on the part of the condominium association.

ESCROW LOAN EXCEPTIONS 4. Do construction-permanent loans qualify for the 12-month exception if one phase of the loan is for 12 months or less?

Generally, no. Construction-permanent loans (or C–P loans) are loans that have a construction phase of approximately one year before the loan converts into permanent financing. During the construction phase, the loan is typically interest-only, so the borrower does not start paying principal until the permanent phase. After the construction phase, the borrower generally comes in to sign papers to start the permanent phase, but this is not a true closing. Given that C–P loans are generally 20- to 30-year term loans, a C–P loan would not qualify for the 12 month-exception from escrow, even if one phase of the loan is for 12 months or less.

ESCROW LOAN EXCEPTIONS 5. Although a lender is not required to monitor whether a subordinate lien moves into first lien position for the purpose of the mandatory escrow requirement, if the lender becomes aware that the subordinate lien exception no longer applies, when must the lender begin to escrow?

If at any time during the term of the loan a lender determines that a subordinate lien exception no longer applies, the lender must begin escrowing flood insurance premiums and fees as soon as reasonably practicable (unless another exception applies).[144] Lenders should ensure that the loan documents for the subordinate lien permit the lender to require an escrow if the loan takes a first lien position.

XVII. Force Placement Of Flood Insurance (Force Placement)

FORCE PLACEMENT 1. What is the requirement for the force placement of flood insurance under the Act and the Regulation?

When a lender makes a determination that the collateral securing the loan is uninsured or underinsured, it must begin the force placement process. Specifically, the Act and the Regulation provide that if a lender, or a servicer acting on its behalf, determines at any time during the term of a designated loan that a building or mobile home and any personal property securing the loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under the Regulation, the lender or its servicer must notify the borrower that the borrower must obtain flood insurance, at the borrower's expense, in an amount at least equal to the minimum amount required under the Regulation. If the borrower fails to obtain flood insurance within 45 days of the lender's notification to the borrower, the lender must purchase flood insurance on the borrower's behalf at that time. The lender must force place flood insurance for the full amount required under the Regulation, or if the borrower has purchased flood insurance that otherwise satisfies the flood insurance requirements but in an insufficient amount, the lender would be required to force place only for the ''insufficient amount,'' that is, the difference between the amount the borrower insured and the required amount of flood insurance. The Act and the Regulation also provide that the lender or its servicer may purchase insurance on the borrower's behalf and may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance beginning on the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount. *See also* Q&A Force Placement 8.[145]

A lender or its servicer may include in the force placement notice the amount of flood insurance needed. By providing this information, the lender or its servicer can help ensure that a borrower obtains the appropriate amount of insurance. In addition, before the lender or servicer must force place flood insurance, if the lender or servicer is aware that a borrower has obtained insurance that otherwise satisfies the flood insurance requirements but in an insufficient amount, the lender or servicer should inform the borrower an additional amount of insurance is needed in order to comply with the Regulation.

FORCE PLACEMENT 2. When must a lender provide the force placement notice to the borrower?

The Regulation requires the lender, or its servicer, to send notice to the borrower upon making a determination that the building or mobile home and any personal property securing the designated loan is not covered by flood insurance or is covered by flood insurance in an amount less than the amount required under the Regulation. The Agencies expect that such notice will be provided to the borrower at the time of determination of no or insufficient coverage. If there is a brief delay in providing the notice, the Agencies will expect the lender or servicer to provide a reasonable explanation for the delay. For example, there may be brief delays due to various lender processes, including but not limited to, batch processing and manual exception processing.

FORCE PLACEMENT 3. May a servicer force place on behalf of a lender?

Yes. Assuming the statutory prerequisites for force placement are met, and subject to the servicing contract between the lender and its servicer, the Act authorizes servicers to force place flood insurance on behalf of

[141] 12 CFR 22.5(a)(2)(iii) (OCC); 12 CFR 208.25(e)(1)(ii)(C) (Board); 12 CFR 339.5(a)(2)(iii) (FDIC); 12 CFR 614.4935(a)(2)(iii) (FCA); and 12 CFR 760.5(a)(2)(iii) (NCUA).

[142] 12 CFR 22.5(a)(2)(iii) (OCC); 12 CFR 208.25(e)(1)(ii)(C) (Board); 12 CFR 339.5(a)(2)(iii) (FDIC); 12 CFR 614.4935(a)(2)(iii) (FCA); and 12 CFR 760.5(a)(2)(iii) (NCUA).

[143] 12 CFR 22.5(a) (OCC); 12 CFR 208.25(e)(1) (Board); 12 CFR 339.5(a)(1) (FDIC); 12 CFR 614.4935(a) (FCA); and 12 CFR 760.5(a)(1) (NCUA).

[144] 12 CFR 22.5(a)(3) (OCC); 12 CFR 208.25(e)(1)(iii) (Board); 12 CFR 339.5(a)(3) (FDIC); 12 CFR 614.4935(a)(3) (FCA); and 12 CFR 760.5(a)(3) (NCUA).

[145] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

the lender, following the procedures set forth in the Regulation.[146]

FORCE PLACEMENT 4. May a lender satisfy its notice requirement by sending the force placement notice to the borrower prior to the expiration of the flood insurance policy?

No. The Act specifically provides that the lender or servicer for a loan must send a notice upon its determination that the collateral property securing the loan is either not covered by flood insurance or is covered by flood insurance in an amount less than the amount required.[147] Although a lender may send notice prior to the expiration date of the flood insurance policy as a courtesy, the lender or servicer is still required to send notice upon determining that the flood insurance policy actually has lapsed or is insufficient in meeting the statutory requirement. The lender may purchase insurance on the borrower's behalf beginning on the date of the lapse.[148]

FORCE PLACEMENT 5. When must the lender have flood insurance in place if the borrower has not obtained adequate insurance within 45 days after notification?

The Regulation provides that the lender or its servicer shall purchase insurance on the borrower's behalf if the borrower fails to obtain flood insurance within 45 days after notification.[149] If the borrower fails to obtain flood insurance and the lender does not force place flood insurance by the end of the force placement notification period, the Agencies will expect the lender to provide a reasonable explanation for the brief delay, for example, that a lender uses batch processing to purchase force-placed flood insurance policies.

FORCE PLACEMENT 6. Once a lender makes a determination that a designated loan has no or insufficient flood insurance coverage and sends the borrower a force placement notice, may a lender make a subsequent determination in connection with the initial notification period that the designated loan has no or insufficient coverage and send another force placement notice, effectively providing more than 45 days for the borrower to obtain sufficient coverage?

No. The Act and Regulation state that once a lender makes a determination that a designated loan has no or insufficient flood insurance coverage, the lender must notify the borrower and, if the borrower fails to obtain sufficient flood insurance coverage within 45 days after that notice, the lender must purchase coverage on the borrower's behalf.[150] For example, if in response to a force placement notice, the borrower obtains flood insurance that is insufficient in amount, there is no extension of the time period by which the lender must force place flood insurance.

FORCE PLACEMENT 7. May a lender commence a force-placed insurance policy on the day the previous policy expires, or must the new policy begin on the day after?

The Regulation provides that the lender or its servicer may charge the borrower for the cost of premiums and fees incurred in purchasing the insurance, including premiums or fees incurred for coverage, beginning on the date on which flood insurance lapsed or did not provide a sufficient coverage amount.[151]

A lender, however, may not require the borrower to pay for double coverage. The Regulation requires the lender or its servicer to refund to the borrower all premiums paid by the borrower for any force-placed insurance purchased by the lender or its servicer during any period in which the borrower's flood insurance coverage and the force-placed insurance policy were each in effect.[152]

For example, if the previous policy expires at 12:01 a.m., the lender's new force-placed policy should not begin to provide coverage until 12:01 a.m. of the same day. If the lender did force place at a date and time that would result in the force-placed policy providing overlapping coverage, the lender should not charge the borrower for the period of overlapping coverage.

FORCE PLACEMENT 8. When force placement occurs, what is the amount of insurance required to be placed?

The Regulation states that the minimum amount of flood insurance required ''must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the Act.'' [153] Therefore, if the outstanding principal balance is the basis for the minimum amount of required flood insurance, the lender must ensure that the force-placed policy amount covers the outstanding principal balance plus any additional force-placed premium and fees capitalized into the outstanding principal balance.[154]

To illustrate this point, assume that there is a loan with an outstanding principal balance of $200,000, secured by a residential property located in an SFHA that has an insurable value of $350,000. The borrower has a $200,000 flood insurance policy for that property, reflecting the minimum amount required under the Regulation. If the $200,000 flood insurance policy lapses, the lender or its servicer must notify the borrower of the need to obtain adequate flood insurance. If the borrower fails to obtain adequate flood insurance within 45 days after notification, then the lender or its servicer must purchase insurance on the borrower's behalf.[155]

If the lender intends to capitalize the premium for the force-placed policy into the outstanding principal balance, the lender must ensure that the policy is issued in an amount sufficient to cover the anticipated higher outstanding principal balance, including the force-placed policy premium, even if the capitalization of the force-placed premium is not considered a triggering event. *See also* Q&A Force Placement 10. In this scenario, if the cost of the force-placed policy is $2,000, the coverage amount of the force-placed policy must be at least $202,000.

FORCE PLACEMENT 9. When may a lender or its servicer charge the borrower for the cost of force-placed insurance?

A lender, or a servicer acting on its behalf, may force place flood insurance and charge the borrower for the cost of premiums and fees incurred by the lender or servicer in purchasing the flood insurance on the borrower's behalf at any time starting from the date on which flood insurance coverage lapsed or did not provide a sufficient coverage amount. The lender or servicer would not have to wait 45 days after providing

[146] 42 U.S.C. 4012a(e); 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[147] 12 U.S.C. 4012a(e)(1). *See also* 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[148] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[149] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[150] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[151] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[152] 12 CFR 22.7(b)(1)(ii) (OCC); 12 CFR 208.25(g)(2)(i)(B) (Board); 12 CFR 339.7(b)(1)(ii) (FDIC); 12 CFR 614.4945(b)(1)(ii) (FCA); and 12 CFR 760.7(b)(1)(ii) (NCUA).

[153] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[154] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA)

[155] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

notification to force place insurance.[156] Lenders that monitor loans secured by property located in an SFHA for continuous flood insurance coverage can minimize any gaps in coverage and any charge to the borrower for coverage for a timeframe prior to the lender's or its servicer's date of discovery and force placement. If a lender or its servicer, despite its monitoring efforts, discovers a loan with no or insufficient coverage, for example, due to a remapping, it may charge the borrower for premiums and fees incurred by the lender or servicer for a force-placed flood insurance policy purchased on the borrower's behalf, including premiums and fees for coverage, beginning on the date of no or insufficient coverage, provided that the policy was effective as of the date of the insufficient coverage. When a lender or its servicer purchases a policy on the borrower's behalf, the lender or its servicer may not charge for premiums and fees for coverage beginning on the date of lapse or insufficient coverage if that policy purchased on the borrower's behalf did not provide coverage for the borrower prior to purchase. A lender's or servicer's frequent need to purchase policies on a borrower's behalf having coverage that precedes the date of purchase may, depending upon the facts and circumstances, indicate that there are weaknesses within the lender's or servicer's compliance management system.

FORCE PLACEMENT 10. Does capitalizing the flood insurance premium into the outstanding principal balance constitute a triggering event—an ''increase'' that would trigger the applicability of flood insurance regulatory requirements?

The Act and the Regulation require a lender to notify the borrower that the borrower should obtain adequate flood insurance when the lender determines that a building or a mobile home located or to be located in an SFHA is not covered by any or adequate flood insurance.[157] If the borrower fails to obtain adequate flood insurance within 45 days, then the lender must purchase insurance on the borrower's behalf. The lender may charge the borrower for the premiums and fees incurred by the lender in purchasing the force-placed flood insurance.[158]

Among the various methods that a lender might use to charge a borrower for force-placed flood insurance are: (1) Capitalizing the premium and fees into the outstanding principal balance; (2) adding the premium and fees to a separate account; (3) advancing funds from the escrow account to pay for the premiums and fees of the force-placed flood insurance; or (4) billing the borrower directly for the premiums and fees of the force-placed flood insurance policy. The treatment of force-placed flood insurance premiums and fees depends on the method the lender chooses for charging the borrower.

Premium and Fees Capitalized Into Outstanding Principal Balance

If the lender's loan contract with the borrower includes a provision permitting the lender or servicer to advance funds to pay for flood insurance premiums and fees as additional debt to be secured by the building or mobile home, such an advancement would be considered part of the loan. As such, the capitalization of the flood insurance premiums and fees into the outstanding principal balance is not considered an ''increase'' in the loan amount, and thus would not be considered a triggering event. If, however, there is no explicit provision permitting this type of advancement of funds in the loan contract, the capitalization of flood insurance premiums and fees into the borrower's outstanding principal balance would be considered an ''increase'' in the loan amount, and, therefore is considered a triggering event because no advancement of funds was contemplated as part of the loan. *See also* Q&A Force Placement 8.

Premium and Fees Added to an Account

If the lender accounts for and tracks the amount owed on the force-placed flood insurance premium and fees in a separate account, this approach does not result in an increase in the loan balance and, therefore, is not considered a triggering event.

Premium and Fees Advanced From the Borrower's Escrow Account

If the lender's loan contract with the borrower permits the lender to advance the premiums and fees for the force-placed flood insurance from the borrower's escrow account, this approach does not increase the outstanding principal balance and is not considered a triggering event.

Premium and Fees Billed Directly to Borrower

If the lender bills the borrower directly for the cost of the force-placed flood insurance, this approach does not increase the outstanding principal balance and is not considered a triggering event.

FORCE PLACEMENT 11. What documentation is sufficient to demonstrate evidence of flood insurance in connection with a lender's refund of premiums paid by a borrower for force-placed insurance during any period of overlap with borrower-purchased insurance?

With respect to when a lender is required to refund premiums paid by a borrower for force-placed insurance during any period of overlap with borrower-purchased insurance, the Regulation specifically addresses the documentation requirements. The Regulation provides that, for purposes of confirming a borrower's existing flood insurance coverage, a lender must accept from the borrower an insurance policy declarations page that includes the existing flood insurance policy number and the identity of, and contact information for, the insurance company or its agent.[159] The Regulation does not require that the declarations page contain any additional information in order to ascertain whether the policy meets the mandatory flood insurance purchase requirement to determine whether a refund is required. *See* Q&A Private Flood Compliance 5 for further guidance regarding evaluation under the private flood insurance requirements of the Regulation.

In situations not involving a lender's refund of premiums for force-placed insurance, the Regulation does not specify what documentation would be sufficient. Generally, it is appropriate, although not required by the Regulation, for lenders to accept a copy of the flood insurance application and premium payment as evidence of proof of purchase for new policies.

FORCE PLACEMENT 12. If a lender receives a confirmation, consistent with the Regulation, of a borrower's existing flood insurance coverage evidencing an overlap with a force-placed flood insurance policy, but the lender does not receive a refund from the insurance provider of the force-placed flood insurance policy in a timely manner, is the lender still required to refund any premiums for overlapping coverage to the borrower within 30 days?

[156] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[157] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[158] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[159] 12 CFR 22.7(b)(2) (OCC); 12 CFR 208.25(g)(2)(ii) (Board); 12 CFR 339.7(b)(2) (FDIC); 12 CFR 614.4945(b)(2) (FCA); and 12 CFR 760.7(b)(2) (NCUA).

Yes. The Regulation specifically requires the refund of force-placed insurance premiums and any related fees charged to the borrower for any overlap period within 30 days of receipt of a confirmation of a borrower's existing flood insurance coverage without exception.[160]

FORCE PLACEMENT 13. Is a lender permitted to increase, renew, or extend a designated loan that is currently insured by force-placed insurance? More specifically, if the borrower is undergoing a refinance or a loan modification, can the lender rely on the existing force-placed insurance to meet the mandatory purchase requirement?

A lender can rely on existing force-placed insurance to satisfy the mandatory flood insurance purchase requirement if the borrower does not purchase his or her own policy. The Regulation states that a lender ''shall not make, increase, extend or renew any designated loan unless the building or mobile home and any personal property securing the loan is covered by flood insurance for the term of the loan.'' [161] Assuming the force-placed policy is in effect and otherwise satisfies the regulatory coverage standards, then that policy may satisfy the mandatory purchase requirement.

A refinance is the ''making'' of a loan, and a loan modification that increases, renews, or extends a loan is a triggering event for the flood insurance requirements. *See* Applicability 6 and Applicability 13. Therefore, when a lender refinances, increases, renews, or extends an existing loan, the lender is required to provide the Notice of Special Flood Hazards, which details the borrower's obligation to obtain a flood insurance policy for any building in an SFHA securing the loan.[162] At that time, the lender, at its discretion, could encourage the borrower to purchase his or her own policy, which may be available for a lower premium amount.

FORCE PLACEMENT 14. If a borrower's force-placed flood insurance expires, is the lender required to send a force placement notification to the borrower prior to renewing the force-placed flood insurance coverage?

No. The Regulation does not require the lender to send a notice to the borrower prior to renewing a force-placed policy. However, the lender or its servicer, at its discretion, may notify the borrower that the lender is planning to renew or has renewed the force-placed policy. Such a notification may encourage the borrower to purchase his or her own policy, which may be available for a lower premium amount.

FORCE PLACEMENT 15. Are lenders required to have in place ''Life-of-Loan'' monitoring for continuous coverage of designated loans?

Although there is no explicit duty to monitor flood insurance coverage over the life of the loan in the Act or Regulation, for purposes of safety and soundness, many lenders monitor the continuous coverage of flood insurance for the building or mobile home and any personal property securing the loan. Such a practice helps to ensure that lenders complete the force placement of flood insurance in a timely manner upon lapse of a policy, that there is continuous coverage to protect both the borrower and the lender, and that lenders are promptly made aware of flood map changes.

FORCE PLACEMENT 16. If a lender or its servicer receives a notice of remapping that states that a property has been or will be remapped into an SFHA, what do the Act and Regulation require the lender or its servicer to do?

The Act and Regulation provide that if a lender, or its servicer, determines at any time during the term of a designated loan, that a building or mobile home and any personal property securing a loan is uninsured or underinsured, the lender or its servicer must begin the notice and force placement process, as detailed in Q&A Force Placement 1.[163] A loan that is secured by property that was not located in an SFHA does not become a designated loan until the effective date of the map change that remaps the property into an SFHA. Therefore, when a lender or its servicer receives advance notice that a property will be remapped into an SFHA, the effective date of the remapping becomes the date on which the lender or its servicer must determine whether the property is covered by sufficient flood insurance. If the borrower does not purchase a flood insurance policy that begins on the effective date of the map change, the lender or its servicer must send the force placement notice to the borrower to purchase adequate flood insurance.[164] Similar to the guidance set forth in Q&A Force Placement 4, a lender also may send notice prior to the effective date of the map change as a courtesy.

In addition, as of the effective date of the remapping, if the lender makes a determination that the property securing a designated loan is not covered by sufficient flood insurance, the lender or servicer must begin the force placement process and may charge the borrower for the force-placed insurance.[165] However, if the borrower purchases an adequate flood insurance policy, the lender or servicer would need to reimburse the borrower for premiums and fees charged for the force-placed coverage during any period of overlapping coverage.[166]

If the lender or its servicer receives notice after a property has been remapped into an SFHA, then the lender or its servicer must determine whether the property securing the loan is covered by sufficient flood insurance. The lender or its servicer must begin the notice and force placement process, as detailed in Q&A Force Placement 1, if the property is uninsured or underinsured.[167] *See also* Q&A Force Placement 9.

XVIII. Flood Insurance Requirements in the Event of the Sale or Transfer of a Designated Loan and/or Its Servicing Rights (Servicing)

SERVICING 1. How do the flood insurance requirements under the Regulation apply to lenders under the following scenarios involving loan servicing?

Scenario 1: A regulated lender originates a designated loan secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act. The regulated lender makes the initial flood determination, provides the borrower with appropriate notice, and flood insurance is obtained. The regulated lender initially services the loan; however, the regulated lender subsequently sells both the loan and the servicing rights to a nonregulated party. What are the regulated lender's requirements under the Regulation? What are the regulated lender's requirements under the Regulation if it only transfers or sells the servicing rights, but retains ownership of the loan?

[160] 12 CFR 22.7(b)(1) (OCC); 12 CFR 208.25(g)(2)(i) (Board); 12 CFR 339.7(b)(1) (FDIC); 12 CFR 614.4945(b)(1) (FCA); and 12 CFR 760.7(b)(1) (NCUA).

[161] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[162] 12 CFR 22.9(a) (OCC); 12 CFR 208.25(i) (Board); 12 CFR 339.9(a) (FDIC); 12 CFR 614.4955(a) (FCA); and 12 CFR 760.9(a) (NCUA).

[163] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[164] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[165] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[166] 12 CFR 22.7(b)(1)(ii) (OCC); 12 CFR 208.25(g)(2)(i)(B) (Board); 12 CFR 339.7(b)(1)(ii) (FDIC); 12 CFR 614.4945(b)(1)(ii) (FCA); and 12 CFR 760.7(b)(1)(ii) (NCUA).

[167] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

The regulated lender must comply with all requirements of the Regulation, including making the initial flood determination, providing appropriate notice to the borrower, and ensuring that the proper amount of insurance is obtained. In the event the regulated lender sells or transfers the loan and servicing rights, the regulated lender must provide notice of the identity of the new servicer to the Administrator of FEMA or its designee if the policy is an NFIP policy.[168] In the case of a flood insurance policy issued by a private insurer, the lender should provide notice of the identity of the new servicer to the private insurer. Once the regulated lender has sold the loan and the servicing rights, the lender has no further obligation regarding flood insurance on the loan.

If the regulated lender retains ownership of the loan and only transfers or sells the servicing rights to a nonregulated party, and the policy is an NFIP policy, the regulated lender must notify the Administrator of FEMA or its designee of the identity of the new servicer.[169] In the case of a flood insurance policy issued by a private insurer, the lender should provide notice of the identity of the new servicer to the private insurer. The servicing contract should require the servicer to comply with all the requirements that are imposed on the regulated lender as owner of the loan, including escrow of insurance premiums and force placement of insurance, if necessary.

Generally, the Regulation does not impose obligations on a loan servicer independent from the obligations it imposes on the owner of a loan. Loan servicers are covered by the escrow, force placement, and flood hazard determination fee provisions of the Act and Regulation primarily so that they may perform the administrative tasks for the regulated lender, without fear of liability to the borrower for the imposition of unauthorized charges. It is the Agencies' longstanding position that the obligation of a loan servicer to fulfill administrative duties with respect to the flood insurance requirements arises from the contractual relationship between the loan servicer and the regulated lender or from other commonly accepted standards for performance of servicing obligations. The regulated lender remains ultimately liable for fulfillment of those responsibilities and must take adequate steps to ensure that the loan servicer maintains compliance with the flood insurance requirements.

Scenario 2: A nonregulated lender originates a designated loan. The nonregulated lender does not make an initial flood determination or notify the borrower of the need to obtain insurance. The nonregulated lender sells the loan and servicing rights to a regulated lender. What are the regulated lender's requirements under the Regulation? What are the regulated lender's requirements if it only purchases the servicing rights?

A regulated lender's purchase of a loan and servicing rights, secured by a building or mobile home located in an SFHA in which flood insurance is available under the Act, is not an event that triggers certain requirements under the Regulation, such as making a new flood determination or requiring a borrower to purchase flood insurance.[170] Those requirements only are triggered when a regulated lender makes, increases, extends, or renews a designated loan.[171] A regulated lender's purchase of a loan does not fall within any of those categories. However, if a regulated lender becomes aware at any point during the life of a designated loan that flood insurance is required,[172] then the regulated lender must comply with the Regulation, including force placing insurance, if necessary.[173] Depending upon the circumstances, as a matter of safety and soundness, the lender may undertake due diligence upon the purchase of a loan, which would make the lender aware of the lack of adequate flood insurance and trigger flood insurance compliance requirements. Further, if the purchasing lender subsequently extends, increases, or renews a designated loan, it must also comply with the Act and Regulation.[174]

When a regulated lender purchases only the servicing rights to a loan originated by a nonregulated lender, the regulated lender is obligated to follow the terms of its servicing contract with the owner of the loan. In the event the regulated lender subsequently sells or transfers the servicing rights on that loan, the regulated lender must notify the Administrator of FEMA or its designee of the identity of the new servicer, if required to do so by the servicing contract with the owner of the loan.[175]

SERVICING 2. When a lender makes a designated loan and will be servicing that loan, what are the requirements for notifying the Administrator of FEMA or the Administrator's designee, i.e. the insurance provider?

Under the Regulation, the Administrator's designee is the insurance company issuing the flood insurance policy.[176] The borrower's purchase of an NFIP policy (or the lender's force placement of an NFIP policy) will constitute notice to the Administrator of FEMA when the lender is servicing that loan.

In the event the servicing is subsequently transferred to a new servicer, the lender must provide notice to the insurance company of the identity of the new servicer no later than 60 days after the effective date of such a change.[177]

In the case of a flood insurance policy issued by a private insurer, the lender should provide notice to the flood insurance provider. If the lender does not provide this notice to the flood insurance provider, the provider will be unable to properly administer the policy, such as by providing notice to the servicer about the expiration of the flood insurance policy.

SERVICING 3. Would a Real Estate Settlement Procedures Act (RESPA) Notice of Transfer sent to the Administrator of FEMA (or the Administrator's designee, i.e., the insurance provider) satisfy the requirements of the Act?

Yes. The delivery of a copy of the Notice of Transfer or any other form of notice is sufficient if the sender includes, on or with the notice, the following information that FEMA has indicated is needed by its designee:

- Borrower's full name;
- Flood insurance policy number;
- Property address (including city and State);
- Name of lender or servicer making notification;
- Name and address of new servicer; and
- Name and telephone number of contact person at new servicer.

[168] 12 CFR 22.10(b) (OCC); 12 CFR 208.25(j)(2) (Board); 12 CFR 339.10(b) (FDIC); 12 CFR 614.4960(b) (FCA); and 12 CFR 760.10(b) (NCUA).

[169] 12 CFR 22.10(b) (OCC); 12 CFR 208.25(j)(2) (Board); 12 CFR 339.10(b) (FDIC); 12 CFR 614.4960(b) (FCA); and 12 CFR 760.10(b) (NCUA).

[170] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[171] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[172] 42 U.S.C. 4012a(e)(1).

[173] 12 CFR 22.7(a) (OCC); 12 CFR 208.25(g)(1) (Board); 12 CFR 339.7(a) (FDIC); 12 CFR 614.4945(a) (FCA); and 12 CFR 760.7(a) (NCUA).

[174] 12 CFR 22.3(a) (OCC); 12 CFR 208.25(c)(1) (Board); 12 CFR 339.3(a) (FDIC); 12 CFR 614.4930(a) (FCA); and 12 CFR 760.3(a) (NCUA).

[175] 12 CFR 22.10(b) (OCC); 12 CFR 208.25(j)(2) (Board); 12 CFR 339.10(b) (FDIC); 12 CFR 614.4960(b) (FCA); and 12 CFR 760.10(b) (NCUA).

[176] 12 CFR 22.10(a) (OCC); 12 CFR 208.25(j)(1) (Board); 12 CFR 339.10(a) (FDIC); 12 CFR 614.4960(a) (FCA); and 12 CFR 760.10(a) (NCUA).

[177] 12 CFR 22.10(b) (OCC); 12 CFR 208.25(j)(2) (Board); 12 CFR 339.10(b) (FDIC); 12 CFR 614.4960(b) (FCA); and 12 CFR 760.10(b) (NCUA).

SERVICING 4. Can delivery of the notice be made electronically, including batch transmission?

Yes. The Regulation specifically permits transmission by electronic means.[178] A timely batch transmission of the notice would also be permissible, if it is acceptable to the Administrator's designee, *i.e.,* the insurance provider.

SERVICING 5. If the loan and its servicing rights are sold by the lender, is the lender required to provide notice to the Administrator or the Administrator's designee (i.e., the insurance provider)?

Yes, in the case of an NFIP policy.[179] Failure to provide such notice would defeat the purpose of the notice requirement because FEMA would have no record of the identity of either the owner or servicer of the loan.

In the case of a flood insurance policy issued by a private insurer, the lender should provide notice to the flood insurance provider. If the lender does not provide this notice to the flood insurance provider, the provider will be unable to properly administer the policy, such as by providing notice to the servicer about the expiration of the flood insurance policy.

SERVICING 6. Is a lender required to provide notice when the servicer, not the lender, sells or transfers the servicing rights to another servicer?

No. After servicing rights are sold or transferred, the subsequent notification obligations applicable in connection with NFIP policies are the responsibility of the new servicer.[180] The obligation of the lender to notify the Administrator or the Administrator's designee (*i.e.,* the insurance provider) of the identity of the servicer transfers to the new servicer. The duty to notify the insurance provider of any subsequent sale or transfer of the servicing rights and responsibilities belongs to that servicer.[181] For example, if a lender makes and services a loan and then sells the loan in the secondary market and also sells the servicing rights to a mortgage company, then the lender must notify the insurance provider of the identity of the new servicer and the other information requested by FEMA so that flood insurance transactions can be properly administered by the insurance provider. If the mortgage company later sells the servicing rights to another firm, the mortgage company, not the lender, is responsible for notifying the insurance provider of the identity of the new servicer.

Similarly, for a flood insurance policy issued by a private insurer, if a lender sells or transfers the servicing rights, the Agencies do not expect the lender to provide notice to the insurance provider of any subsequent sale or transfer of the servicing rights.

SERVICING 7. In the event of a merger or acquisition of one lender with another, what are the responsibilities of the parties for notifying the Administrator's designee (i.e., the insurance provider)?

If a lender is acquired by or merges with another lender, the duty in connection with NFIP policies to provide notice for the loans being serviced by the acquired lender will fall to the successor lender in the event that notification is not provided by the acquired lender prior to the effective date of the acquisition or merger.

Similarly, for a flood insurance policy issued by a private insurer, the successor lender should provide notice to the flood insurance provider in the event that notification is not provided by the acquired lender prior to the effective date of the acquisition or merger.

XIX. Mandatory Civil Money Penalties (Penalty)

PENALTY 1. Which violations of the Act can result in a mandatory civil money penalty?

A pattern or practice of violations of any of the following requirements of the Act and its implementing Regulation triggers a mandatory civil money penalty:

- Purchase of flood insurance where available (42 U.S.C. 4012a(b));
- Escrow of flood insurance premiums (42 U.S.C. 4012a(d));
- Failure to provide force placement notice or purchase force-placed flood insurance coverage, as appropriate (42 U.S.C. 4012a(e));
- Notice of special flood hazards and the availability of Federal disaster relief assistance (42 U.S.C. 4104a(a)); and
- Notice of servicer and any change of servicer (42 U.S.C. 4104a(b)).

The Act provides that any regulated lending institution found to have a pattern or practice of the violations ''shall be assessed a civil penalty'' by its Federal supervisory agency in an amount not to exceed $2,000 per violation (42 U.S.C. 4012a(f)(5)). There is no ceiling on the total penalty amount that a Federal supervisory agency can assess for a pattern or practice of violations. Each Agency adjusts the limit pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note).[182] As required by the Act, the penalties must be paid into the National Flood Mitigation Fund.[183]

PENALTY 2. What constitutes a ''pattern or practice'' of violations for which civil money penalties must be imposed under the Act?

The Act does not define ''pattern or practice.'' The Agencies make a determination of whether a pattern or practice exists by weighing the individual facts and circumstances of each case. In making the determination, the Agencies look both to guidance and experience with determinations of pattern or practice under other regulations (such as Regulation B (Equal Credit Opportunity) and Regulation Z (Truth in Lending)), as well as Agencies' precedents in considering the assessment of civil money penalties for flood insurance violations. The Policy Statement on Discrimination in Lending (Policy Statement) provided the following guidance on what constitutes a pattern or practice: Isolated, unrelated, or accidental occurrences will not constitute a pattern or practice. However, repeated, intentional, regular, usual, deliberate, or institutionalized practices will almost always constitute a pattern or practice. The totality of the circumstances must be considered when assessing whether a pattern or practice is present.

In determining whether a lender has engaged in a pattern or practice of flood insurance violations, the Agencies' considerations may include, but are not limited to, the presence of one or more of the following factors:

- Whether the conduct resulted from a common cause or source within the lender's control;
- Whether the conduct appears to be grounded in a written or unwritten policy or established process;
- Whether the noncompliance occurred over an extended period of time;
- The relationship of the instances of noncompliance to one another (for example, whether the instances of noncompliance occurred in the same area of a lender's operations);

[178] 12 CFR 22.10(a) (OCC); 12 CFR 208.25(j)(1) (Board); 12 CFR 339.10(a) (FDIC); 12 CFR 614.4960(a) (FCA); and 12 CFR 760.10(a) (NCUA).

[179] 12 CFR 22.10 (OCC); 12 CFR 208.25(j) (Board); 12 CFR 339.10 (FDIC); 12 CFR 614.4960 (FCA); and 12 CFR 760.10 (NCUA).

[180] 12 CFR 22.10 (OCC); 12 CFR 208.25(j) (Board); 12 CFR 339.10 (FDIC); 12 CFR 614.4960 (FCA); and 12 CFR 760.10 (NCUA).

[181] 12 U.S.C. 4104a(b)(1).

[182] Public Law 101–410, Oct. 5, 1990, 104 Stat. 890. This act was amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599. Please refer to 12 CFR 19.240(b) & 12 CFR 109.103(c)(2) (OCC); 12 CFR 263.65(b) (Board); 12 CFR 308.132(d)(18) (FDIC); 12 CFR 622.61(b) (FCA); and 12 CFR 747.1001 (NCUA) for the Agencies' current civil penalty limits.

[183] 42 U.S.C. 4012a(f)(8).

- Whether the number of instances of noncompliance is significant relative to the total number of applicable transactions. (Depending on the circumstances, however, violations that involve only a small percentage of a lender's total activity could constitute a pattern or practice);
- Whether a lender was cited for violations of the Act and Regulation at prior examinations and the steps taken by the lender to correct the identified deficiencies;
- Whether a lender's internal and/or external audit process had not identified and addressed deficiencies in its flood insurance compliance; and
- Whether the lender lacks generally effective flood insurance compliance policies and procedures and/or a training program for its employees.

Although these considerations are not dispositive of a final resolution, they do serve as a reference point in assessing whether there may be a pattern or practice of violations of the Act and Regulation in a particular case. As previously stated, the presence or absence of one or more of these considerations may not eliminate a finding that a pattern or practice exists.

Michael J. Hsu,

Acting Comptroller of the Currency.By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board. Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 27, 2022.

James P. Sheesley,

Assistant Executive Secretary.

Dated at McLean, VA, this 9 day of May 2022.

Ashley Waldron,

Secretary, Farm Credit Administration Board.

Melane Conyers-Ausbrooks,

Secretary of the Board, National Credit Union Administration.

[FR Doc. 2022–10414 Filed 5–27–22; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 7535–01–P; 6705–01–P

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Part V

Commodity Futures Trading Commission

17 CFR Part 50
Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates; Proposed Rule

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 50

RIN 3038–AF18

Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission (Commission or CFTC) is proposing to amend its interest rate swap clearing requirement regulations adopted under applicable provisions of the Commodity Exchange Act (CEA) in light of the global transition from reliance on certain interbank offered rates (IBORs) (*e.g.,* the London Interbank Offered Rate (LIBOR)) that have been, or will be, discontinued as benchmark reference rates to alternative reference rates, which are predominantly overnight, nearly risk-free reference rates (RFRs). The proposed amendments would revise the set of interest rate swaps that are required to be submitted for clearing pursuant to the CEA and the Commission's regulations to a derivatives clearing organization (DCO) that is registered under the CEA (registered DCO) or a DCO that has been exempted from registration under the CEA (exempt DCO). Among other things, the proposed amendments would modify the Commission's interest rate swap clearing requirement to reflect the market shift away from swaps that reference IBORs to swaps that reference RFRs.

DATES: Comments must be received on or before June 30, 2022.

ADDRESSES: You may submit comments, identified by RIN 3038–AF18, by any of the following methods:

- *CFTC Comments Portal: https://comments.cftc.gov.* Select the ''Submit Comments'' link for this rulemaking and follow the instructions on the Public Comment Form.
- *Mail:* Send to Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Follow the same instructions as for Mail, above. Please submit your comments using only one of these methods. Submissions through the CFTC Comments Portal are encouraged.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://comments.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

FOR FURTHER INFORMATION CONTACT: Sarah E. Josephson, Deputy Director, at 202–418–5684 or *sjosephson@cftc.gov;* Melissa D'Arcy, Special Counsel, at 202–418–5086 or *mdarcy@cftc.gov;* or Daniel O'Connell, Special Counsel, at 202–418–5583 or *doconnell@cftc.gov;* each in the Division of Clearing and Risk at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Commission's Swap Clearing Requirement

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established a comprehensive new regulatory framework for swaps.[1] Title VII of the Dodd-Frank Act (Title VII) amended the CEA to require, among other things, that a swap be cleared through a registered DCO or an exempt DCO if the Commission has determined that the swap, or group, category, type, or class of swaps, is required to be cleared, unless an exception to the clearing requirement applies.[2] The CEA, as amended by Title VII, provides that the Commission may issue a clearing requirement determination based either on a Commission-initiated review of a swap,[3] or a swap submission from a DCO.[4]

Section 2(h)(2)(D)(ii) of the CEA requires the Commission to consider the

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

[2] Section 2(h)(1)(A) of the CEA, 7 U.S.C. 2(h)(1)(A).

[3] Section 2(h)(2)(A) of the CEA, 7 U.S.C. 2(h)(2)(A). Section 2(h)(2)(A) provides for a Commission-initiated review process whereby the Commission, on an ongoing basis, must review swaps, or a group, category, type, or class of swaps, to determine whether a swap, or a group, category, type, or class of swaps, should be required to be cleared.

[4] Section 2(h)(2)(B) of the CEA, 7 U.S.C. 2(h)(2)(B). Section 2(h)(2)(B)(i) requires that each DCO submit to the Commission each swap, or group, category, type, or class of swaps, that it plans to accept for clearing. The swaps subject to this proposed determination were submitted by DCOs pursuant to CEA section 2(h)(2)(B)(i) and regulation 39.5(b), 17 CFR 39.5(b). Pursuant to section 2(h)(2)(B)–(C) of the CEA, the Commission must review swap submissions from DCOs to determine whether the swaps should be subject to required clearing. Regulation § 39.5(b) implements the procedural elements of section 2(h)(2)(B)–(C) by establishing the process by which a DCO must submit the swaps it offers for clearing to the Commission for purposes of considering a clearing requirement determination.

following five factors when making a clearing requirement determination: (I) The existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data; (II) the availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the contract on terms that are consistent with the material terms and trading conventions on which the contract is traded; (III) the effect on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the DCOs available to clear the contract; (IV) the effect on competition, including appropriate fees and charges applied to clearing; and (V) the existence of reasonable legal certainty in the event of the insolvency of the relevant DCO or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property.[5]

The Commission adopted its first clearing requirement determination (First Determination) in 2012.[6] The First Determination was implemented between March 2013 and October 2013 based on the schedule described in regulation § 50.25 and the preamble to the First Determination.[7] The First Determination applied to interest rate swaps in four classes: Fixed-to-floating swaps, basis swaps, forward rate agreements (FRAs), and overnight index swaps (OIS).[8]

In making its initial interest rate swap clearing determination, the Commission focused on the size of the interest rate swap market relative to the swap market overall, as well as the fact that these swaps were already widely being cleared.[9] As set forth in regulation § 50.4(a), the Commission identified four classes of interest rate swaps having certain specifications related to (i) the currency in which the notional and payment amounts are specified; (ii) the floating rate index referenced in the swap; (iii) the stated termination date; (iv) optionality; (v) dual currencies; and (vi) conditional notional amounts.[10] The Commission limited the interest rate swaps required to be cleared to those denominated in four currencies (U.S. dollar (USD), Euro (EUR), British pound (GBP), and Japanese yen (JPY)). The Commission noted that interest rate swaps denominated in these currencies comprised an outsized portion of the interest rate swap market in terms of notional amounts outstanding and trading volumes compared to interest rate swaps denominated in other currencies.[11]

The First Determination covered a number of interest rate swaps that reference IBORs, including fixed-to-floating swaps, basis swaps, and FRAs denominated in USD, GBP, and JPY, referencing USD, GBP, and JPY LIBOR, respectively, and OIS denominated in EUR referencing the Euro Overnight Index Average (EONIA). The Commission observed that interest rate swaps referencing those indexes had significant outstanding notional amounts and trading liquidity.[12]

The Commission adopted its second clearing requirement determination (Second Determination) in 2016.[13] The Second Determination was implemented between December 2016 and October 2018,[14] and covered interest rate swaps in nine additional currencies: Australian dollar (AUD), Canadian dollar (CAD), Hong Kong dollar (HKD), Mexican peso (MXN), Norwegian krone (NOK), Polish zloty (PLN), Singapore dollar (SGD), Swedish krona (SEK), and Swiss franc (CHF). The Commission adopted the Second Determination largely in order to further harmonize its interest rate swap clearing requirement with those of other jurisdictions that had already issued, or were in the process of issuing, clearing mandates on similar interest rate swaps.[15] The Second Determination also covered swaps that reference other IBORs, including fixed-to-floating swaps denominated in SGD referencing the Singapore Swap Offer Rate (SOR–VWAP) and fixed-to-floating swaps denominated in CHF referencing CHF LIBOR.[16] These rates will be discussed further below.

B. End of LIBOR

LIBOR is an interest rate benchmark that was intended to measure the average rate at which a bank can obtain unsecured funding in the London interbank market for a given tenor and currency. It had been one of the world's most frequently referenced interest rate benchmarks, serving as a reference rate for a wide variety of swaps and other financial products. Over the years, LIBOR was calculated based on submissions from a panel of contributor banks and published every London business day. Immediately prior to January 1, 2022, LIBOR was published for five currencies (USD, GBP, EUR, CHF, and JPY) and seven tenors (overnight or spot next depending on currency, 1-week, 1-month, 2-month, 3-month, 6-month, and 12-month), resulting in 35 individual LIBOR rates.[17] Beginning this year, these LIBOR rates have almost entirely ceased publication or become nonrepresentative of the underlying market they are intended to measure.

Nearly a decade ago, government investigations concerning LIBOR, as well as a decline in the volume of interbank lending transactions that LIBOR is intended to measure, gave rise to concerns regarding the integrity and reliability of LIBOR and other IBORs.[18]

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[5] 7 U.S.C. 2(h)(2)(D)(ii).

[6] Clearing Requirement Determination Under Section 2(h) of the CEA, 77 FR 74284 (Dec. 13, 2012) (First Determination).

[7] 17 CFR 50.25; First Determination, 77 FR at 74319–74321.

[8] *See generally* First Determination. By way of background, an interest rate swap is generally an agreement by counterparties to exchange payments based on a series of cash flows over a specified period of time, typically calculated using two different rates. Fixed-to-floating swaps are interest rate swaps in which the payment(s) owed on one leg of the swap is calculated using a fixed rate, and the payment(s) owed on the other leg is calculated using a floating rate. Basis swaps are interest rate swaps for which the payments for both legs are calculated using floating rates. FRAs are interest rate swaps in which payments are exchanged on a predetermined date for a single period and one leg of the swap is calculated using a fixed rate while the other leg is calculated using a floating rate set on a predetermined date. OIS are interest rate swaps for which one leg of the swap is calculated using a fixed rate and the other leg is calculated using a floating rate based on a daily overnight rate.

[9] *Id.* at 74287, 74307. To this day, significant amounts of notional in interest rate swaps are traded in markets around the world, and these swaps comprise an outsized portion of notional among all swaps. According to the Bank for International Settlements (BIS), as of June 2021, there was an estimated $488 trillion in outstanding notional of interest rate swaps, which represents approximately 80% of the total outstanding notional of all over-the-counter (OTC) derivatives. *See* BIS, OTC Derivatives Outstanding, Table D7 (OTC, Interest Rate Derivatives, H1 2021), updated Nov. 15, 2021, available at *https://stats.bis.org/statx/srs/table/d7?f=pdf;* BIS, Global OTC Derivatives Markets, June 2021, available at *https://www.bis.org/publ/otc_hy2111/intgraphs/graphA1.htm.*

[10] 17 CFR 50.4(a).

[11] First Determination, 77 FR at 74308.

[12] *Id.* at 74309.

[13] Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps, 81 FR 71202 (Oct. 14, 2016) (Second Determination).

[14] 17 CFR 50.26; Second Determination, 81 FR at 71202.

[15] Second Determination, 81 FR at 71203–71205. The Commission explained that such harmonization serves an important anti-evasion goal: If a non-U.S. jurisdiction issued a clearing requirement, and a swap dealer (SD) located in the United States were not subject to an analogous a clearing requirement under U.S. law, then market participants potentially could avoid the non-U.S. jurisdiction's clearing requirement by entering into a swap with an SD located in the United States. *Id.* at 71203.

[16] *Id.* at 71205.

[17] *See generally* ICE Benchmark Administration (IBA), LIBOR, available at *https://www.theice.com/iba/libor.*

[18] *See, e.g.,* International Organization of Securities Commissions (IOSCO), Principles for Financial Benchmarks, July 2013, at 1, available at *https://www.iosco.org/library/pubdocs/pdf/*

Continued

Although LIBOR was subject to a number of significant reform efforts,[19] regulators and global standard-setting bodies did not view these reforms as a long-term solution. On July 27, 2017, Andrew Bailey, then-Chief Executive of the United Kingdom (UK) Financial Conduct Authority (FCA), LIBOR's primary regulator, announced that the FCA would not use its authority to compel LIBOR panel banks to contribute to the benchmark after 2021.[20] On March 5, 2021, the FCA announced that publication of LIBOR would cease on December 31, 2021, for the following: [21]

(i) EUR LIBOR in all tenors;

(ii) CHF LIBOR in all tenors;

(iii) JPY LIBOR in the spot next, 1-week, 2-month, and 12-month tenors;

(iv) GBP LIBOR in the overnight, 1-week, 2-month, and 12-month tenors; and

(v) USD LIBOR in the 1-week and 2-month tenors.[22]

The FCA further determined that GBP and JPY LIBOR in 1-month, 3-month, and 6-month tenors would become nonrepresentative after December 31, 2021.[23] Additionally, the FCA determined that USD LIBOR in the overnight and 12-month tenors would cease after June 30, 2023, and that USD LIBOR in the 1-month, 3-month, and 6-month tenors would not be representative after that date.[24] At this time, EUR, CHF, JPY, and GBP LIBOR in all tenors, and USD LIBOR in the 1-week and 2-month tenors, have ceased publication or become nonrepresentative of the underlying market they are intended to measure.

The historic circumstances surrounding the transition from IBORs to RFRs are the result of significant private and public sector coordinated efforts.[25] As plans to retire LIBOR proceeded, regulators in the United States and other jurisdictions worked to identify, develop, and implement reference rates to serve as alternatives to LIBOR and other IBORs.[26] In the United States, the Alternative Reference Rates Committee (ARRC), convened in 2014 by the Federal Reserve Board (FRB) and the Federal Reserve Bank of New York (FRBNY) and comprised of private market participants and *ex officio* banking and financial sector regulators, selected the Secured Overnight Financing Rate (SOFR) [27] as its preferred alternative to USD LIBOR.[28] The ARRC developed a Paced Transition Plan, which has now been completed, to facilitate an orderly transition from USD LIBOR to USD SOFR.[29]

C. Global Progress on Benchmark Reform

Regulators and public-private working groups in other IBOR currency jurisdictions have been working to identify, develop, and encourage market uptake of RFRs to replace LIBOR in currencies other than USD, as well as IBORs other than LIBOR. As relevant to this proposal, RFRs identified as alternatives for IBORs in currencies other than USD include: (i) The Sterling Overnight Index Average (SONIA) for GBP; (ii) the Swiss Average Rate Overnight (SARON) for CHF; (iii) the Tokyo Overnight Average (TONA) for JPY; and (iv) the Euro Short-Term Rate (€STR) for EUR.

In the European Union (EU), the Working Group on Euro Risk-Free Rates, convened in 2018 by the European Central Bank in connection with the Belgian Financial Services, the European Securities and Markets Authority (ESMA), and the European Commission (EC), also identified €STR as its preferred alternative to EUR EONIA, which ceased publication on January 3, 2022.[30] Additionally, with regard to SGD, the Steering Committee for SOR & SIBOR Transition to SORA, established by the Monetary Authority of Singapore (MAS), has been working to oversee a transition from SGD SOR–VWAP to the Singapore Overnight Rate Average (SORA).[31] SGD SOR–VWAP relies on USD LIBOR as an input and is expected to be discontinued across all tenors after June 30, 2023.[32]

IOSCOPD415.pdf. See also David Bowman, et al., ''How Correlated Is LIBOR With Bank Funding Costs?,'' FEDS Notes, June 29, 2020, available at *https://www.federalreserve.gov/econres/notes/feds-notes/how-correlated-is-libor-with-bank-funding-costs-20200629.htm;* and Alternative Reference Rates Committee, *Second Report,* Mar. 2018, at 1–3, available at *https://www.newyorkfed.org/medialibrary/Microsites/arrc/files/2018/ARRC-Second-report.*

[19] *See generally* IBA, Methodology, available at *https://www.theice.com/publicdocs/ICE_LIBOR_Methodology.pdf;* H.M. Treasury, The Wheatley Review of LIBOR: Final Report, Sept. 2012, available at *https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/191762/wheatley_review_libor_finalreport_280912.pdf;* Intercontinental Exchange (ICE), ICE LIBOR Evolution, Apr. 25, 2018, at 4, available at *https://www.theice.com/publicdocs/ICE_LIBOR_Evolution_Report_25_April_2018.pdf.*

[20] Andrew Bailey, ''The future of Libor,'' July 27, 2017, available at *https://www.fca.org.uk/news/speeches/the-future-of-libor.*

[21] FCA, FCA Announcement on Future Cessation and Loss of Representativeness of the LIBOR Benchmarks, Mar. 5, 2021 (FCA Announcement on LIBOR Cessation), available at *https://www.fca.org.uk/publication/documents/future-cessation-loss-representativeness-libor-benchmarks.pdf.*

[22] *See* section IV below (discussing the continued publication of USD LIBOR for certain tenors through June 30, 2023).

[23] FCA Announcement on LIBOR Cessation. The FCA stated that once a LIBOR rate becomes nonrepresentative, its representativeness will not be restored.

[24] *Id.*

[25] While not all benchmark rates considered to be alternative reference rates for IBORs may be RFRs, efforts to transition markets away from IBORs have focused on RFRs as alternatives. For purposes of brevity, the Commission uses the term ''RFR'' in this notice of proposed rulemaking to refer to alternative reference rates.

[26] For additional background information, *see* Swap Clearing Requirement To Account for the Transition from LIBOR and Other IBORs to Alternative Reference Rates, 86 FR 66476, 66480 (Nov. 23, 2021) (RFI).

[27] USD SOFR is an RFR that measures the cost of overnight repurchase agreement transactions collateralized by U.S. Treasury securities. FRBNY, Statement Introducing the Treasury Repo Reference Rates, Apr. 3, 2018, available at *https://www.newyorkfed.org/markets/opolicy/operating_policy_180403. See also* FRBNY, Secured Overnight Financing Rate Data, available at *https://apps.newyorkfed.org/markets/autorates/SOFR#:~:text=The%20SOFR%20is%20calculated%20as,LLC%2C%20an%20affiliate%20of%20the;* and FRBNY, Additional Information about the Treasury Repo Reference Rates, available at *https://www.newyorkfed.org/markets/treasury-repo-reference-rates-information.* USD SOFR has been published each New York business day at 8 a.m. ET since April 3, 2018, by the FRBNY in cooperation with the U.S. Office of Financial Research.

[28] ARRC, ''The ARRC Selects a Broad Repo Rate as its Preferred Alternative Reference Rate,'' June 22, 2017, available at *https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Jun-22-2017.pdf.*

[29] ARRC, Paced Transition Plan, available at *https://www.newyorkfed.org/arrc/sofr-transition#pacedtransition.* The Paced Transition Plan called for (i) the establishment of infrastructure for futures and/or OIS trading in USD SOFR by the second half of 2018; (ii) the start of trading in futures and/or bilateral, uncleared OIS that reference USD SOFR by the end of 2018; (iii) the start of trading in cleared OIS that reference USD SOFR in the effective Federal funds rate (EFFR) price alignment interest (PAI) and discounting environment by the end of the first quarter of 2019; (iv) Chicago Mercantile Exchange, Inc. (CME)'s and LCH Limited (LCH)'s conversion of discounting, and PAI and price alignment amount, from EFFR to USD SOFR with respect to all outstanding cleared USD-denominated swaps by October 16, 2020; and (v) the ARRC's endorsement of a term reference rate based on USD SOFR derivatives markets by the end of the first half of 2021. The final step was completed on July 29, 2021, when the ARRC formally endorsed forward-looking term USD SOFR rates developed by CME.

[30] ESMA, Working Group on Euro Risk-Free Rates, available at *https://www.esma.europa.eu/policy-activities/benchmarks/working-group-euro-risk-free-rates;* European Money Markets Institute, EONIA, available at *https://www.emmi-benchmarks.eu/benchmarks/eonia/.*

[31] Association of Banks in Singapore, About SC–STS, available at *https://www.abs.org.sg/benchmark-rates/about-sc-sts.*

[32] Steering Committee for SOR & SIBOR Transition to SORA, Timelines to Cease Issuance of SOR and SIBOR-Linked Financial Products, Mar. 31, 2021 (Timelines to Cease SOR), at 4, available at *https://www.abs.org.sg/docs/library/timelines-to-cease-issuance-of-sor-derivatives-and-sibor-linked-financial-products.pdf.*

Table 1 that follows this paragraph contains a non-exhaustive list of RFRs that have been identified to replace IBORs around the world: [33]

TABLE 1—RFRS IDENTIFIED FOR IBORS

Currency	Index	Identified alternative rate	Alternative rate administrator	Secured	Published
AUD	Bank Bill Swap Rate (BBSW).	Reserve Bank of Australia Interbank Overnight Cash Rate (AONIA).	Reserve Bank of Australia.	No	Yes.
CAD	Canadian Dollar Offered Rate (CDOR).	Canadian Overnight Repo Rate Average (CORRA).	Bank of Canada	Yes	Yes.
CHF	LIBOR	SARON	SIX Swiss Exchange	Yes	Yes.
EUR	LIBOR	€STR	European Central Bank	No	Yes.
	Euro Overnight Index Average (EONIA).	€STR	European Central Bank	No	Yes.
	Euro Interbank Offered Rate (EURIBOR).	€STR	European Central Bank	No	Yes.
GBP	LIBOR	SONIA	Bank of England	No	Yes.
HKD	Hong Kong Interbank Offered Rate (HIBOR).	Hong Kong Dollar Overnight Index Average (HONIA).	Treasury Market Association.	No	Yes.
JPY	LIBOR	TONA	Bank of Japan	No	Yes.
MXN	Term Interbank Equilibrium Interest Rate (TIIE).	Overnight TIIE	Banco de Mexico	Yes	Yes.
SGD	SOR	SORA	Association of Banks in Singapore.	No	Yes.
	Singapore Interbank Offered Rate (SIBOR).	SORA	Association of Banks in Singapore.	No	Yes.

Regulators and global standard-setting bodies have urged market participants to accelerate their adoption of USD SOFR and other RFRs and cease entering new swaps referencing LIBOR and other IBORs,[34] and have issued guidance and regulatory relief to facilitate the transition. In the United States, on July 13, 2021, the Commission's Market Risk Advisory Committee adopted SOFR First, a phased initiative to switch interdealer trading conventions from reliance on USD LIBOR to USD SOFR as a reference rate for swaps.[35] SOFR First was implemented in four phases between July 26, 2021, and December 16, 2021.[36] SOFR First mirrors similar best practices adopted in other jurisdictions to increase activity in swaps referencing RFRs.[37]

II. Overview of the Request for Information

In light of ongoing efforts by the international regulatory community, market participants, and others to transition financial markets from IBORs to RFRs, on November 23, 2021, the Commission published an RFI seeking public input regarding how it should amend the interest rate swap clearing requirement to address the cessation of IBORs that have been used as benchmark reference rates and the market adoption of swaps that reference RFRs.[38] The RFI sought input on all aspects of the swap clearing requirement that may be affected by the transition from IBORs to RFRs, including enumerated requests for data and other information related to IBOR and RFR swaps. The Commission received 14 responses to the RFI from a variety of market infrastructure providers, market participants, and industry organizations.[39] In addition to addressing the Commission's specific requests for information, many respondents to the RFI shared information regarding their own contributions to the transition from IBORs to RFRs.

[33] *See generally* Financial Stability Board (FSB), Reforming Major Interest Rate Benchmarks, Nov. 20, 2020, at 29–43, 54–55, available at *https://www.fsb.org/2020/11/reforming-major-interest-rate-benchmarks-2020-progress-report/. See also* Andreas Schrimpf and Vladislav Sushko, ''Beyond Libor: a primer on the new reference rates,'' BIS Quarterly Review, Mar. 2019, at 35, available at *https://www.bis.org/publ/qtrpdf/r_qt1903e.pdf;* Bank of England, Preparing for 2022: What You Need to Know about LIBOR Transition, Nov. 2018, at 10, *https://www.bankofengland.co.uk/-/media/boe/files/markets/benchmarks/what-you-need-to-know-about-libor-transition.pdf;* ISDA, et al., IBOR Global Benchmark Survey 2018 Transition Roadmap, Feb. 2018, at 32, *https://www.isda.org/a/g2hEE/IBOR-Global-Transition-Roadmap-2018.pdf;* European Central Bank, Euro Short-Term Rate (€STR), available at *https://www.ecb.europa.eu/stats/financial_markets_and_interest_rates/euro_short-term_rate/html/index.en.html#:~:text=The%20euro%20short%2Dterm%20rate,activity%20on%201%20October%202019;* Timelines to Cease SOR.

[34] *See, e.g.,* FRB, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC), Statement on LIBOR Transition, Nov. 30, 2020, available at *https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf;* and IOSCO, Statement on Benchmarks Transition, June 2, 2021, available at *https://www.iosco.org/library/pubdocs/pdf/IOSCOPD676.pdf.*

[35] CFTC, ''CFTC Market Risk Advisory Committee Adopts SOFR First Recommendation at Public Meeting,'' July 13, 2021, available at *https://www.cftc.gov/PressRoom/PressReleases/8409-21.*

[36] CFTC, CFTC's Interest Rate Benchmark Reform Subcommittee Issues User Guide for the Transition of Exchange-Traded Derivatives Activity to SOFR, Dec. 16, 2021, available at *https://www.cftc.gov/PressRoom/PressReleases/8469-21.*

[37] *See, e.g.,* Bank of England, ''The FCA and the Bank of England encourage market participants in further switch to SONIA in interest rate swap markets,'' Sept. 28, 2020, available at *https://www.bankofengland.co.uk/news/2020/september/fca-and-boe-joint-statement-on-sonia-interest-rate-swap;* Cross-Industry Committee on Japanese Yen Interest Rate Benchmarks, ''Transition of Quoting Conventions in the JPY interest rate swaps market ('TONA First'),'' July 26, 2021, available at *https://www.boj.or.jp/en/paym/market/jpy_cmte/data/cmt210726b.pdf.*

[38] RFI, 86 FR at 66486—66488.

[39] Responses were submitted by: American Council of Life Insurers (ACLI), CCP12, London Stock Exchange Group (LSEG), Japan Securities Clearing Corporation (JSCC), Tradeweb Markets LLC (Tradeweb), Investment Company Institute (ICI), Managed Funds Association (MFA), Toronto-Dominion Bank (TD Bank), Eurex Clearing AG (Eurex), the International Swaps and Derivatives Association (ISDA), Alternative Investment Management Association (AIMA), Citadel, Bloomberg L.P., and CME Group Inc. (CMEG). The response letters are available on the CFTC Comments Portal: *https://comments.cftc.gov/PublicComments/ReleasesWithComments.aspx.*

A. Work by DCOs To Support the Transition to RFRs

The Commission received responses to its RFI from CMEG,[40] LSEG,[41] and Eurex, all of which operate or are registered DCOs that offer for clearing RFR swaps subject to this proposal. The Commission also received a response from JSCC, an exempt DCO that clears JPY TONA swaps.[42] Additionally, the Commission received a response from the CCP12, a global association of central counterparties (CCPs).

DCOs played an important role in the transition from IBORs to RFRs by offering clearing services for RFR swaps and converting cleared IBOR swaps to RFR OIS.[43] The DCOs' responses highlight the efforts they undertook to facilitate a smooth transition from cleared IBOR swaps to cleared RFR swaps.[44] As the CCP12 noted in its response, DCOs currently provide clearing services for RFR OIS and manage the risks associated with clearing such swaps.[45]

Table 2 that follows this paragraph shows swaps referencing RFRs that registered DCOs have offered for clearing to facilitate the transition from IBORs.[46] After DCOs began clearing RFR swaps, they worked to move open interest in IBOR swaps to RFR swaps, reflecting the growing RFR swap market. CME, LCH, and Eurex each converted cleared EUR EONIA swaps outstanding after October 15, 2021, to €STR OIS, ahead of EUR EONIA's January 3, 2022 cessation.[47] These DCOs also converted cleared swaps referencing CHF, EUR, JPY, and GBP LIBOR to corresponding RFR OIS in December 2021, ahead of the December 31, 2021 cessation date for these LIBOR rates.[48] Additionally, in December 2021, JSCC completed a conversion of JPY LIBOR swaps to JPY TONA OIS.[49] Following these conversion events, with limited exceptions, swaps referencing these LIBOR rates were no longer offered for clearing.[50] The Commission anticipates that CME, LCH, and Eurex will launch similar conversion events for all swaps still referencing USD LIBOR prior to June 30, 2023.[51]

TABLE 2—SUMMARY OF SWAPS OFFERED FOR CLEARING TO SUPPORT IBOR TRANSITION

Swap class	Currency	Floating rate index	Registered DCOs offering clearing (Termination date range offered)
Basis Swaps	AUD	BBSW-AONIA	LCH (up to 31 yrs).
	CAD	CDOR-CORRA	LCH (up to 31 yrs).
	EUR	EURIBOR-€STR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	GBP	LIBOR-SONIA	Eurex (up to 51 yrs), LCH (up to 51 yrs).
	JPY	LIBOR-TONA	Eurex (up to 31 yrs), LCH (up to 41 yrs).
	SGD	SOR-SORA	LCH (up to 21 yrs).
	USD	LIBOR-SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
		Fed Funds-SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
OIS	AUD	AONIA	CME (up to 31 yrs), LCH (up to 31 yrs).
	CAD	CORRA	CME (up to 31 yrs), LCH (up to 31 yrs).
	CHF	SARON	CME (up to 31 yrs), Eurex (up to 31 yrs), LCH (up to 31 yrs).
	EUR	€STR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	GBP	SONIA	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).
	JPY	TONA	CME (up to 31 yrs), Eurex (up to 31 yrs), LCH (up to 41 yrs).
	SGD	SORA	CME (up to 21 years), LCH (up to 21 yrs).
	USD	SOFR	CME (up to 51 yrs), Eurex (up to 51 yrs), LCH (up to 51 yrs).

[40] CMEG is the parent company of CME. CMEG Letter.

[41] LSEG has majority ownership of LCH Group, which operates LCH. LSEG Letter.

[42] OTC Clearing Hong Kong Limited (HKEX), another exempt DCO, also clears certain of the RFR swaps subject to this proposal. Specifically, HKEX offers swaps referencing USD SOFR and EUR €STR for clearing. *See* Hong Kong Exchanges and Clearing, Interest Rate Swaps, available at *https://www.hkex.com.hk/Products/OTC-Derivatives/Interest-Rate-Swaps?sc_lang=en.*

[43] As the Commission explained in the RFI, these conversion events were intended to address market participant concerns related to potential bifurcation of liquidity between trading in legacy IBOR swaps that had fallen back to RFRs (*i.e.,* as a result of the operation of DCO rules implementing ISDA's fallbacks) and new RFR OIS, as well as certain operational costs. RFI, 86 FR at 66484.

[44] CMEG, LSEG, Eurex, and JSCC Letters.

[45] CCP12 Letter.

[46] Table 2 does not include information from exempt DCOs. Exempt DCOs, such as JSCC and HKEX, also offer clearing services for certain RFR swaps, but do not offer customer clearing to U.S. customers.

[47] *See* CME, CME Submission No. 21–413, CFTC Regulation 40.6(a) Certification, Notification Regarding Modification of Cleared Euro Overnight Index Average (''EONIA'') Overnight Index Swaps to Reference Euro Short Term Rate (''€STR'') Ahead of Scheduled Discontinuation of EONIA, Sept. 29, 2021, available at *https://www.cmegroup.com/content/dam/cmegroup/market-regulation/rule-filings/2021/9/21-413.pdf;* LCH, LCH Limited Self-Certification: Benchmark Reform—Rates Conversion, Sept. 29, 2021 (LCH Self-Certification: Benchmark Reform—Rates Conversion), available at *https://www.lch.com/system/files/media_root/FINAL%20-%20LCH%20self%20cert_Benchmark%20Reform%202021%2009%2029%20v3%20%28Clean%29.pdf;* Eurex Clearing, ECAG Rule Certification 081–21, Sept. 16, 2021 (Eurex Rule Certification 081–21), available at *https://www.eurex.com/resource/blob/2781070/61d1fccdd00bc1a06753877a5fa3f483/data/ecag_cftc_filing_for_circular_081-21.pdf;* and Eurex, Eurex Clearing Circular 111/20 EurexOTC Clear: Summary of Consultation on the Transition Plan for Transactions Referencing the EONIA Benchmark, Dec. 14, 2020, available at *https://www.eurex.com/ec-en/find/circulars/clearing-circular-2373634.*

[48] LCH Self-Certification: Benchmark Reform—Rates Conversion; LCH, Supplementary Statement on LCH's Solution for Outstanding Cleared LIBOR Contracts, LCH Circular No. 4146, Mar. 18, 2021, available at *https://www.lch.com/membership/ltd-membership/ltd-member-updates/supplementary-statement-lchs-solution-outstanding;* CME, CME IBOR Conversion Plan for Cleared Swaps, June 9, 2021, available at *https://www.cmegroup.com/trading/interest-rates/files/cleared-swaps-considerations-for-ibor-fallbacks-and-conversion-plan.pdf;* and Eurex Rule Certification 081–21. The Commission notes that only LCH conducted a conversion event for EUR LIBOR swaps because CME and Eurex did not offer these swaps for clearing at that time.

[49] JSCC Letter.

[50] CMEG, Advisory Notice #21–434, Modification of Cleared Over-the-Counter (OTC) British Pound (GBP), Japanese Yen (JPY) and Swiss Franc (CHF) Denominated Interest Rate Swap Products Referencing the London Interbank Offered Rate (LIBOR) and Limitation of Acceptance for Clearing, Nov. 22, 2021, available at *https://www.cmegroup.com/notices/clearing/2021/11/Chadv21-434.pdf* (noting that CME provides limited clearing services for certain LIBOR swaps resulting from the exercise of bilateral uncleared swaptions, which are subject to a same-day conversion event on the day such swaps are accepted for clearing); LCH, LIBOR Transition—Risk Notice, Nov. 2021, available at *https://www.lch.com/system/files/media_root/LIBOR%20Transition%20-%20Risk%20Notice%20Nov%202021.pdf* (setting forth the terms of time-limited clearing services for certain ''legacy'' LIBOR transactions, including LIBOR swaps resulting from the exercise of certain swaptions; and Eurex, EurexOTC Clear Product List, available at *https://www.eurex.com/resource/blob/227404/760dd5a98729621e2de7720d28bc291a/data/ec15075e_Attach.pdf.*

[51] Each registered DCO has made public its plans for full USD LIBOR transition. CMEG, LSEG, and Eurex Letters.

B. Work by Market Participants To Support the Transition to RFRs

Market participants also played a significant role in the transition from reliance on IBORs to the adoption of RFRs through engagement with RFR working groups, such as the ARRC, and the provision of trading liquidity in interest rate swaps referencing RFRs.[52] As Citadel and ISDA noted in their responses to the RFI, many RFR swaps are now voluntarily cleared by market participants in large proportions.[53] Citadel explained that, in the interdealer market, the ''vast majority'' of trading activity has transitioned to USD SOFR, and that ''streaming dealer prices can be observed across [swap execution facilities (SEFs)], evidencing the number of available market makers.'' [54]

For each of the amendments in this proposal, the Commission considered feedback and data from responses to the RFI. Respondents overwhelmingly supported updating the clearing requirement to account for the cessation of LIBOR and other IBORs. Many respondents specifically expressed a desire that the Commission harmonize any changes to the clearing requirement with changes taking place in other jurisdictions.[55] In particular, the Commission recognizes the information provided by respondents with regard to issuing a clearing requirement determination for OIS referencing USD SOFR with a termination date range as long as 50 years.[56]

III. Domestic and International Coordination and Outreach

The global shift from IBORs to RFRs represents a historic effort by international standard setting bodies such as IOSCO and the FSB, regulators, cross-jurisdictional working groups, market infrastructure providers, market participants, and others, to move global swap markets toward reliance on more sustainable benchmarks.[57] Due to the cross-border nature of this effort and the size of the affected markets, the Commission believes it is a priority to engage with domestic and international regulators as it considers changes to the clearing requirement. As discussed further below, the Commission's proposed clearing requirement determination is based upon this type of ongoing consultation and coordination among regulatory authorities and with market participants.

A. Domestic Coordination Efforts

The Commission is committed to working with the FRB, FRBNY, Securities and Exchange Commission (SEC), and other domestic authorities to ensure transparency in its efforts and, to the greatest extent possible, consistency in the transition from IBORs to RFRs. To this end, the Commission consults with domestic authorities including the SEC, the FRB, and the FRBNY as part of this rulemaking process.

B. International Coordination Efforts

Section 752(a) of the Dodd-Frank Act directs the Commission to consult and coordinate with foreign regulatory authorities on the establishment of consistent international standards for the regulations of swaps.[58] The Commission accomplished this with respect to the Second Determination by considering the ways in which it could harmonize its clearing requirement with clearing requirements in other jurisdictions.[59] The Commission has long recognized the interconnectedness of the interest rate swap market, and the importance of consulting and coordinating with its counterparts in other jurisdictions in the adoption of clearing requirements in order to promote regulatory consistency and certainty, and to prevent the evasion of clearing requirements.[60]

As part of this rulemaking process, the Commission is working with its counterparts overseas to ensure a coordinated approach to required clearing of interest rate swaps during the move from use of swaps referencing IBORs to swaps referencing RFRs. In particular, as part of the ongoing regulatory dialogue among authorities, Commission staff consulted with counterparts, including those at Bank of England, FCA, ESMA, Japanese Financial Services Agency (JFSA), Hong Kong Monetary Authority (HKMA), Australian Securities and Investments Commission (ASIC), and MAS. This type of dialogue reflects an effort to ensure consistency in interest rate swap clearing requirements across jurisdictions.

C. Clearing Requirements in Other Jurisdictions

In developing this proposal, the Commission considered relevant changes to clearing requirements in other jurisdictions, with a view toward ensuring that any changes the Commission proposes are harmonized to the greatest extent possible with those adopted by its international counterparts. This goal is consistent with the Commission's approach in the Second Determination and the views of a significant number of respondents to the RFI.

Table 3 that follows this paragraph outlines the way in which regulators in other jurisdictions have revised, or proposed to revise, clearing requirements to account for the transition from IBORs to RFRs.[61]

[52] For example, ISDA, as an organization of OTC derivatives market participants, played a key role in the development of contractual fallbacks for IBORs, ensuring that swaps documented under ISDA agreements that reference certain key IBORs can transition to adjusted versions of corresponding RFRs when those IBORs cease or become non-representative. ISDA, ''Amendments to the 2006 ISDA Definitions to include new IBOR fallbacks,'' Oct. 23, 2020, available at *http://assets.isda.org/media/3062e7b4/23aa1658.pdf;* ISDA, ''Amendments to the 2006 ISDA Definitions to include new IBOR fallbacks,'' Oct. 23, 2020, available at *http://assets.isda.org/media/3062e7b4/23aa1658.pdf;* ISDA, ISDA 2020 IBOR Fallbacks Protocol, Oct. 23, 2020, available at *http://assets.isda.org/media/3062e7b4/08268161-pdf/;* ISDA 2021 Fallbacks Protocol, December 2021 Benchmark Module, Dec. 16, 2021, available at *https://www.isda.org/a/UhtgE/ISDA-2021-Fallbacks-Protocol_December-2021-Benchmark-Module_Publication-Version.pdf. See also* RFI, 86 FR at 66483–84 (discussing ISDA's IBOR fallbacks protocol and supplement).

[53] Citadel and ISDA Letters.

[54] Citadel Letter. Citadel also noted that, for USD SOFR swaps, ''robust liquidity exists across a wide range of maturities, from 7 days to 50 years.'' *Id.*

[55] ACLI, CCP12, Eurex, ISDA, LSEG, MFA, and TD Bank Letters.

[56] *E.g.,* AIMA Letter (''Market participants have taken multiple steps in preparation for the cessation of IBORs and LIBOR, and there has been a corresponding material transition to the use of SOFR and other RFRs for OTC contracts. As a result, liquidity in swaps referencing SOFR has grown, and will continue to grow, sufficient to justify the Commission making a clearing requirement determination for these contracts. Accordingly, we encourage the Commission to update the clearing requirement to include swaps referencing SOFR with maturities ranging from 7 days to 50 years.''); MFA Letter (''MFA strongly recommends that the Commission modify its Swap Clearing Requirement under Commission regulation 50.4 by adding a clearing obligation to the OIS class for SOFR swaps with a maturity range of 7 days to 50 years as soon as practicable.'').

[57] *See* RFI, 86 FR at 66478–66482.

[58] Section 752 is not codified in the CEA.

[59] Second Determination, 81 FR at 71203.

[60] *E.g.,* Second Determination, 81 FR at 71223 (noting that ''the interest rate swaps market is global and market participants are interconnected''); First Determination, 77 FR at 74287 (''The Commission is mindful of the benefits of harmonizing its regulatory framework with that of its counterparts in foreign countries. The Commission has therefore monitored global advisory, legislative, and regulatory proposals, and has consulted with foreign regulators in developing the final regulations.'').

[61] ASIC, Consultation Paper 353, ''Proposed amendments to the *ASIC Derivative Transaction Rules (Clearing) 2015,*'' Dec. 2021, at 5, 14, available at *https://download.asic.gov.au/media/mjknuhlh/cp-353-published-6-december-2021.pdf*; ESMA, Final Report, ''On draft RTS on the clearing and derivative trading obligations in view of the benchmark transition to risk free rates,'' Nov. 18, 2021, at 36–38, 63, available at *https://www.esma.europa.eu/sites/default/files/library/esma70-156-4953_final_report_on_the_co_and_dto_re_benchmark_transition.pdf*; Bank of England, ''Derivatives clearing obligation—modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205,'' May 20, 2021,

Continued

TABLE 3—CLEARING REQUIREMENTS IN OTHER JURISDICTIONS

	Australia (proposed)	EU (Final Regulatory Technical Standards—EC to approve)	Japan (final)	UK (final)
USD	To be determined (TBD)	SOFR—7 days to 3 years	Not applicable (N/A)	TBD.
GBP	SONIA—7 days to 50 years	SONIA—7 days to 50 years	N/A	SONIA—7 days to 50 years.
EUR	€STR—7 days to 2 years	€STR—7 days to 3 years	N/A	€STR—7 days to 3 years.
JPY	TONA—7 days to 30 years	TBD	TONA—7 days to 40 years[62]	TONA—7 days to 30 years.

IV. Proposed Amendments to Regulation § 50.4(a)

As described above, the global swap marketplace has made tremendous progress toward completing the transition from reliance on swaps that reference LIBOR and other IBORs to clearing and trading swaps that reference RFRs. The Commission intends to facilitate this transition further by modifying its interest rate swap clearing requirement to reflect the cessation or loss of representativeness of certain IBORs, and the market adoption of RFRs. The Commission is grateful to market participants and others who took the time to respond to its RFI. As stated above, the Commission reviewed those responses carefully in formulating this proposal, and the Commission looks forward to further comment on this proposal.

A. Overview of the Proposed Regulation

The Commission is proposing to amend regulation § 50.4(a) to remove all LIBOR and EUR EONIA swap clearing requirements, and add requirements to clear corresponding RFR swaps. While the IBOR swaps for which clearing requirements would be removed span all four classes of swaps currently required to be cleared—fixed-to-floating swaps, basis swaps, FRAs, and (in the case of EUR EONIA) OIS—the RFR swaps that the Commission proposes to add to the clearing requirement are all OIS. OIS are swaps where one leg is calculated based on a fixed rate and the other is calculated based on a daily overnight floating rate (*i.e.,* the RFR). On the other hand, RFR-linked basis swaps are currently cleared, but the Commission is not proposing to add any new requirements to clear RFR-linked basis swaps at this time because they are used primarily to move out of IBOR swap positions and into RFR swap positions.[63] By not proposing to add these interest rate swaps to the clearing requirement, the Commission believes that it is providing added flexibility for market participants. Commission staff will continue to monitor the use of RFR-linked basis swaps as the IBOR transition process moves forward.

This proposal is the first rule change that the Commission is proposing to facilitate the transition from IBORs to RFRs for purposes of the clearing requirement. But in many ways, the proposal is an update rather than expansion of the existing clearing requirement. In effect, the Commission's proposal would replace the requirement to clear IBOR swaps in a number of different classes with a requirement to clear RFR OIS because the IBOR swaps have become unavailable and liquidity has shifted into RFR OIS.

As discussed further below, the Commission is proposing that these amendments to part 50 to require clearing for certain RFR OIS would become effective 30 days after publication of the final rule in the **Federal Register**. The Commission is proposing to remove existing IBOR swap clearing requirements from regulation § 50.4 in two stages. The Commission proposes to remove requirements to clear (i) non-USD LIBOR and EUR EONIA swaps, 30 days after the publication of the final rule in the **Federal Register**; and (ii) USD LIBOR and SGD SOR–VWAP swaps, effective July 1, 2023. There remains outstanding USD LIBOR swaps activity, and a number of respondents to the RFI requested that the Commission retain its USD LIBOR swap clearing requirement until such time as that rate is unavailable.[64]

Specifically, the Commission is proposing to amend regulation § 50.4(a) as follows:

1. Effective 30 days after publication of the final rule in the **Federal Register**:

a. Remove swaps denominated in GBP, CHF, and JPY that reference LIBOR as a floating rate index from each of the fixed-to-floating swap, basis swap, and FRA classes, as applicable.

b. Remove swaps denominated in EUR that reference EONIA as a floating rate index from the OIS class.

c. Add to the OIS class:

i. Swaps denominated in USD that reference SOFR as a floating rate index with a stated termination date range of 7 days to 50 years,

ii. Swaps denominated in EUR that reference €STR as a floating rate index with a stated termination date range of 7 days to 3 years,

iii. Swaps denominated in CHF that reference SARON as a floating rate index with a stated termination date range of 7 days to 30 years,

iv. Swaps denominated in JPY that reference TONA as a floating rate index with a stated termination date range of 7 days to 30 years, and

v. Swaps denominated in SGD that reference SORA as a floating rate index with a stated termination date range of 7 days to 10 years.

d. Change the maximum stated termination date range for swaps denominated in GBP that reference

available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-modifications-to-reflect-interest-rate-benchmark-reform-amendments*; Bank of England, ''Derivatives clearing obligation—modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205,'' Sept. 29, 2021, available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-modifications-to-reflect-interest-rate-benchmark-reform*; Bank of England, ''Derivatives clearing obligation—introduction of contracts referencing TONA: Amendment to BTS 2015/2205,'' Dec. 3, 2021, available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-introduction-of-contracts-referencing-tona-ps*; Bank of England, ''Derivatives clearing obligation—introduction of contracts referencing TONA: Amendment to BTS 2015/2205,'' Sept. 29, 2021, available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-introduction-of-contracts-referencing-tona.*

[62] Although JFSA does not clearly prescribe a termination date range in its public notice regarding its JPY TONA clearing requirement, the requirement went into effect on December 6, 2021. JSCC rules provide for the clearing of JPY TONA OIS with a termination date range of 7 days to 40 years. JSCC, Interest Rate Swap Clearing Products: List of Cleared Products, available at *https://www.jpx.co.jp/jscc/en/cash/irs/product.html.*

[63] RFR-linked basis swaps offered for clearing are generally RFR–IBOR basis swaps. *See* ACLI Letter (''We also do not believe that SOFR–LIBOR basis swaps should be added to the clearing requirement due to low liquidity and limitations on electronic execution. We expect SOFR–LIBOR basis swaps to require bilateral OTC treatment for their limited and dwindling use cases.''); ISDA Letter (''Due to low liquidity, we think SOFR–LIBOR basis swaps should not be subject to mandatory clearing.'').

[64] *See* additional discussion of RFI responses below.

SONIA as a floating rate index in the OIS class to 50 years, for a new stated termination date range of 7 days to 50 years.

2. Effective July 1, 2023:

a. Remove swaps denominated in USD that reference LIBOR as a floating rate index from each of the fixed-to-floating swap, basis swap, and FRA classes.

b. Remove swaps denominated in SGD that reference SOR–VWAP as a floating rate index from the fixed-to-floating swap class.

A comparative overview of the effect of these proposed amendments to regulation § 50.4(a) is presented following this paragraph in tabular form for illustrative purposes. Swap classes and specifications that would be removed if the Commission's proposal is finalized are stricken through. Swap classes and specifications that would be added if the Commission's proposal is finalized are bolded. The set of tables following this paragraph illustrates the effect of the amendments as of 30 days after publication of a final rule in the **Federal Register**.

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Table 1 a Specification	Fixed-to-floating swap class					
1. Currency	Australian Dollar (AUD)	Canadian Dollar (CAD)	Euro (EUR)	Hong Kong Dollar (HKD)	Mexican Peso (MXN)	Norwegian Krone (NOK)
2. Floating Rate Indexes	BBSW	CDOR	EURIBOR	HIBOR	TIIE-BANXICO	NIBOR
3. Stated Termination Date Range	28 days to 30 years	28 days to 30 years	28 days to 50 years	28 days to 10 years	28 days to 21 years	28 days to 10 years
4. Optionality	No	No	No	No	No	No
5. Dual Currencies	No	No	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No	No	No

Table 1 b Specification	Fixed-to-floating swap class						
1. Currency	Polish Zloty (PLN)	Singapore Dollar (SGD)	Swedish Krona (SEK)	~~Swiss Franc (CHF)~~	~~Sterling (GBP)~~	U.S. Dollar (USD)	~~Yen (JPY)~~
2. Floating Rate Indexes	WIBOR	SOR-VWAP	STIBOR	~~LIBOR~~	~~LIBOR~~	LIBOR	~~LIBOR~~
3. Stated Termination Date Range	28 days to 10 years	28 days to 10 years	28 days to 15 years	~~28 days to 30 years~~	~~28 days to 50 years~~	28 days to 50 years	~~28 days to 30 years~~
4. Optionality	No	No	No	~~No~~	~~No~~	No	~~No~~
5. Dual Currencies	No	No	No	~~No~~	~~No~~	No	~~No~~
6. Conditional Notional Amounts	No	No	No	~~No~~	~~No~~	No	~~No~~

Table 2 Specification	Basis swap class				
1. Currency	Australian Dollar (AUD)	Euro (EUR)	~~Sterling (GBP)~~	U.S. Dollar (USD)	~~Yen (JPY)~~
2. Floating Rate Indexes	BBSW	EURIBOR	~~LIBOR~~	LIBOR	~~LIBOR~~
3. Stated Termination Date Range	28 days to 30 years	28 days to 50 years	~~28 days to 50 years~~	28 days to 50 years	~~28 days to 30 years~~
4. Optionality	No	No	~~No~~	No	~~No~~
5. Dual Currencies	No	No	~~No~~	No	~~No~~
6. Conditional Notional Amounts	No	No	~~No~~	No	~~No~~

Table 3 Specification	Forward rate agreement class						
1. Currency	Euro (EUR)	Polish Zloty (PLN)	Norwegian Krone (NOK)	Swedish Krona (SEK)	~~Sterling (GBP)~~	U.S. Dollar (USD)	~~Yen (JPY)~~
2. Floating Rate Indexes	EURIBOR	WIBOR	NIBOR	STIBOR	~~LIBOR~~	LIBOR	~~LIBOR~~
3. Stated Termination Date Range	3 days to 3 years	3 days to 2 years	3 days to 2 years	3 days to 3 years	~~3 days to 3 years~~	3 days to 3 years	~~3 days to 3 years~~
4. Optionality	No	No	No	No	~~No~~	No	~~No~~
5. Dual Currencies	No	No	No	No	~~No~~	No	~~No~~
6. Conditional Notional Amounts	No	No	No	No	~~No~~	No	~~No~~

Table 4 Specification	Overnight index swap class								
1. Currency	Australian Dollar (AUD)	Canadian Dollar (CAD)	Euro (EUR)	**Singapore Dollar (SGD)**	Sterling (GBP)	**Swiss Franc (CHF)**	U.S. Dollar (USD)	**U.S. Dollar (USD)**	**Yen (JPY)**
2. Floating Rate Indexes	AONIA-OIS	CORRA-OIS	**€STR** ~~EONIA~~	**SORA**	SONIA	**SARON**	FedFunds	**SOFR**	**TONA**
3. Stated Termination Date Range	7 days to 2 years	7 days to 2 years	7 days to 3 years	**7 days to 10 years**	7 days to **50 years** ~~3 years~~	**7 days to 30 years**	7 days to 3 years	**7 days to 50 years**	**7 days to 30 years**
4. Optionality	No	No	No	**No**	No	**No**	No	**No**	**No**
5. Dual Currencies	No	No	No	**No**	No	**No**	No	**No**	**No**
6. Conditional Notional Amounts	No	No	No	**No**	No	**No**	No	**No**	**No**

The set of tables following this paragraph illustrates the effect of further regulation § 50.4(a) amendments that, if finalized, would be effective as of July 1, 2023:

Table 1 a Specification	Fixed-to-floating swap class					
1. Currency	Australian Dollar (AUD)	Canadian Dollar (CAD)	Euro (EUR)	Hong Kong Dollar (HKD)	Mexican Peso (MXN)	Norwegian Krone (NOK)
2. Floating Rate Indexes	BBSW	CDOR	EURIBOR	HIBOR	TIIE-BANXICO	NIBOR
3. Stated Termination Date Range	28 days to 30 years	28 days to 30 years	28 days to 50 years	28 days to 10 years	28 days to 21 years	28 days to 10 years
4. Optionality	No	No	No	No	No	No
5. Dual Currencies	No	No	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No	No	No

Table 1 b Specification	Fixed-to-floating swap class			
1. Currency	Polish Zloty (PLN)	~~Singapore Dollar (SGD)~~	Swedish Krona (SEK)	~~U.S. Dollar (USD)~~
2. Floating Rate Indexes	WIBOR	~~SOR-VWAP~~	STIBOR	~~LIBOR~~
3. Stated Termination Date Range	28 days to 10 years	~~28 days to 10 years~~	28 days to 15 years	~~28 days to 50 years~~
4. Optionality	No	~~No~~	No	~~No~~
5. Dual Currencies	No	~~No~~	No	~~No~~
6. Conditional Notional Amounts	No	~~No~~	No	~~No~~

Table 2 Specification	Basis swap class		
1. Currency	Australian Dollar (AUD)	Euro (EUR)	~~U.S. Dollar (USD)~~
2. Floating Rate Indexes	BBSW	EURIBOR	~~LIBOR~~
3. Stated Termination Date Range	28 days to 30 years	28 days to 50 years	~~28 days to 50 years~~
4. Optionality	No	No	~~No~~
5. Dual Currencies	No	No	~~No~~
6. Conditional Notional Amounts	No	No	~~No~~

Table 3 Specification	Forward rate agreement class				
1. Currency	Euro (EUR)	Polish Zloty (PLN)	Norwegian Krone (NOK)	Swedish Krona (SEK)	~~U.S. Dollar (USD)~~
2. Floating Rate Indexes	EURIBOR	WIBOR	NIBOR	STIBOR	~~LIBOR~~
3. Stated Termination Date Range	3 days to 3 years	3 days to 2 years	3 days to 2 years	3 days to 3 years	~~3 days to 3 years~~
4. Optionality	No	No	No	No	~~No~~
5. Dual Currencies	No	No	No	No	~~No~~
6. Conditional Notional Amounts	No	No	No	No	~~No~~

Table 4 Specification	Overnight index swap class								
1. Currency	Australian Dollar (AUD)	Canadian Dollar (CAD)	Euro (EUR)	Singapore Dollar (SGD)	Sterling (GBP)	Swiss Franc (CHF)	U.S. Dollar (USD)	U.S. Dollar (USD)	Yen (JPY)
2. Floating Rate Indexes	AONIA-OIS	CORRA-OIS	€STR	SORA	SONIA	SARON	FedFunds	SOFR	TONA
3. Stated Termination Date Range	7 days to 2 years	7 days to 2 years	7 days to 3 years	7 days to 10 years	7 days to 50 years	7 days to 30 years	7 days to 3 years	7 days to 50 years	7 days to 30 years
4. Optionality	No	No	No	No	No	No	No	No	No
5. Dual Currencies	No	No	No	No	No	No	No	No	No
6. Conditional Notional Amounts	No	No	No	No	No	No	No	No	No

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The Commission observes that it is the only authority to require CHF LIBOR swaps be submitted to clearing. In 2016, the CFTC was aware that the Swiss Financial Market Supervisory Authority (FINMA) was considering adopting a clearing requirement for swaps referencing CHF LIBOR, and sought public comment on the matter prior to adopting a final rule that included CHF LIBOR swaps.[65] After the CFTC's final rule went into effect, FINMA did not adopt a clearing requirement for CHF LIBOR, and no other jurisdictions adopted such a clearing requirement. At this time, FINMA has not yet implemented mandatory clearing for CHF SARON OIS.

Similarly, while MAS did not require clearing of SGD SOR–VWAP swaps with a termination date range of 28 days to 10 years, until October 2018, the Commission was aware of this expected action, and took it into account when adopting a clearing requirement for SGD SOR–VWAP swaps in 2016.[66] At this time, MAS has not yet implemented mandatory clearing for SGD SORA OIS.

The Commission observes that clearing rates for CHF SARON OIS and SGD SORA OIS are already high. As Table 6 below illustrates, the Commission estimates that more than 98% of notional transacted in these rates in each of November 2021, December 2021, and January 2022, was

[65] Clearing Requirement Determination Under Section 2(h) of the CEA for Interest Rate Swaps, 81 FR 39506, 39508 (June 16, 2016); Second Determination, 81 FR at 71205.

[66] Second Determination, 81 FR at 71205; MAS, MAS Requires OTC Derivatives to be Centrally Cleared to Mitigate Systemic Risk, May 2, 2018, available at *https://www.mas.gov.sg/news/media-releases/2018/mas-requires-otc-derivatives-to-be-centrally-cleared-to-mitigate-systemic-risk*; MAS, Response to Feedback Received: Draft Regulations for Mandatory Clearing of Derivatives Contracts, May 2, 2018, at 4, available at *https://www.mas.gov.sg/-/media/MAS/News-and-Publications/Consultation-Papers/2018-May-02-Response-to-consultation-on-draft-regs-on-mandatory-clearing-of-derivatives/Response-to-Feedback-on-Draft-Regulations-for-Mandatory-Clearing-of-Derivatives-Contracts.pdf*.

cleared.[67] Furthermore, the Commission estimates that, as of January 28, 2022, there was $1,730 billion in outstanding notional in CHF SARON OIS, whereas there was $686 billion in outstanding notional in CHF LIBOR fixed-to-floating swaps.[68] Similarly, the Commission estimates that, as of January 28, 2022, there was $449 billion in outstanding notional in SGD SORA OIS, and $307 billion in outstanding notional in SGD SOR–VWAP fixed-to-floating swaps.[69]

Based on this data, it would appear that roughly half of the CHF market remains in LIBOR, and that, while SGD SOR–VWAP is expected to continue until June 30, 2023, the transition to SGD SORA is well underway. Data presented in tables 4 and 5 below further illustrate that the CHF LIBOR and SGD SOR–VWAP swap markets have rapidly diminished as markets shift to swaps referencing RFRs. The Commission estimates that, in January 2022, there were no CHF LIBOR fixed-to-floating swap transactions, and 69 SGD SOR–VWAP fixed-to-floating swap transactions (comprising $5 billion notional). The Commission also estimates that, in January 2022, there were 2,283 CHF SARON OIS transactions (comprising $130 billion notional) and 3,794 SGD SORA OIS transactions (comprising $119 billion notional).

Request for Comment

The Commission requests comment on the proposed modifications to regulation § 50.4(a), including the adoption of clearing requirements for CHF SARON OIS and SGD SORA OIS.

B. Modifications to the Existing Clearing Requirements

1. Swaps No Longer Offered for Clearing

In addition to adding certain RFR OIS to the clearing requirement, this proposal would modify the existing clearing requirement to reflect the cessation or loss of representativeness of certain IBOR swaps. Currently, all LIBOR settings with the exception of overnight, 1-month, 3-month, 6-month, and 12-month USD LIBOR, and EUR EONIA, have ceased or become nonrepresentative. As explained above, CME, LCH, and Eurex have converted cleared EUR EONIA and non-USD LIBOR swaps into RFR OIS, and with limited exceptions, swaps referencing GBP, CHF, and JPY LIBOR, as well as EUR EONIA, are no longer offered for clearing.[70] As discussed above, regulators in the United States and other jurisdictions have called on market participants to transfer their swap positions from IBORs to RFRs, with corresponding liquidity shifting, and continuing to shift, from swaps referencing these IBORs to swaps referencing RFRs. Therefore, the Commission has preliminarily determined to update the clearing requirement for interest rate swaps where such IBOR swaps are no longer offered for clearing and have been replaced by RFR OIS.

2. Swaps Affected by Future IBOR Unavailability

By contrast, remaining USD LIBOR settings, as well as SGD SOR–VWAP settings, are not expected to cease or become nonrepresentative until after June 30, 2023. For this reason, the Commission proposes not to remove the clearing requirement for swaps referencing USD LIBOR and SGD SOR–VWAP, which relies on USD LIBOR as an input, until July 1, 2023. Because interest rate swaps referencing USD LIBOR and SGD SOR–VWAP are offered for clearing currently, and there are still outstanding notional exposures and trading activity in these swaps, the Commission believes that these swaps should remain subject to the clearing requirement. The remaining USD LIBOR settings are expected to cease or become nonrepresentative after June 30, 2023, and the Commission anticipates that there will be no new interest rate swaps referencing USD LIBOR on or after July 1, 2023. The Commission will continue to monitor the use of interest rate swaps referencing USD LIBOR and SGD SOR–VWAP as the IBOR transition process moves forward.

In anticipation of this USD LIBOR end date, the Commission anticipates that DCOs will continue to conduct conversion events to replace all outstanding USD LIBOR swaps with USD SOFR OIS, and will cease offering clearing services for USD LIBOR swaps. Until that time, however, the Commission proposes to maintain the clearing requirement for USD LIBOR swaps, and SGD SOR–VWAP swaps, until those rates cease publication.

This decision would be consistent with the fact that Bank of England has not yet proposed a clearing requirement for USD SOFR swaps and has left its USD LIBOR swap clearing obligation in place.[71] By contrast, ESMA adopted regulatory technical standards that, subject to European Commission approval, will remove ESMA's current USD LIBOR clearing requirements and add a requirement to clear USD SOFR OIS (7 days to 3 years).[72] While a number of respondents to the RFI expressed a desire for the Commission to harmonize its clearing requirement with clearing obligations in other jurisdictions, including the EU,[73] several respondents specifically called for the Commission to maintain its USD LIBOR clearing requirement until such

[67] The data in Table 6 is based on the Commission's weekly swaps report data.

[68] These outstanding notional figures are based on data for swaps that have been cleared at CME, LCH, or Eurex and reported to the CFTC under part 39 of the Commission's regulations. Commission staff compiled, processed, and reviewed the data presented in this proposal.

[69] *Id.*

[70] While clearing services generally are no longer available for EUR LIBOR swaps, swaps referencing EUR LIBOR are not subject to required clearing under regulation § 50.4(a).

[71] Bank of England, ''Derivatives clearing obligation—modifications to reflect interest rate benchmark reform: Amendments to BTS 2015/2205,'' Sept. 29, 2021, available at *https://www.bankofengland.co.uk/paper/2021/derivatives-clearing-obligation-modifications-to-reflect-interest-rate-benchmark-reform.*

[72] ESMA, Final Report, ''On draft RTS on the clearing and derivative trading obligations in view of the benchmark transition to risk free rates,'' Nov. 18, 2021, at 36–38, 63, available at *https://www.esma.europa.eu/sites/default/files/library/esma70-156-4953_final_report_on_the_co_and_dto_re_benchmark_transition.pdf.* In choosing to replace its USD LIBOR swap clearing requirement with a USD SOFR OIS clearing requirement, ESMA stated, ''ESMA believes it is important to be consistent for the [clearing obligation] with the communication made by ESMA and other EU authorities, as well as the communications made by several other authorities in other jurisdictions and at the international level who expect entities to stop referencing LIBOR (including USD LIBOR) by the end of the year. If ESMA and other regulators[']] expectations are fulfilled, there should no longer be material liquidity in OTC interest rate derivatives referencing USD LIBOR from the start of next year. Therefore, the liquidity criteria of the [European Market Infrastructure Regulation] procedure would no longer be met at the end of the year. Following from this, ESMA is proposing to remove the USD LIBOR classes from the clearing obligation and the RTS has been modified accordingly.'' *Id.* at 31. However, as shown in tables 4 and 5 below, there continues to be trading activity in USD LIBOR swaps.

[73] *E.g.,* TD Bank Letter (suggesting that the Commission's clearing requirement ''may be updated to reflect those of UK and EU''); ISDA Letter (''The market needs global conformity with respect to mandated clearing as much as possible.''); ACLI Letter (''ESMA has issued its Final Report on Draft RTS on the Clearing and Derivative Trading Obligations in View of the Benchmark Transition to Risk Free Rates, which includes a recommendation to remove classes of swaps referencing EONIA (EUR) and LIBOR (GBP, JPY and USD) from its clearing obligation. We encourage the Commission similarly to remove classes of swaps referencing IBORs—including USD–LIBOR—from the clearing requirement.''); Eurex Letter (''Eurex Clearing notes that it previously responded to [ESMA's] request for comment . . . and strongly encourages continued cooperation among the Commission, ESMA, and other regulators to facilitate international cooperation and global convergence in the transition to the RFRs to the extent possible. . . . Eurex Clearing believes the Commission and ESMA should coordinate their decision on a prospective removal of the USD LIBOR from the clearing obligation and implementation of a clearing obligation on SOFR OIS.'').

time as that rate is unavailable.[74] Maintaining the clearing requirement for USD LIBOR swaps, and SGD SOR–VWAP swaps, until those rates cease publication would reflect both international coordination and input from responses to the RFI.

Request for Comment

The Commission requests comment regarding implementing changes to the existing interest rate swap clearing requirement, including when to remove the USD LIBOR and SGD SOR–VWAP swap clearing requirements.

V. Proposed Determination Analysis for RFR OIS

The Commission is proposing to modify its interest rate swap clearing requirement to include OIS referencing RFRs by adopting a new clearing requirement determination. The Commission has completed a review of the current RFR OIS offered for clearing and is prepared to consider the specific statutory factors required to make a new clearing requirement determination.

A. General Description of Information Considered

CME, LCH, and Eurex provided the Commission with regulation § 39.5(b) submissions relating to RFR OIS.[75] In addition to the DCOs' submissions, the Commission looks to the ability of each DCO to clear RFR OIS, DCO swap data, swap data repository (SDR) data, publicly available data, the rule frameworks and risk management policies of each DCO, and information provided in response to the RFI.

This proposed clearing requirement determination is distinguishable from prior determinations insofar as it responds to a public and private sector, consensus-driven market event that has resulted, or will result, in liquidity shifting to new benchmark rates from rates that have become, or will soon become, unavailable. In that sense, central clearing in the RFR OIS markets, which rely on benchmark rates that are less susceptible to manipulation, may offer unique benefits that prior interest rate swap market clearing did not.[76] As a result of this, and in light of the quick pace of market adoption along with DCOs' willingness to provide clearing for a wide variety of RFR swaps, the Commission believes the RFR swap markets are prepared for this clearing requirement determination proposal.

B. Consistency With DCO Core Principles

Section 2(h)(2)(D)(i) of the CEA requires the Commission to determine whether a clearing requirement determination would be consistent with core principles for DCOs set forth in section 5b(c)(2) of the CEA.[77] CME, LCH, and Eurex are registered DCOs, and currently clear the RFR OIS identified in Table 2 above. CME, LCH, and Eurex are required to comply with the DCO core principles (and applicable Commission regulations) with respect to the RFR OIS being considered by the Commission as part of this proposed determination, and are subject to the Commission's DCO examination and risk surveillance programs.

The Commission believes that CME, LCH, and Eurex will be able to maintain compliance with the DCO core principles and applicable Commission regulations if the Commission adopts a clearing requirement determination for the RFR OIS. For the reasons discussed below, the Commission has preliminarily determined that subjecting any of the RFR OIS identified in this proposal to a clearing requirement is unlikely to impair CME's, LCH's, or Eurex's ability to comply with the DCO core principles, along with applicable Commission regulations. Moreover, in their responses to the RFI, each DCO stated that requiring clearing of USD SOFR or other RFR OIS would not negatively affect their ability to comply with the DCO core principles and applicable Commission regulations.[78]

While exempt DCOs are not subject to the DCO core principles *per se,* the Commission determined that each was subject to comparable, comprehensive supervision and regulation by its home country regulator before granting such DCOs an exemption from registration, as required by the CEA.[79] With regard to the two exempt DCOs that offer RFR OIS for clearing, namely, JSCC and HKEX, the Commission believes that both DCOs will continue to comply with their home country law and regulations if the Commission adopts a clearing requirement determination for the RFR OIS.[80]

Request for Comment

The Commission requests comment as to whether the proposed determination would adversely affect any DCO's ability to comply with the DCO core principles.

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[74] *E.g.,* AIMA Letter (''The RFI notes that the U.K. Financial Conduct Authority has determined that USD LIBOR in the overnight and 12-month tenors will cease after June 30, 2023, and that USD LIBOR in 1-month, 3-month and 6-month tenors will not be representative after that date. Until such time, we believe the Commission should maintain its clearing requirement for USD LIBOR as it continues to monitor the developments associated with LIBOR's cessation.'') (footnote omitted); Citadel Letter (''While we support updating the clearing requirement to include certain OTC derivatives referencing SOFR, it remains premature to remove the clearing requirement for OTC derivatives referencing USD LIBOR. This is because material volumes continue to be executed in USD LIBOR swaps that are currently subject to the clearing requirement, particularly in the dealer-to-customer segment of the market.''); MFA Letter (''Since trading activity continues to occur in USD LIBOR swaps as well, USD LIBOR should not be removed from the Swap Clearing Requirement until such time as the rate is not available (either because the rate is permanently discontinued or is deemed non-representative as of its cessation date).'').

[75] Regulation § 39.5(b) submissions from DCOs are available on the Commission's website, *www.cftc.gov,* under DCO Swaps Submissions.

[76] A discussion of the costs and benefits of this proposed rulemaking appears below.

[77] 7 U.S.C. 2(h)(2)(D)(i). The core principles address numerous issues, including financial resources, participant and product eligibility, risk management, settlement procedures, default management, system safeguards, reporting, recordkeeping, public information, and legal risk, among other subjects. 7 U.S.C. 7a–1(c)(2). The Commission implemented the core principles through regulations that are applicable to registered DCOs. 17 CFR part 39.

[78] CMEG Letter (''CME Clearing currently offers clearing for swaps referencing SOFR and other alternative reference rates that are not currently subject to the Clearing Requirement . . . . CME Group considers that should such swaps become subject to the Clearing Requirement this would not have any impact on CME Clearing's ability to comply with the relevant core principles for DCOs''); LSEG Letter (''Provided that each DCO remains in control of setting its product eligibility criteria, the ability to comply with the core principles . . . would not be affected by the implementation of a clearing requirement for SOFR or any other relevant alternative reference rate''); and Eurex Letter (''Requiring the clearing of swaps referencing SOFR or other RFRs that are not currently subject to the Clearing Requirement will not affect Eurex Clearing's ability to comply with the CEA's core principles for DCOs.'').

[79] The Commission may exempt a DCO from registration if it determines that the DCO is subject to comparable, comprehensive supervision by appropriate government authorities in its home country. The Commission determined that JSCC demonstrated compliance with the requirements of the CEA for which it must comply in order to be eligible for an exemption from registration as a DCO. JSCC Order of Exemption from Registration, Oct. 26, 2015, at 1, available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/jsccdcoexemptorder10-26-15.pdf;* JSCC Amended Order of Exemption from Registration, May 15, 2017, at 1, available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/jsccdcoexemptamdorder5-15-17.pdf.* Likewise, HKEX is an exempt DCO that the Commission determined has demonstrated compliance with the requirements of the CEA. OTC Clearing Hong Kong Limited Order of Exemption from Registration, Dec. 21, 2015, at 1, available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/otcclearcoexemptorder12-21-15.pdf. See also* section V.C. for additional information regarding maintaining status as an exempt DCO.

[80] JSCC Letter (''Including JPY TONA OIS in the CFTC's Clearing Requirement would not affect the ability of DCOs to comply with the CEA or the relevant legal and regulatory regime in any other jurisdiction.'').

C. Consideration of the Five Statutory Factors

Set forth below is the Commission's consideration of the five factors set forth in section 2(h)(2)(D)(ii) of the CEA as they relate to OIS (i) denominated in USD and referencing SOFR; (ii) denominated in GBP and referencing SONIA; (iii) denominated in CHF and referencing SARON; (iv) denominated in JPY and referencing TONA; (v) denominated in EUR and referencing €STR; and (vi) denominated in SGD and referencing SORA.[81]

1. Factor (I)—Outstanding Notional Exposures and Trading Liquidity

Liquidity has shifted, and continues to shift, from swaps referencing IBORs to swaps referencing RFRs. The first of the five factors under section 2(h)(2)(D)(ii) of the CEA requires the Commission to consider ''the existence of significant outstanding notional exposures, trading liquidity, and adequate pricing data'' related to ''a submission made [by a DCO].'' [82] The Commission reviewed data from multiple sources, including but not limited to data from SDRs, data from DCOs, and other, publicly available data (*e.g.,* data published by ISDA). For purposes of this proposed rulemaking, the Commission principally presents notional and liquidity information based on the Commission's own collected data.

a. Outstanding Notional Exposures and Trading Liquidity

In assessing outstanding notional exposures and trading liquidity for a swap, the Commission reviews data to determine whether there is an active market for the swap, including whether there is a measurable amount of notional exposure and whether the swap is traded regularly as reflected by trade count, such that a DCO can adequately risk manage the swap. The data indicates that there is sufficient outstanding notional exposure and trading liquidity in RFR OIS to support a clearing requirement determination. Specifically, the data presented below generally demonstrates that there is significant activity in new USD SOFR, GBP SONIA, EUR €STR, CHF SARON, JPY TONA, and SGD SORA OIS trading. The Commission compiled the data used in tables 4–7 below from transaction data collected under part 45 of the Commission's regulations.[83]

In Table 4 below, the Commission provides estimates of notional transacted by month for various categories of RFR OIS, and IBOR fixed-to-floating and basis swaps, for the period beginning November 1, 2021 and ending January 31, 2022. The data in Table 4 generally indicates significant, and relatively steady or increasing, amounts of notional transacted in RFR OIS from November 2021 through January 2022. The data also illustrates that there was comparatively little notional transacted during the same time period in fixed-to-floating swaps referencing IBORs that ceased or became nonrepresentative in December 2021 and January 2022.

The Commission notes, however, that significant amounts of notional were transacted in USD LIBOR fixed-to-floating swaps, and that while notional traded per month in USD SOFR OIS nearly doubled between December 2021 and January 2022, the amount of such notional transacted in January 2022 was still less than half that of the amount of notional transacted during the same month in USD LIBOR fixed-to-floating swaps.[84] Thus, it appears that while the transition of liquidity from USD LIBOR fixed-to-floating swaps to USD SOFR OIS is well underway, it is not yet complete.

TABLE 4—ESTIMATED NOTIONAL TRANSACTED

[USD billions] [85]

Product	November 2021	December 2021	January 2022
USD SOFR OIS	$2,384	$2,011	$3,918
USD LIBOR Fixed-to-Floating Swaps	6,674	4,409	9,598
USD LIBOR–LIBOR Basis Swaps	1,049	602	292
EUR €STR OIS	3,394	2,022	3,488
EUR EONIA OIS	2	8	0
CHF SARON OIS	208	108	130
CHF LIBOR Fixed-to-Floating Swaps	62	0	0
GBP SONIA OIS	5,852	3,151	4,149
GBP LIBOR Fixed-to-Floating Swaps	340	205	2
JPY TONA OIS	425	360	377
JPY LIBOR Fixed-to-Floating Swaps	45	15	0
SGD SORA OIS	74	41	119
SGD SOR Fixed-to-Floating Swaps	8	3	5

Table 5 that follows this paragraph provides estimates of trade counts for the same categories of RFR and IBOR swaps during the same three-month period. The data in Table 5 indicates that, with regard to RFR OIS, monthly trade count generally increased or was relatively steady between November 2021 and January 2022, with an especially pronounced increase in the number of USD SOFR OIS transactions. Conversely, trade counts for swaps referencing IBORs that ceased or became nonrepresentative in December 2021 and January 2022 dropped off

[81] The Commission is conducting this analysis only with respect to the swaps that would be added to the clearing requirement under this proposed determination. Modifications to the clearing requirement, such as removing swaps that are no longer offered for clearing from Commission regulation § 50.4, are not considered in this analysis.

[82] 7 U.S.C. 2(h)(2)(D)(ii).

[83] The data presented in these tables is the same as the data used to create the Commission's weekly swaps report. This data represents only those swaps that are reported to the CFTC's registered SDRs by swap market participants. The Commission's weekly swaps report currently incorporates data from three SDRs (CME Group SDR, DTCC Data Repository, and ICE Trade Vault). The raw SDR data has been filtered to represent, as accurately as possible, the market-facing trades that occur and excludes certain inter-affiliate transactions. For more information about the data components in the weekly swaps report, please visit the CFTC's web page available at: *https://www.cftc.gov/MarketReports/SwapsReports/index.htm.*

[84] Table 4 shows notional volume in USD LIBOR more than doubling from December 2021 to January 2022, but Table 5 below shows only a slight increase in trade count, suggesting the average trade size doubled in USD LIBOR but actually fell slightly in USD SOFR.

[85] The data in Table 4 is based on the Commission's weekly swaps report data. In this table, a notional figure of $0 billion indicates that the notional transacted during a given time period was less than $1 billion.

precipitously by January 2022. While there were still a significant number of USD LIBOR fixed-to-floating swap transactions during the three-month period that Table 5 measures, the monthly trade count for such transactions declined significantly during that period.

TABLE 5—ESTIMATED TRADE COUNT [86]

Product	November 2021	December 2021	January 2022
USD SOFR OIS	18,484	19,110	41,728
USD LIBOR Fixed-to-Floating Swaps	48,245	29,309	30,749
USD LIBOR–LIBOR Basis Swaps	1,025	831	329
EUR €STR OIS	8,415	5,420	8,962
EUR EONIA OIS	7	1	0
CHF SARON OIS	2,698	1,574	2,283
CHF LIBOR Fixed-to-Floating Swaps	390	19	0
GBP SONIA OIS	24,275	12,913	17,654
GBP LIBOR Fixed-to-Floating Swaps	2,061	1,286	12
JPY TONA OIS	5,311	4,639	5,141
JPY LIBOR Fixed-to-Floating Swaps	577	69	9
SGD SORA OIS	2,422	1,846	3,794
SGD SOR Fixed-to-Floating Swaps	197	94	69

Table 6 that follows this paragraph presents estimates of the percentage of notional cleared for the RFR OIS subject to this proposed determination, based on notional transacted by month during the period beginning November 1, 2021 and ending January 31, 2022. The data in Table 6 illustrates that, with respect to the RFR OIS, significant amounts of notional are already being cleared voluntarily. The proportion of notional transacted each month from November 2021 through January 2022 that was cleared was consistently high—approaching 100%—with regard to OIS referencing each of USD SOFR, GBP SONIA, EUR €STR, CHF SARON, JPY TONA, and SGD SORA.

TABLE 6—ESTIMATED PERCENTAGE OF NOTIONAL CLEARED (BASED ON NOTIONAL TRANSACTED BY MONTH) [87]

OIS	Percentage notional cleared—November 2021	Percentage notional cleared—December 2021	Percentage notional cleared—January 2022
USD SOFR	96.3	94.9	95.1
GBP SONIA	98.8	98.7	97.8
EUR €STR	99.0	99.2	97.6
CHF SARON	99.6	98.1	99.2
JPY TONA	96.6	98.7	98.0
SGD SORA	98.2	98.6	98.7

Table 7 that follows this paragraph presents a breakdown of notional transacted and trade count for the period beginning January 1, 2022 and ending January 31, 2022, by tenor, for the relevant RFR OIS. Table 7 illustrates that RFR OIS are being cleared across a wide range of maturities. By notional and trade count, most clearing activity occurs in RFR OIS dated between 6 months and 15 years. However, the Commission notes that with respect to USD SOFR and GBP SONIA OIS in particular, there is also significant clearing activity in swaps dated 15 years or greater.

TABLE 7—ESTIMATED CLEARED NOTIONAL AND TRADE COUNT BY TENOR

[January 2022 transaction data] [88]

OIS	Tenor	Notional cleared (USD billions)	Trade count
USD SOFR	7 days–3 months	$199	213
	3–6 months	210	296
	6 months–1 year	191	498
	1–5 years	1,328	8,841
	5–15 years	1,559	22,230
	>15 years	234	7,589
GBP SONIA	7 days–3 months	778	434
	3–6 months	1,136	470
	6 months–1 year	673	357
	1–5 years	846	5,016
	5–15 years	503	7,570
	>15 years	124	3,351
EUR €STR	7 days–3 months	336	210

[86] The data in Table 5 is based on the Commission's weekly swaps report data.

[87] The data in Table 6 is based on the Commission's weekly swaps report data.

TABLE 7—ESTIMATED CLEARED NOTIONAL AND TRADE COUNT BY TENOR—Continued

[January 2022 transaction data] [88]

OIS	Tenor	Notional cleared (USD billions)	Trade count
	3–6 months	302	226
	6 months–1 year	1,295	642
	1–5 years	1,110	3,365
	5–15 years	329	3,487
	>15 years	32	865
CHF SARON	7 days–3 months	7	11
	3–6 months	16	26
	6 months–1 year	6	12
	1–5 years	56	625
	5–15 years	42	1,447
	>15 year	2	135
JPY TONA	7 days–3 months	12	10
	3–6 months	20	20
	6 months–1 year	15	30
	1–5 years	122	718
	5–15 years	164	2,801
	>15 years	36	1,455
SGD SORA	7 days–3 months	2	10
	3–6 months	2	12
	6 months–1 year	16	122
	1–5 years	69	1,480
	5–15 years	29	2,114
	>15 years	0	8

In addition to this transaction-level data, Table 8 that follows this paragraph presents open swaps data illustrating outstanding notional in the RFR OIS subject to this proposed determination.

TABLE 8—OUTSTANDING NOTIONAL AS OF JANUARY 28, 2022 [89]

OIS	Outstanding notional (USD billions)
USD SOFR	$8,558
GBP SONIA	23,363
EUR €STR	10,496
CHF SARON	1,730
JPY TONA	4,256
SGD SORA	449

Finally, to demonstrate that clearing has expanded beyond the short-dated maturities for USD SOFR fixed-to-floating swaps, in particular, the data in Table 9 that follows this paragraph reflects the total volumes of cleared outstanding notional swaps by tenor. The Commission has preliminarily determined that the data collectively indicates sufficient outstanding notional exposures and regular trading activity in RFR OIS for purposes of demonstrating the liquidity necessary for DCOs to risk manage these products and to support a proposed clearing requirement. The Commission anticipates that RFR OIS notional exposures and trading activity will increase over time as markets continue to adopt RFR OIS in place of swaps referencing IBORs that have, or will by mid-2023, become unavailable. In addition to the extensive data presented and analyzed in this proposal, and as discussed in detail below, the Commission is basing this preliminary determination on its ongoing supervision of DCOs and its monitoring of the cleared interest rate swap market for purposes of risk surveillance.

TABLE 9—OUTSTANDING NOTIONAL AS OF JANUARY 25, 2022 [90]

OIS	Tenor	Notional cleared (USD billions)
USD LIBOR Fixed-to-Floating Swaps	0–1 months	$118
	>1 month to 3 months	299
	>3 months to 1 year	876
	>1–3 years	1,933

[88] The data in Table 7 is based on the Commission's weekly swaps report data. Tenor length is approximate. In Table 7, a notional figure of $0 billion USD indicates that the notional transacted during a given time period was less than $1 billion.

[89] The data in Table 8 represents swaps that have been cleared at CME, LCH, or Eurex and reported to the CFTC under part 39 of the Commission's regulations.

TABLE 9—OUTSTANDING NOTIONAL AS OF JANUARY 25, 2022 [90]—Continued

OIS	Tenor	Notional cleared (USD billions)
	>3–5 years	848
	>5–7 years	509
	>7–10 years	426
	>10–15 years	249
	>15–25 years	291
	>25–35 years	137
	>35 years	13
USD SOFR Fixed-to-Floating Swaps	0–1 months	30
	>1 month to 3 months	220
	>3 months to 1 year	741
	>1–3 years	985
	>3–5 years	269
	>5–7 years	110
	>7–10 years	125
	>10–15 years	54
	>15–25 years	59
	>25–35 years	41
	>35 years	4

Request for Comment

The Commission requests comment and any relevant market analysis regarding the sufficiency of outstanding notional exposures and trading liquidity in USD SOFR, GBP SONIA, EUR €STR, CHF SARON, JPY TONA, and SGD SORA OIS, including for the proposed termination date ranges, to support a clearing requirement.

The Commission invites commenters to submit additional data from any available data sources.

b. Pricing Data

The Commission regularly reviews pricing data for the RFR OIS subject to this proposed determination and has found that these OIS are capable of being priced off of deep and liquid markets. Commission staff regularly receives and reviews margin model information from DCOs that includes particular procedures that they follow to ensure that market liquidity exists in order to close out a position in a stressed market, including the time required to determine a price.[91] Because of the stability of access to pricing data from these markets, the pricing data for the OIS that are the subject of this proposed determination is generally viewed as being reliable. Based on this information, the Commission has preliminarily determined that there is adequate pricing data to support required clearing of RFR OIS.

In addition, as part of their regulation § 39.5(b) submissions, the registered DCOs that clear the RFR OIS subject to this proposed determination provided information to support the Commission's conclusion that there exists adequate pricing data to justify a clearing requirement determination. In its regulation § 39.5(b) submissions, CME provided data regarding transaction volumes and market participation, and LCH provided information on daily volumes, and noted that pricing data for each of the RFR OIS that it clears is available from brokers. LCH also noted the range of maturities for which quotes can be obtained from brokers. In its submissions to the Commission, Eurex provided relevant language from its FCM Regulations and Clearing Conditions regarding determination of daily pricing. Eurex stated that it believes its reliance on Reuters for pricing data is accurate because it is a readily available and conventional source. Eurex noted that it also can receive pricing data from Bloomberg and has multiple backup sources.

In the RFI, the Commission specifically requested feedback on whether adequate pricing data exists for DCO risk and default management of swaps referencing USD SOFR. CME, LCH, and Eurex each stated that adequate pricing data exists for DCO risk and default management of USD SOFR swaps.[92] Respondents to the RFI also provided support for the conclusion that sufficient liquidity and pricing data exists in RFR OIS markets to withstand stressed market conditions.[93]

Request for Comment

The Commission requests comment and any relevant market analysis regarding whether there is adequate pricing data for DCO risk and default management of the products subject to this proposal, including with regard to the proposed stated termination date ranges.

[90] The data in Table 9 represents swaps that have been cleared at CME, LCH, or Eurex and reported to the CFTC under part 39 of the Commission's regulations.

[91] As discussed further below, Commission staff receives and reviews margin model information from the registered DCOs that clear these swaps, including information regarding how those DCOs would ensure that liquidity exists in order to exit a position in a stressed market. For purposes of the first statutory factor, the Commission considers possible periods of market stress, particularly when assessing whether there is sufficient liquidity and pricing data. Second Determination, 81 FR at 71210 (noting that the Commission considered ''the effect a new clearing mandate will have on a DCO's ability to withstand stressed market conditions'' as part of its analysis in connection with the Second Determination).

[92] CMEG Letter (''CME Clearing has accepted SOFR swaps for clearing since October 2018. Throughout this time there has been, and continues to be, adequate pricing data for DCO risk and default management of swaps referencing SOFR given the depth and liquidity of SOFR markets.''); LSEG Letter (''SOFR liquidity and related pricing data has developed to an adequate extent and continues to further increase. We also note that the number of underlying transactions supporting the production of the SOFR rate itself is very high, supporting the rate's robustness. Such robustness, transparency and confidence in the SOFR rate is reflected in the swap market, both in terms of trading and clearing volumes, including in relation to the availability of pricing data. This ultimately means that in the case of a default, there would be adequate swap pricing data for LCH to manage such default.''); Eurex Letter (''Eurex Clearing believes there is adequate pricing data for DCO risk and default management of swaps referencing SOFR.''). JSCC did not have any specific responses related to this question, as JSCC ''[does] not have a plan to clear swaps referencing SOFR.'' JSCC Letter.

[93] LSEG noted significant increases in USD SOFR volumes after SOFR First, and Eurex noted that liquidity in USD SOFR swaps increased considerably after March 5, 2021. LSEG and Eurex Letters. TD Bank agreed that market participants have observed sufficient outstanding notional exposures and trading liquidity in swaps referencing USD SOFR during both stressed and non-stressed market conditions to support a clearing requirement. TD Bank Letter.

The Commission also requests comment regarding whether DCOs offering clearing for RFR OIS markets would be able to risk manage these products during stressed market conditions.

2. Factor (II)—Availability of Rule Framework, Capacity, Operational Expertise and Resources, and Credit Support Infrastructure

Section 2(h)(2)(D)(ii)(II) of the CEA requires the Commission to take into account the availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear the proposed classes of swaps on terms that are consistent with the material terms and trading conventions on which they are now traded. Based on their regulation § 39.5(b) submissions, as well as ongoing oversight, the Commission believes that each of the registered DCOs has developed rule frameworks, capacity, operational expertise and resources, and credit support infrastructure to clear the interest rate swaps they currently clear, including the RFR OIS subject to this proposal, on terms that are consistent with the material terms and trading conventions on which those swaps are being traded. The Commission subjects each of the registered DCOs to ongoing review, risk surveillance, and examination to ensure compliance with the CEA's core principles and Commission regulations, including with respect to the submitted swaps.[94]

Each of the registered DCOs has procedures pursuant to which they regularly review their clearing of the RFR OIS subject to this proposal in order to confirm or adjust margin and other risk management tools. When reviewing each of the registered DCOs' risk management tools, the Commission considers whether the DCO is able to manage risk during stressed market conditions to be one of the most significant considerations. Each of the registered DCOs has developed detailed risk management practices, including a description of risk factors considered when establishing margin levels.[95] The Commission reviews and oversees each of the registered DCOs' risk management practices and development of margin models. Margin models are further refined by stress testing and daily back testing. The Commission also considers stress testing and back testing when assessing whether each of the registered DCOs can clear swaps safely during stressed market conditions.

The registered DCOs clearing the RFR OIS subject to this proposed determination design and conduct stress tests, and Commission staff monitors development of these stress tests. Each of the registered DCOs also conducts reverse stress tests to ensure that their default funds are sized appropriately and to ascertain whether any changes to their financial resources or margin models are necessary.[96] Commission staff monitors markets in real-time and also performs stress tests against the DCOs' margin models and may recommend changes to a margin model. The registered DCOs conduct back testing on a daily basis to ensure that the margin models capture market movements for member portfolios.[97]

Before offering a new product for clearing, each of the DCOs considers stress tests and back testing results in determining whether it has sufficient financial resources to offer new clearing services. The Commission also reviews initial margin models and default resources to ensure that the DCOs can risk manage their portfolio of products offered for clearing. This combination of stress testing and back testing in anticipation of offering new products for clearing provides the registered DCOs with greater certainty that new product offerings will be risk-managed appropriately. The process of stress testing and back testing also gives the DCOs practice incorporating the new product into their models. In addition to the Commission's surveillance and oversight, each of the registered DCOs continues to monitor and test their margin models over time so that they can operate effectively in stressed and non-stressed market environments. Registered DCOs review and validate their margin models regularly.[98]

Each registered DCO monitors and manages credit risk exposure by asset class, clearing member, account, or individual customer. They manage credit risk by establishing position and concentration limits based on product type or counterparty. These limits reduce potential market risks so that DCOs are better able to withstand stressed market conditions. Each of the registered DCOs monitors exposure concentrations and may require additional margin deposits for clearing members with weak credit scores, with large or concentrated positions, with positions that are illiquid or exhibit correlation with the member itself, and/or where the member has particularly

[94] In order to be registered with the Commission, a DCO must comply with the DCO core principles under section 5b of the CEA and applicable Commission regulations. Once a DCO is registered with the Commission, Commission staff periodically examine each DCO to determine whether the DCO is maintaining compliance with the CEA and Commission regulations. In addition, Commission staff monitors the risks posed to and by DCOs, clearing members, and market participants, and conducts independent stress testing.

[95] *E.g.,* historical volatility, intraday volatility, seasonal volatility, liquidity, open interest, market concentration, and potential moves to default. For additional information, each of CME, LCH, and Eurex has published a document outlining its compliance with the Principles for Financial Market Infrastructures (PFMI) published by the Committee on Payments and Market Infrastructures (CPMI; formerly, CPSS) and IOSCO. CPSS–IOSCO Principles for Financial Market Infrastructure (PFMI), Apr. 16, 2012, available at *https://www.bis.org/cpmi/publ/d101.htm. See* CMEG, CME Clearing: PFMI Disclosure, Nov. 30, 2021, available at *https://www.cmegroup.com/clearing/risk-management/files/cme-clearing-principles-for-financial-market-infrastructures-disclosure.pdf;* LCH PFMI Self-Assessment 2020, available at *https://www.lch.com/system/files/media_root/CPMI%20IOSCO%20Self%20Qualitative%20Assessment%20of%20LCH%20LTD_1.pdf;* and Eurex Clearing AG, Assessment of Eurex Clearing AG's compliance against the PFMI and disclosure framework associated to the PFMI, Feb. 16, 2021, available at *https://www.eurex.com/resource/blob/2446522/22f4869a8649f15b54a1e86bf635c63c/data/cpss-iosco-pfmi_assessment_2020_en.pdf.*

[96] Reverse stress testing uses plausible market movements that could deplete guaranty funds and cause large losses for top clearing members. For example, CME, LCH, and Eurex may use scenarios for stress testing and reverse stress testing that capture, among other things, historical price volatilities, shifts in price determinants and yield curves, multiple defaults over various time horizons, and simultaneous pressures in funding and asset markets.

[97] Back testing tests margin models to determine whether they are performing as intended, and checks whether margin models produce margin coverage levels that meet the DCO's established standards. Back testing helps CME, LCH, and Eurex determine whether their clearing members satisfy the required margin coverage levels and liquidation timeframe.

[98] Exempt DCOs, such as JSCC and HKEX, are subject to oversight by their home country regulators, along with regulations regarding risk management. For instance, JSCC is subject to the supervision of JFSA. JSCC, Principles for Financial Market Infrastructures Disclosure, Mar. 31, 2021, at 19, available at *https://www.jpx.co.jp/jscc/en/company/cimhll0000000osu-att/JSCC_PFMI_Disclosure_20210331_EN.pdf.* In granting JSCC's order of exemption, the Commission determined that JSCC is subject to comparable, comprehensive supervision and regulation by its home country regulator. *See* JSCC Order of Exemption from Registration, Oct. 26, 2015, at 1, available at *http://www.cftc.gov/idc/groups/public/@otherif/documents/ifdocs/jsccdcoexemptorder10-26-15.pdf;* JSCC Amended Order of Exemption from Registration, May 15, 2017, at 1, available at *https://www.cftc.gov/sites/default/files/idc/groups/public/@otherif/documents/ifdocs/jsccdcoexemptamdorder5-15-17.pdf.* Among other requirements, JSCC must provide the Commission with an annual certification that it continues to observe the PFMI in all material respects, and the Commission must receive annually, at JSCC's request, a certification from JFSA that JSCC is in good regulatory standing. Likewise, HKEX is overseen by HKMA, which provides ongoing supervision, and must meet the same requirements for registration as an exempt DCO as JSCC. *See* HKFE Clearing Corporation Limited, Principles for Financial Market Infrastructures Disclosure, Feb. 2021, available at *https://www.hkex.com.hk/-/media/HKEX-Market/Services/Clearing/Listed-Derivatives/PFMI/HKCC_PFMI_Disclosure_Feb2021.pdf?la=en.*

large exposures under stress scenarios. Registered DCOs also can call for additional margin, on top of collecting initial and variation margin, to meet the current DCO exposure and protect against stressed market conditions.[99]

In support of its ability to clear the RFR OIS subject to this proposal, CME's regulation § 39.5(b) submissions cite to its rulebook to demonstrate the availability of rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear interest rate swap contracts on terms that are consistent with the material terms and trading conventions on which the contracts are traded. LCH's submissions state that it has a well-developed rule framework and support infrastructure for clearing interest rate swaps, which it leverages to offer clearing services for the RFR OIS subject to this proposal. Eurex's submissions state that Eurex has a well-developed rule framework and support infrastructure for clearing the RFR OIS that are subject to this proposal. Eurex further states that it has the appropriate risk management, operations, and technology capabilities to ensure that it is able to liquidate positions in such swaps in an orderly manner in the event of a clearing member default, and that the RFR OIS are subject to margin and clearing fund requirements set forth in Eurex's FCM Regulations and Clearing Conditions.

For all of these reasons, the Commission has preliminarily determined that the application of DCO risk management practices to the RFR OIS subject to this proposed clearing requirement determination should ensure that the swaps subject to this proposal can be cleared safely, even during times of market stress. For additional information related to this factor, please see public disclosures made CME, LCH, and Eurex.[100]

Request for Comment

The Commission requests comments concerning all aspects of this factor, including whether commenters agree that DCOs offering to clear the RFR OIS subject to this proposed clearing requirement determination can satisfy the factor's requirements.

3. Factor (III)—Effect on the Mitigation of Systemic Risk

Section 2(h)(2)(D)(ii)(III) of the CEA requires the Commission to consider the effect of the clearing requirement on the mitigation of systemic risk, taking into account the size of the market for such contract and the resources of the DCO available to clear the contract. As presented in the data and discussion above, the Commission believes that the market for each RFR OIS subject to this proposed determination is significant and mitigating counterparty credit risk through clearing likely would reduce systemic risk in the interest rate swap market generally. While not every individual RFR OIS market has large outstanding notional exposures, each such market is important, and as liquidity shifts from IBOR swaps to RFR OIS, continuity of clearing for RFR OIS serves to reduce systemic risk.

In its regulation § 39.5(b) submissions, CME explains the benefits of centralized clearing, including freer counterparty credit lines, enhanced risk management, operational efficiencies, and ease of offsetting risk exposures. LCH's submissions note that clearing avoids complex bilateral relationships, provides for default management, and enhances transparency into the risks posed by swap positions. Eurex's submissions highlight the benefits of reduction of counterparty risk, margin and collateral efficiencies, protections for customer assets, and legal certainty. Each DCO's submissions indicate that they maintain adequate resources to clear the swaps that are the subject of this proposal. Additionally, in responding to the RFI, JSCC noted that it has been clearing JPY TONA OIS since 2014 ''without facing any challenge from a governance, rule framework, operational, resourcing, or credit support infrastructure perspective.'' [101]

In responding to the RFI, CME noted that mitigation of systemic risk is one of the key advantages of centralized clearing over bilateral arrangements.[102] LSEG stated that ''a clearing requirement will mitigate systemic risk, making sure that USD SOFR risk moves from the bilateral space to the cleared market to the necessary extent.'' [103] Additionally, Citadel noted that ''[a]pplying a clearing requirement to OTC derivatives referencing SOFR will ensure these markets develop as centrally-cleared markets,'' and further noted that ''central clearing provides greater systemic risk mitigation than bilateral margining for uncleared swaps.'' [104] TD Bank agreed that a clearing requirement for USD SOFR swaps ''might increase the clearing rate and therefore mitigate[] systemic risk even more,'' but TD Bank also noted that the ''bulk'' of USD SOFR swaps are already voluntarily cleared.[105]

Centrally clearing the RFR OIS subject to this proposal through a registered or exempt DCO should reduce systemic risk by providing counterparties with daily mark-to-market valuations upon which to exchange variation margin pursuant to the DCO's risk management framework and requiring posting of initial margin to cover potential future exposures in the event of a default. In addition, swaps transacted through a DCO are secured by the DCO's guaranty fund and other available financial resources, which are intended to cover extraordinary losses that would not be covered by initial margin.

Central clearing was developed and designed to handle significant concentration of risk. Each of the DCOs that clears the RFR OIS covered by this proposal has a procedure for closing out and/or transferring a defaulting clearing member's positions and collateral.[106] Transferring customer positions to solvent clearing members in the event of a default is critical to reducing systemic risk. DCOs are designed to withstand defaulting positions and to prevent a defaulting clearing member's loss from spreading further and triggering additional defaults. To the extent that introduction of an RFR OIS clearing requirement increases the number of clearing members and market participants in the interest rate swap market, then DCOs may find it easier to transfer positions from defaulting

[99] As a general matter, any DCO offering RFR OIS for clearing, including exempt DCOs, would follow this risk management approach with regard to offering these products for clearing.

[100] CME, CME Clearing: Principles for Financial Market Infrastructures Disclosure, Nov. 30, 2021, available at *https://www.cmegroup.com/clearing/risk-management/files/cme-clearing-principles-for-financial-market-infrastructures-disclosure.pdf;* LCH Ltd., CPMI—IOSCO Self-Assessment 2020, Mar. 31, 2020, available at *https://www.lch.com/system/files/media_root/CPMI%20IOSCO%20Self%20Qualitative%20Assessment%20of%20LCH%20LTD_1.pdf;* Eurex, ''Assessment of Eurex Clearing AG's compliance against the CPMI–IOSCO Principles for financial market infrastructures (PFMI) and the disclosure framework associated to the PFMIs,'' Feb. 28, 2022, available at *https://www.eurex.com/resource/blob/2973806/422b675a412d96e3c8cf97a570b899a2/data/cpss-iosco-pfmi_assessment_2021_en.pdf.* As explained above, similar disclosures are available for JSCC and HKEX.

[101] JSCC Letter.

[102] CMEG Letter.

[103] LSEG Letter.

[104] Citadel Letter.

[105] TD Bank Letter. *See also* Tradeweb Letter (''The swap clearing and execution requirements under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act have increased investor protections, improved market liquidity, and reduced systemic risk, especially in the dealer-to-customer market. It will be critical for the CFTC to maintain these market improvements as new swap transactions increasingly utilize alternative risk-free reference rates . . . .'').

[106] For further discussion of treatment of customer and swap counterparty positions, funds, and property in the event of the insolvency of a DCO or one or more of its clearing members, please see Factor (V)—Legal certainty in the event of insolvency, section V.C below.

clearing members if there is a larger pool of potential clearing members to receive the positions.[107]

Each DCO has experience risk managing interest rate swaps, and the Commission believes that the DCOs have the necessary financial resources available to clear the RFR OIS that are the subject of this proposal. Accordingly, the Commission believes that these DCOs would be able to manage the risk posed by clearing the new RFR OIS that would be required to be cleared by virtue of this proposal.

In addition, the Commission believes that the central clearing of the RFR OIS that are to be added under this proposal should serve to mitigate counterparty credit risk, thereby potentially reducing systemic risk. Having considered the likely effect on the mitigation of systemic risk, the Commission is proposing to add these RFR OIS to the clearing requirement.

Request for Comment

The Commission requests comments concerning the proposal to add these RFR OIS to the clearing requirement, with regard to the possible reduction of systemic risk.

How, if at all, should the Commission consider the ongoing implementation of uncleared swap margin requirements for swap dealers in assessing this factor?

4. Factor (IV)—Effect on Competition

Section 2(h)(2)(D)(ii)(IV) of the CEA requires the Commission to take into account the effect on competition, including appropriate fees and charges applied to clearing. Of particular concern to the Commission is whether this proposed determination would harm competition by creating, enhancing, or entrenching market power in an affected product or service market, or facilitating the exercise of market power.[108] Market power is viewed as the ability to raise prices, including clearing fees and charges, reduce output, diminish innovation, or otherwise harm customers as a result of diminished competitive constraints or incentives.[109]

The Commission has identified one putative service market as potentially affected by this proposed clearing determination: A DCO service market encompassing those clearinghouses that currently clear the RFR OIS subject to this proposal.[110] The Commission recognizes that this proposed clearing requirement potentially could impact competition within the affected market. Of particular importance to whether any such impact is positive or negative, is: (1) Whether the demand for these clearing services and swaps is sufficiently elastic that a small but significant price increase above competitive levels would prove unprofitable because users of the interest rate swap products and DCO clearing services would substitute other clearing services coexisting in the same market(s); and (2) the potential for new entry into this market. The availability of substitute clearing services to compete with those encompassed by this proposed determination, and the likelihood of timely, sufficient new entry in the event prices do increase above competitive levels, each operate independently to constrain anticompetitive behavior.

Any competitive import likely would stem from the fact that the proposed determination and regulations would remove the alternative of not clearing for RFR OIS subject to this proposal. The proposed determination would not specify who may or may not compete to provide clearing services for the RFR OIS subject to this proposal, as well as those not required to be cleared.

Removing the choice to enter into a swap without submitting it for clearing under this proposed rulemaking is not determinative of negative competitive impact. Other factors, including the availability of other substitutes within the market or potential for new entry into the market, may constrain market power. The Commission does not foresee that the proposed determination constructs barriers that would deter or impede new entry into a clearing services market,[111] and the Commission anticipates that a determination to modify the clearing requirement for interest rate swaps could foster an environment conducive to new entry. For example, the proposed clearing determination is likely to reinforce, if not encourage, growth in demand for clearing services. Demand growth, in turn, can enhance the sales opportunity, a condition hospitable to new entry.[112] Moreover, to the extent that there are high rates of voluntary clearing in the RFR OIS subject to this proposed determination already, a regulatory requirement to clear such swaps would provide additional certainty that those high rates of clearing would remain constant.

Respondents to the RFI who provided feedback regarding the potential effect on competition due to a modified clearing requirement did not identify any potential negative effects. For instance, Citadel stated that applying a clearing requirement to OTC derivatives referencing USD SOFR would increase liquidity and competition, citing, among other research, a study that found that ''the Commission's clearing and trading reforms led to a significant reduction in execution costs in the USD interest rate swap market, with market participants saving as much as $20 million–$40 million per day.'' [113] LSEG, Eurex, JSCC, and TD Bank also did not identify potential competition-related concerns.[114]

[107] The Commission recognizes that with high rates of voluntary clearing RFR OIS at this time, the prospect of adding additional clearing members and market participants in these swaps is limited.

[108] First Determination, 77 FR at 74313; Second Determination, 81 FR at 71220.

[109] First Determination, 77 FR at 74313 (discussing market power as described under U.S. Department of Justice guidelines). *See generally* U.S. Department of Justice and the Federal Trade Commission, Horizontal Merger Guidelines (Horizontal Merger Guidelines) at section 1 (Aug. 19, 2010), available at *https://www.justice.gov/sites/default/files/atr/legacy/2010/08/19/hmg-2010.pdf.*

[110] First Determination, 77 FR at 74298; Second Determination, 81 FR at 71220. The DCO service market includes the registered and exempt DCOs that currently offer RFR OIS for clearing.

[111] That said, the Commission recognizes that (1) to the extent the clearing services market for the interest rate swaps identified in this proposal, after foreclosing uncleared swaps, would be limited to a concentrated few participants with highly aligned incentives, and (2) the clearing services market is insulated from new competitive entry through barriers (*e.g.,* high sunk capital cost requirements, high switching costs to transition from embedded incumbents, and access restrictions), the proposed determination could have a negative competitive impact by increasing market concentration.

[112] *See, e.g.,* Horizontal Merger Guidelines, section 9.2 (entry likely if it would be profitable which is in part a function of ''the output level the entrant is likely to obtain'').

[113] Citadel Letter (citing Staff Working Paper No. 580 ''Centralized trading, transparency and interest rate swap market liquidity: evidence from the implementation of the Dodd-Frank Act,'' Bank of England, Jan. 2016, available at *http://www.bankofengland.co.uk/research/Documents/workingpapers/2016/swp580.pdf*).

[114] LSEG Letter (''LCH does not believe that adopting a clearing requirement for a new product that references an alternative reference rate, or expanding the scope of an existing clearing requirement to cover additional maturities would create conditions that increase or facilitate an exercise of market power over clearing services by any DCO. Any clearing requirement that applies equally to all DCOs that provide clearing services for a product would not adversely affect competition.''); Eurex Letter (''Eurex Clearing believes there is healthy competition currently in the market for the clearing of swaps referencing the RFRs and, previously, the LIBORs. Eurex Clearing does not believe that adopting a clearing requirement for a new product that references an RFR or expanding the scope of the Clearing Requirement to cover additionally maturities would cause [adverse effects related to competition or an increase in the cost of clearing services].''); JSCC Letter (''In relation to TONA OIS, it has been accepted for clearing at 3 registered DCOs . . . . Therefore, we believe that replacing JPY–LIBOR with TONA OIS would not change (i) the existing competition for clearing services of JPY swaps nor (ii) the cost of clearing services, in any regard.''); and TD Bank Letter (''We do not perceive these issues [related to adverse competitive effects or increasing costs of clearing services] to come'' as a result of a clearing requirement for a new product

Continued

Request for Comment

The Commission requests comment on the extent to which: (1) Entry barriers currently do or do not exist with respect to a clearing services market for the RFR OIS to be added to the clearing requirement under this proposal; (2) the proposed determination may lessen or increase these barriers; and (3) the proposed determination otherwise may encourage, discourage, facilitate, and/or dampen new entry into the market. In addition to what is noted above, the Commission requests comment, and quantifiable data, on whether the required clearing of any or all of the RFR OIS to be added to the clearing requirement under this proposal will generate conditions that create, increase, or facilitate an exercise of: (1) Clearing services market power in CME, LCH, Eurex, and/or any other clearing service market participant, including conditions that would dampen competition for clearing services and/or increase the cost of clearing services, and/or (2) market power in any product markets for interest rate swaps, including conditions that would dampen competition for these product markets and/or increase the cost of RFR OIS to be added to the clearing requirement under this proposal. The Commission seeks comment, and quantifiable data, on the likely cost increases associated with clearing, particularly those fees and charges imposed by DCOs, and the effects of such increases on counterparties currently participating in the market.

The Commission also requests comment regarding whether commenters have any concerns regarding access to clearing services in the market for any RFR OIS subject to this proposed determination.

5. Factor (V)—Legal Certainty in the Event of Insolvency

Section 2(h)(2)(D)(ii)(V) of the CEA requires the Commission to take into account the existence of reasonable legal certainty in the event of the insolvency of the relevant DCO or one or more of its clearing members with regard to the treatment of customer and swap counterparty positions, funds, and property. The Commission is proposing this clearing requirement determination based on its view that there is reasonable legal certainty with regard to the treatment of customer and swap counterparty positions, funds, and property in connection with cleared swaps, including the RFR OIS subject to this proposal, in the event of the insolvency of the relevant DCO or one or more of the DCO's clearing members.

The Commission believes that, in the case of a clearing member insolvency at CME, where the clearing member is the subject of a proceeding under the U.S. Bankruptcy Code, subchapter IV of Chapter 7 of the U.S. Bankruptcy Code (11 U.S.C. 761–767) along with parts 22 and 190 of the Commission's regulations would govern the treatment of customer positions.[115] Pursuant to section 4d(f) of the CEA, 7 U.S.C. 4d(f), a clearing member accepting funds from a customer to margin a cleared swap must be a registered futures commission merchant (FCM). Pursuant to 11 U.S.C. 761–767 and part 190 of the Commission's regulations, the customer's interest rate swap positions, carried by an insolvent FCM, would be deemed ''commodity contracts.'' [116] As a result, neither a clearing member's bankruptcy nor any order of a bankruptcy court could prevent CME from closing out/liquidating such positions. However, customers of clearing members would have priority over all other claimants with respect to customer funds that had been held by the defaulting clearing member to margin swaps, such as the RFR OIS subject to this proposal.[117] Thus, customer claims would have priority over proprietary claims and general creditor claims. Customer funds would be distributed to swap customers, including interest rate swap customers, in accordance with Commission regulations and section 766(h) of the Bankruptcy Code. Moreover, the Bankruptcy Code and the Commission's rules thereunder (in particular 11 U.S.C. 764(b) and 17 CFR 190.07) permit the transfer of customer positions and collateral to solvent clearing members.

Similarly, 11 U.S.C. 761–767 and part 190 would govern the bankruptcy of a DCO where the DCO is the subject of a proceeding under the U.S. Bankruptcy Code, in conjunction with DCO rules providing for the termination of outstanding contracts and/or return of remaining clearing member and customer property to clearing members.

With regard to LCH, the Commission understands that in general the default of an LCH clearing member would be governed by LCH's rules, and LCH would be permitted to close out and/or transfer positions of a defaulting clearing member. The Commission further understands that, under applicable law, LCH's rules governing a clearing member default would supersede insolvency laws in the clearing member's jurisdiction. For an FCM based in the United States and clearing at LCH, the applicable law as a general matter, would be the U.S. Bankruptcy Code and part 190 of the Commission's regulations. According to LCH's regulation § 39.5(b) submissions, the insolvency of LCH itself would be governed by English insolvency law, which protects the enforceability of the default-related provisions of LCH's rulebook, including in respect of compliance with applicable provisions of the U.S. Bankruptcy Code and part 190 of the Commission's regulations. LCH has obtained, and made available to the Commission, legal opinions that support the existence of such legal certainty in relation to the protection of customer and swap counterparty positions, funds, and property in the event of the insolvency of one or more of its clearing members.[118]

On December 20, 2018, the Commission issued permission for Eurex to begin clearing swap transactions on behalf of customers of FCMs.[119] According to Eurex's regulation § 39.5(b) submissions, Eurex observes the PFMI. Eurex represented that in February 2015, it published an assessment of its compliance with the PFMI, which was reviewed and validated by an independent outside auditor. The assessment concluded that Eurex fully complies with the PFMI, and Eurex's default management

that references an alternative reference rate or expanding the scope of the clearing requirement to cover additional maturities).

[115] An FCM or DCO also may be subject to resolution under Title II of the Dodd-Frank Act to the extent it would qualify as a covered financial company (as defined in section 201(a)(8) of the Dodd-Frank Act). Under Title II, different rules would apply to the resolution of an FCM or DCO. Discussion in this section relating to what might occur in the event an FCM or DCO defaults or becomes insolvent describes procedures and powers that exist in the absence of a Title II receivership.

[116] If an FCM is registered as a broker-dealer, certain issues related to its insolvency proceeding would be governed by the Securities Investor Protection Act, as well.

[117] Claims seeking payment for the administration of customer property would share this priority.

[118] Letters of counsel on file with the Commission.

[119] Commission Letter Nos. 18–30, 18–31, and 18–32. Additionally, in responding to the RFI, Eurex noted that, with respect to Eurex clearing members that are FCMs and that clear swaps under Eurex's U.S. regulatory framework, Eurex's FCM Regulations ''foresee a clear process for a potential porting of client-related transactions to a replacement clearing member following the termination of a clearing member.'' Eurex Letter. In the event that the termination is based on an Insolvency Termination Event, as defined in Eurex's FCM Regulations, Eurex will seek to coordinate with the CFTC and bankruptcy trustee with respect to porting the positions. This procedure applies to all cleared products. However, Eurex noted that following IBOR conversion events, it no longer clears any trades where obtaining new GBP LIBOR, JPY LIBOR, or CHF LIBOR fixings (or reliance on the relevant fallback provisions) would be necessary. *Id.*

procedures were assessed to be certain in the event of its or a clearing member's insolvency with regard to the treatment of customer and counterparty positions and collateral. Such certainty continues to be reflected in Eurex's most recent PFMI assessment.[120] According to Eurex's regulation § 39.5(b) submissions, a potential insolvency of Eurex Clearing, and the operation of default management procedures under Eurex's Clearing Conditions, would be governed by German law, with the exception of certain FCM Regulations and Clearing Conditions that relate to cleared swaps customer collateral that are governed by U.S. law.[121]

Finally, as exempt DCOs, JSCC and HKEX demonstrate they are subject to ongoing comparable, comprehensive supervision by their home country regulator with regard to legal certainty in the event of insolvency.[122] Both exempt DCOs maintain disclosures discussing the ways in which they comply with the PFMI, including principles related to legal certainty in the event of insolvency.[123] Principle 1 of the PFMI provides that a CCP should have a well-founded, clear, transparent, and enforceable legal basis for each material aspect of its activities, in all relevant jurisdictions.[124] Among other key considerations for this factor, ''[t]he legal basis should provide a high degree of certainty for each material aspect of an FMI's activities in all relevant jurisdictions.'' [125] The PFMI also provide that a CCP should have effective and clearly defined rules and procedures to manage a participant default.[126] JSCC's and HKEX's PFMI disclosures provide, among other information, a discussion of the applicable law and legal basis for their clearing activities, as well as the way in which their rules address insolvency events.[127]

Lastly, JSCC has provided information regarding how it would address a default by a clearing member under its rules,[128] including information regarding the treatment of certain RFR swaps for default management purposes. Specifically, in its responses to the RFI, JSCC described the process by which it offered TIBOR–TONA basis swaps as a way to transition away from IBOR swaps without incident.[129]

Request for Comment

The Commission requests comment regarding all aspects of this factor, including whether there is reasonable legal certainty, in the event of an insolvency of CME, LCH, Eurex, or one or more of any of these DCOs' clearing members, with regard to the treatment of customer and swap counterparty positions, funds, and property.

The Commission requests comment on whether U.S. swap counterparties have concerns about the applicability of any non-U.S. jurisdiction's law to U.S. persons clearing swaps at DCOs located outside of the United States.

The Commission requests comment regarding legal certainty with respect to an event of an insolvency for an exempt DCO, such as JSCC or HKEX, particularly with regard to the treatment of swap counterparty positions, funds, and property.

VI. Proposed Implementation Schedule and Compliance Dates

The Commission phased in compliance with the First Determination according to the schedule contained in regulation § 50.25.[130] Under this schedule, compliance was phased in by the type of market participant entering into a swap subject to the First Determination. The phase-in occurred over a 270-day period following publication of the final rule in the **Federal Register**. The Commission also phased in compliance with the Second Determination according to the schedule contained in regulation § 50.26. However, the Commission decided to adopt one compliance date for all market participant types, because many market participants were already clearing the products subject to the determination and the Commission had already adopted a clearing requirement determination for the interest rate swap class.[131] The Commission decided to tie the compliance date for each product to the first compliance date for a market participant in a non-U.S. jurisdiction.[132]

Importantly, DCOs have largely completed IBOR swap conversions. Many market participants already clear the RFR OIS subject to this proposed determination. Several other jurisdictions are requiring, or are anticipated to soon require, clearing of these swaps. While some responses to the RFI recommended that the Commission proceed through an interim final rule process,[133] other responses asked for longer periods of time for market participants to comment on proposed rules, and come into compliance with proposed rule changes.[134] LSEG recommended that the effective date be set ''not too far from the completion of the Commission's review'' in order to ''reduce uncertainty in the market and limit the risk of bifurcation of liquidity between the cleared and uncleared market for the LIBOR rates that ceased on December 31, 2021 and their respective replacement rates.'' [135]

Recognizing all these factors, the Commission proposes to adopt one compliance date for all market participant types and amend regulation § 50.26 to reflect that the compliance date shall be 30 days after publication of the final rule in the **Federal Register**.

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[120] Eurex Clearing AG, Assessment of Eurex Clearing AG's compliance against the PFMI and disclosure framework associated to the PFMI, available at *https://www.eurex.com/resource/blob/2446522/22f4869a8649f15b54a1e86bf635c63c/data/cpss-iosco-pfmi_assessment_2020_en.pdf.*

[121] For example, in the case of an insolvency termination event, as defined in Eurex's Clearing Conditions, the relevant FCM clearing member would be subject to an insolvency proceeding pursuant to applicable U.S. law, and Eurex would seek to coordinate with the Commission and the bankruptcy trustee (or comparable person responsible for administering the proceeding) with respect to the transfer of FCM client transactions and eligible margin assets allocated to the relevant FCM client. *Id.* at 100.

[122] Exempt DCOs are not permitted to clear swaps for U.S. customers pursuant to regulation § 39.6(b)(1). Accordingly, this discussion of JSCC's and HKEX's insolvency regimes does not address issues related to U.S. customer clearing.

[123] JSCC, Principles for Financial Market Infrastructures Disclosure, Mar. 31, 2021, available at *https://www.jpx.co.jp/jscc/en/company/cimhll0000000osu-att/JSCC_PFMI_Disclosure_20210331_EN.pdf;* and HKFE Clearing Corporation Limited, Principles for Financial Market Infrastructures Disclosure, Feb. 2021, available at *https://www.hkex.com.hk/-/media/HKEX-Market/Services/Clearing/Listed-Derivatives/PFMI/HKCC_PFMI_Disclosure_Feb2021.pdf?la=en.*

[124] PFMI, Principle 1.

[125] PFMI, Principle 1, Key consideration 1.

[126] PFMI, Principle 13.

[127] JSCC, Principles for Financial Market Infrastructures Disclosure, Mar. 31, 2021, at 19–24, 83–91, available at *https://www.jpx.co.jp/jscc/en/company/cimhll0000000osu-att/JSCC_PFMI_Disclosure_20210331_EN.pdf;* and HKFE Clearing Corporation Limited, Principles for Financial Market Infrastructures Disclosure, Feb. 2021, at 20–21, 58–60, available at *https://www.hkex.com.hk/-/media/HKEX-Market/Services/Clearing/Listed-Derivatives/PFMI/HKCC_PFMI_Disclosure_Feb2021.pdf?la=en.*

[128] See JSCC's relevant PFMI disclosures.

[129] JSCC Letter (stating that, for default management purposes, TIBOR–TONA basis swaps will be treated in the same manner as cleared JPY TONA OIS. JSCC noted that creation of these basis swaps was a temporary measure and the basis swaps will expire at the settlement of the rates that were fixed prior to the end of 2021).

[130] Swap Transaction Compliance and Implementation Schedule: Clearing Requirement Under Section 2(h) of the CEA, 77 FR 44441 (July 30, 2012).

[131] Second Determination, 81 FR at 71227.

[132] *Id.* at 71227—71228.

[133] *E.g.,* Tradeweb Letter; Citadel Letter.

[134] ICI Letter (requesting a 90-day comment period); ISDA Letter (''Members request a minimum of 6 months' notice to implement new [clearing requirement]''); ACLI Letter (''To ensure a smooth implementation of any expanded clearing requirement, a minimum of six months should be provided between the adoption of an expanded clearing requirement and the effective date of the requirement, to give market participants time to ready systems and processes.'').

[135] LSEG Letter.

If the clearing requirement compliance date falls on a Saturday, Sunday, or U.S. Federal public holiday, the compliance date will be the next available business day. No compliance date will be set on a day when markets are not open in the United States.

As a technical amendment, because the Commission is proposing to remove certain interest rate swaps from regulation § 50.4, it is also proposing to remove those same swaps from regulation § 50.26. The Commission is proposing this change for consistency and to eliminate any confusion that might arise if different swap products are included in §§ 50.4 and 50.26. Additionally, the Commission proposes technical revisions related to the formatting of the table of compliance dates for required clearing of credit default swaps in regulation § 50.26.

Request for Comment

The Commission requests comment on whether setting a compliance date 30 days after publication of the final rule in the **Federal Register** provides market participants with sufficient notice and opportunity to comply with this proposed determination.

VII. Cost Benefit Considerations

A. Statutory and Regulatory Background

Proposed revised regulation § 50.4(a) identifies certain swaps that would be required to be cleared under section 2(h)(1)(A) of the CEA in addition to those currently required to be cleared by existing regulations §§ 50.2 and 50.4(a), and removes certain other swaps currently required to be cleared from the clearing requirement. The proposed clearing requirement amendments are designed to update the Commission's regulations in light of the interest rate swap market's move away from use of swaps referencing IBORs to swaps referencing RFRs. At the current time, most RFR OIS are being cleared voluntarily so the proposed regulation largely serves to ensure that the swap market under the Commission's jurisdiction continues to clear all RFR OIS subject to this proposal. The continued central clearing of RFR OIS may limit the counterparty risk associated with such swaps, thereby mitigating the possibility of such risks having a systemic impact, which might cause or exacerbate instability in the financial system. In addition, required clearing of RFR OIS would reflect the global effort to rely on benchmark rates that are less susceptible to manipulation.

The Commission believes this proposal is consistent with the principle that the use of central clearing can reduce systemic risk, which was one of the fundamental premises of the Dodd-Frank Act and the 2009 commitments by the G20 nations. The following discussion is a consideration of the costs and benefits of the Commission's proposed actions pursuant to the regulatory requirements discussed above.

B. Overview of Swap Clearing

. How Clearing Reduces Risk

When a bilateral swap is cleared, the DCO becomes the counterparty to each original swap counterparty. This arrangement mitigates counterparty risk to the extent that the DCO may be a more creditworthy counterparty than the original swap counterparties. Central clearing reduces the interconnectedness of market participants' swap positions because the DCO, an independent third party that takes no market risk, guarantees the collateralization of swap counterparties' exposures. DCOs have demonstrated resilience in the face of past market stress.

The Commission anticipates that DCOs will continue to be some of the most creditworthy swap counterparties because, among other things, they are able to monitor and manage counterparty risk effectively through (1) collection of initial and variation margin associated with outstanding swap positions; (2) marking positions to market regularly, usually multiple times per day, and issuing margin calls when the margin in a customer's account has dropped below predetermined levels that the DCO sets; (3) adjusting the amount of margin that is required to be held against swap positions in light of changing market circumstances, such as increased volatility in the underlying product; and (4) closing out swap positions if margin calls are not met within a specified period of time.

2. The Clearing Requirement and Role of the Commission

With the passage of the Dodd-Frank Act, Congress gave the Commission the responsibility for determining which swaps would be required to be cleared pursuant to section 2(h)(1)(A) of the CEA. Since 2012, there is ample evidence that the interest rate swap market has been moving toward increased use of central clearing in response to both market incentives and clearing requirements.[136] Now with the IBOR transition completed for most LIBOR rates and with most RFR OIS already being voluntarily cleared, as discussed further below, it is possible that the effect of this proposal will be limited to ensuring that market participants continue to clear the RFR OIS subject to the proposal.[137] The Commission has preliminarily determined that the costs and benefits related to the required clearing of the RFR OIS to be added under this proposal are attributable, in part to (1) Congress's stated goal of reducing systemic risk by, among other things, requiring clearing of swaps; and (2) the Commission's exercise of its discretion in selecting swaps or classes of swaps to achieve those ends.

C. Consideration of the Costs and Benefits of the Commission's Actions

1. CEA Section 15(a)

Section 15(a) of the CEA requires the Commission to ''consider the costs and benefits'' of its actions before promulgating a regulation under the CEA or issuing certain orders.[138] Section 15(a) further specifies that the costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness and financial integrity; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations (collectively referred to herein as the Section 15(a) Factors). Accordingly, the Commission considers the costs and benefits associated with the proposed determination in light of the Section 15(a) Factors. In the sections that follow, the Commission considers: (1) The costs and benefits of required clearing for the RFR OIS to be added under this proposed rule as well as the costs and benefits of removing certain swaps from required clearing; (2) the alternatives contemplated by the Commission and their costs and benefits; and (3) the impact of required clearing for the proposed swaps on the Section 15(a) Factors.

The Commission is considering these costs and benefits against a baseline of

[136] Second Determination, 81 FR at 71210; BIS, ''Statistical release: OTC derivatives at end-December 2020,'' May 12, 2021, at 4, Graph 4, available at *https://www.bis.org/publ/otc_hy2105.pdf* (charting central clearing rates for interest rate swaps from 2012 to 2020 and noting a particularly significant rise during the 2012–2015 period). *See also* CMEG Letter (discussing adoption of central clearing); CCP12 Letter (same).

[137] It is possible that some market participants would respond to the requirement that RFR OIS be cleared by decreasing their use of such swaps, particularly if the cost of clearing increases in the future relative to the cost of not clearing. Thus, there is some uncertainty regarding how the proposed rule will affect the quantity of swaps that are cleared.

[138] 7 U.S.C. 19(a).

the current set of interest rates swaps subject to the clearing requirement adopted under regulation § 50.4. This proposed determination would add certain RFR OIS to the clearing requirement and it would remove certain swaps referencing IBORs from the clearing requirement. In most cases, this would be a simultaneous exchange: As an IBOR swap is withdrawn from the clearing requirement, an RFR swap is added. However, in a few cases, there may be a delay, or even an overlap during which products referencing the IBOR rate and the RFR are both subject to the clearing requirement (*e.g.,* if the Commission adopts a clearing requirement for USD SOFR swaps 30 days after the publication of the final rule in the **Federal Register** and does not remove the clearing requirement for USD LIBOR swaps until July 1, 2023, then requirements to clear USD LIBOR swaps, including USD LIBOR fixed-to-floating swaps, would for a period of time coexist with requirements to clear USD SOFR OIS). As seen in Table 6 above, almost all transactions in interest rate swaps that would be subject to the proposed clearing requirement are cleared voluntarily today, so that the percentage of such swaps that would be cleared following implementation of the rule is unlikely to increase materially. The Commission's analysis below compares amendments in this proposed determination to the clearing requirement in effect today. The costs discussed recognize the current industry practice of high levels of RFR OIS clearing.

The Commission understands that the swap market functions internationally with (i) transactions that involve U.S. firms and DCOs occurring across different international jurisdictions; (ii) some entities organized outside of the United States that are, or may become, Commission registrants or registered entities; and (iii) some entities that typically operate both within and outside the United States and that follow substantially similar business practices wherever located. Where the Commission does not specifically refer to matters of location, this discussion of costs and benefits refers to the effects of the proposed regulations on all relevant swaps activity, whether based on their actual occurrence in the United States or on their connection with activities in, or effect on, commerce of the United States, pursuant to section 2(i) of the CEA.[139]

2. Costs and Benefits of Required Clearing Under the Proposed Determination

Market participants may incur certain costs in order to clear the RFR OIS to be added to the clearing requirement in the proposed rule. For example, to the extent that there are market participants entering into RFR OIS that are not already clearing interest rate swaps voluntarily or pursuant to the Commission's prior clearing requirement determinations, such market participants may incur certain startup and ongoing costs related to developing technology and infrastructure, updating or creating new legal agreements, service provider fees, and collateralization of the cleared positions.[140] The costs of collateralization, on the other hand, are likely to vary depending on whether an entity is subject to the margin requirements for uncleared swaps [141] and capital requirements, and the differential between the cost of capital for the assets they use as collateral and the returns realized on those assets.

As noted in Table 6 above, almost all RFR OIS subject to this proposed determination are already cleared voluntarily, and market participants currently clearing RFR OIS already realize the benefits of clearing. Adoption of the proposed determination would ensure that the percentage of RFR OIS that are cleared would remain high in the future and that these benefits would continue to be realized. These benefits include reduced and standardized counterparty credit risk, increased transparency, and easier swap market access for market participants who are required to clear. Together, these benefits contribute significantly to the stability and efficiency of the financial system, but they are difficult to quantify with any degree of precision.

While there may be a benefit to removing certain swaps from required clearing, such as fewer costs to market participants who no longer have to submit such swaps to clearinghouses, in this instance, the reason the Commission is removing certain swaps referencing IBORs from the clearing requirement is because they are, with limited exceptions, no longer offered for clearing. The swap rates that the Commission is proposing to remove from the clearing requirement, other than USD LIBOR and SGD SOR–VWAP, should no longer be available or used by market participants, pursuant to broad international consensus and industry progress, as described above.[142] Therefore, the Commission preliminarily believes that removing these swaps referencing IBORs from the clearing requirement would not impose additional costs on market participants and would result in the benefit of market and regulatory certainty. There may be no meaningful benefit to market participants from this removal because they generally cannot clear these swaps today. However, there may be benefits associated with the effort to reach broad consensus around the transition away from IBORs.

The Commission notes that any potential costs associated with the proposed determination should be viewed in light of the fact that each new swap that would be required to be cleared would stand in the place of a swap that is already subject to required clearing and that almost all of these swaps are cleared voluntarily.[143] Liquidity tied to IBORs has shifted, and will continue to shift, to RFRs as those IBORs are discontinued or become nonrepresentative. That shift has occurred, and continues to occur, as a result of numerous market events, including DCO conversions of IBOR swaps to RFR swaps, the operation of contractual fallbacks, and new use of RFRs in parallel with declining liquidity in IBOR swaps. The RFR OIS subject to this proposal are already widely cleared so that the costs associated with clearing these swaps are already being incurred.[144] Accordingly, the Commission anticipates that the additional cost of compliance for market participants would be *de minimis.*

Request for Comment

The Commission requests comment concerning the costs of clearing

[139] Pursuant to section 2(i) of the CEA, activities outside of the United States are not subject to the swap provisions of the CEA, including any rules prescribed or regulations promulgated thereunder, unless those activities either ''have a direct and significant connection with activities in, or effect on, commerce of the United States''; or contravene any rule or regulation established to prevent evasion of a CEA provision enacted under the Dodd-Frank Act. 7 U.S.C. 2(i).

[140] These per-entity costs would vary widely depending on the needs of such market participants. Costs likely would be lower for market participants who already clear interest rate swaps covered by the Commission's prior clearing requirement determinations. The opposite would be true for market participants that start clearing because of the proposed determination. However, given the high rates of voluntary clearing, there are likely to be few, if any, new participants.

[141] The Commission's margin requirements for uncleared swaps are codified in subpart E of part 23 of the Commission's regulations.

[142] Indeed, as noted above, regulators in the United States have called on market participants to cease new USD LIBOR activity.

[143] As noted above, while the Commission proposes to require clearing of USD SOFR and SGD SORA swaps effective 30 days after publication of the final rule in the **Federal Register**, the Commission proposes to remove USD LIBOR and SGD SOR–VWAP clearing requirements on a delayed basis, effective July 1, 2023.

[144] *See* section V.C above.

described above for various market participants and the extent to which they are already being incurred. The Commission requests comment from both U.S. and non-U.S. swap counterparties that may be affected by the proposed determination.

a. Technology, Infrastructure, and Legal Costs

Market participants already clearing swaps may incur costs in making necessary changes to technology systems to support the clearing required by the proposed rule if they are not yet clearing RFR OIS. To the extent that there are market participants who are not currently clearing RFR OIS, such market participants may incur costs if they need to implement technology to connect to FCMs that will clear their transactions.[145] The costs are likely to depend on the specific business needs of each entity and therefore would vary widely among market participants. As a general matter, given that most market participants already will have undertaken the steps necessary to move away from the use of IBOR swaps in the cleared interest rate swap market, the burden associated with required clearing of RFR OIS should be minimal.[146]

With regard to costs, market participants who do not currently have established clearing relationships with an FCM will have to set up and maintain such a relationship in order to clear swaps that are required to be cleared. Market participants who transact a limited number of swaps per year likely will be required to pay monthly or annual fees that FCMs charge to maintain both the relationship and outstanding swap positions belonging to the customer. In addition, the FCM is likely to pass along fees charged by the DCO for establishing and maintaining open positions. It is likely that most market participants already will have had experience complying with prior clearing requirements and that the incremental burdens associated with clearing any of the new RFR OIS should be minimal, especially given that these products are intended to replace already widely cleared products.[147]

Request for Comment

The Commission requests comment, including any quantifiable data and analysis, on the changes that market participants will have to make to their technological and legal infrastructures in order to clear the RFR OIS that are subject to the proposed determination. In particular, the Commission requests comment concerning how many market participants, if any, may have to establish new relationships with FCMs, or significantly upgrade those relationships based on the inclusion of these new products to the clearing requirement.

b. Ongoing Costs Related to FCMs and Other Service Providers

In addition to costs associated with technological and legal infrastructures, market participants transacting in RFR OIS subject to the proposed determination will face ongoing costs associated with fees charged by FCMs. DCOs typically charge FCMs an initial transaction fee for each cleared interest rate swap its customers enter, as well as an annual maintenance fee for each open position. The Commission understands that customers that occasionally transact in swaps are typically required to pay a monthly or annual fee to each FCM.[148] As noted, most RFR OIS transactions are already cleared, so that these costs are largely being incurred by market participants.

As discussed above, it is difficult to predict precisely how the proposed requirement to clear RFR OIS will promote the use of swap clearing, as compared to the use of clearing that would occur in the absence of the requirement. However, as presented in the data above, the use of voluntary clearing is so high that the percentage of swaps that would be cleared following adoption of the rule is unlikely to increase materially. Some RFR OIS will continue to be uncleared pursuant the exceptions and exemptions set out in subpart C of part 50 of the Commission's regulations. According to Table 6, the percentage of swaps that are cleared in USD SOFR is about 95 to 96 percent. The Commission estimates that about 96 percent of non-inter-affiliate trades in USD LIBOR fixed-to-floating IRS were cleared as of January 2022.[149] The Commission anticipates that a similar percentage of RFR OIS subject to this proposal would continue to be cleared following the determination given that subpart C of part 50 has not changed. Because the clearing percentages in Table 6 for non-USD RFR OIS are even higher than for SOFR OIS, the increase in clearing as a result of this rule also will likely be *de minimis.* Any increase in the use of clearing due to the proposed determination would lead in most cases to an incremental increase in the transaction costs noted above. However, because most market participants already will have undertaken the steps necessary to accommodate the clearing of swaps subject to required clearing, the Commission anticipates that the burden associated with clearing RFR OIS should be minimal.

Request for Comment

The Commission requests comment regarding the fee structures of FCMs in general, and in particular as they relate to the clearing of the types of RFR OIS covered by the proposed rule.

[145] The Commission does not have the information necessary to determine either the costs associated with entities that need to establish relationships with one or more FCMs or the costs associated with entities that already have relationships with one or more FCMs but need to revise their agreements. Commenters are requested to provide the necessary data where available.

[146] *E.g.,* Tradeweb Letter (''In effect, the CFTC is not expanding the existing clearing determinations, rather it will be applying the existing IBOR determinations to contracts based on the new RFRs.''); Citadel Letter (''As noted above, OTC derivatives referencing SOFR are currently being cleared by DCOs in material volumes, demonstrating that the rule frameworks and operational infrastructure already exist to support a clearing requirement. Significant voluntary clearing demonstrates the confidence market participants have in the current DCO offerings.''); Eurex Letter (''Eurex Clearing does not believe that adopting a clearing requirement for swaps referencing SOFR would be any hindrance to trading activity in those swaps. Any such clearing requirements for the RFRs, if adopted, were already in effect for the IBOR-based rates being replaced.'').

[147] In responding to the RFI, TD Bank noted that the implementation of new clearing requirements to address the transition from IBORs to RFRs ''should not materially increase costs'' (but should be ''forecasted appropriately to allow firms to become operationally ready''). TD Bank Letter. JSCC noted that ''DCOs and market participants have already incurred significant costs to transition LIBOR swaps denominated in non-USD currencies to alternative reference rates'' and stated that JSCC ''[does] not believe there would be any additional costs to be borne by DCOs and market participants if the CFTC includes alternative reference rates, such as TONA OIS, in the Clearing Requirement.'' JSCC Letter. ISDA stated that ''[w]hile the changes in [the clearing requirement] will have a cost attached . . . these costs are part of the overall cost of LIBOR transition and spread across multiple jurisdictions.'' ISDA Letter. ISDA noted that for institutional clients, additional costs ''will be incremental as opposed to something completely new and potentially prohibitive,'' but also noted that ''[f]or smaller less sophisticated counterparties who do not have to currently clear, [a new clearing requirement] could be a significant cost that could deter them from hedging using swaps.'' *Id.* ISDA requested that the Commission ''not enact a [clearing requirement] . . . in a way that increases cost, for instance by providing [a] short notice period that would require the implementation of tactical solutions to meet short deadlines.'' *Id.* ACLI encouraged the Commission to ''consider whether the marginal risk mitigation benefits of an expanded clearing requirement outweigh the costs of compliance'' in light of uncleared swap margin rules. ACLI Letter.

[148] The Commission does not have current information regarding such fees; commenters are requested to provide the necessary data where available.

[149] This estimate is based on swaps transacted after the most recent revisions to subpart C of part 50 went into effect (on or after December 30, 2020) so it captures all applicable exemptions from the swap clearing requirement.

c. Costs Related to Collateralization of Cleared Swap Positions

Market participants that enter into RFR OIS subject to the proposed rule will be required to post initial margin at a DCO. The Commission understands that the RFR OIS subject to this proposal are already being widely cleared on a voluntary basis, and so any additional amounts of initial margin that market participants would be required to post to a DCO as a result of the proposed determination likely would be relatively small. In reaching this preliminary view, the Commission considered situations where (1) uncleared RFR OIS may be otherwise collateralized; [150] (2) uncleared RFR OIS between certain SDs and ''financial end-users'' are, or will be, subject to initial and variation margin requirements under the Commission's margin regulations for uncleared swaps; [151] (3) the pricing of certain uncleared swaps may account for implicit contingent liabilities and counterparty risk; (4) not all RFR OIS will necessarily be eligible for clearing if they have terms that prevent them from being cleared; [152] and (5) certain entities may elect an exception or exemption from the clearing requirement.[153]

The Commission acknowledges that market participants who are not clearing voluntarily and not otherwise required to post margin or collateral may incur costs related to funding collateral once they are required to clear. The greater the funding cost relative to the rate of return on the asset used as initial margin, the greater the cost of procuring collateral.[154] Quantifying this cost with any precision is challenging because different entities may have different funding costs and may choose assets with different rates of return.

Request for Comment

The Commission requests comments on all aspects of quantifying the cost of funding initial margin that would be required to be posted to a DCO pursuant to this proposed rule. In particular, the Commission requests comment on funding costs that market participants may face due to interest rates on bonds issued by a sovereign nation that also issues the currency in which the RFR OIS subject to this proposed determination is denominated. CME, LCH, and Eurex accept as initial margin bonds issued by several sovereigns, and market participants may post such bonds as initial margin if the Commission adopts this proposed rule.

The Commission recognizes further that the new initial margin amounts that would be required to be posted to DCOs for cleared RFR OIS will, for entities required to post initial margin under the uncleared swap margin regulations, replace the initial margin amount that has been, or will be, required to be posted to their swap counterparties, pursuant to the uncleared swap margin regulations. The uncleared swap margin regulations require SDs and certain ''financial end-users'' to post and collect initial and variation margin for uncleared swaps, subject to various conditions and limitations.[155]

The Commission anticipates that the initial margin that would be required to be posted for a cleared swap to be added under this proposed determination would typically be less than the initial margin that would be required to be posted for uncleared swaps pursuant to the uncleared swap margin regulations. Whereas the initial margin requirement for cleared swaps must be established according to a margin period of risk of at least five days,[156] under the uncleared swap margin regulations, the minimum initial margin requirement is set with a margin period of risk of 10 days or, under certain circumstances, less or no initial margin for inter-affiliate transactions.[157] Phase-in of the initial margin requirements for uncleared swaps began on September 1, 2016, and will be fully implemented by September 1, 2022. The requirement for entities subject to uncleared swap margin regulations to exchange variation margin was fully implemented on March 1, 2017.

With respect to swaps that would be added to the clearing requirement under this proposed determination, but not subject to the uncleared swap margin regulations, the Commission believes that the new initial margin amounts to be deposited would displace costs that are currently embedded in the prices and fees for transacting the swaps on an uncleared and uncollateralized basis, rather than add a new cost. Entering into a swap is costly for any market participant because of the default risk posed by its counterparty. When a market participant faces a DCO, the DCO accounts for that counterparty credit risk by requiring the market participant to post collateral, and the cost of capital for the collateral is part of the cost that is necessary to maintain the swap position. When a market participant faces an SD or other counterparty in an uncleared swap, however, the uncleared swap contains an implicit line of credit upon which the market participant effectively draws when its swap position is out of the money. Typically, counterparties charge for this implicit line of credit in the spread they offer on uncollateralized, uncleared swaps.[158] Additionally, because the counterparty credit risk that the implicit line of credit creates is the same as the counterparty risk that would result from an explicit line of credit provided to the same market participant, to a first order approximation, the charge for each should be the same as well.[159] This means that the cost of capital for additional collateral posted as a consequence of requiring uncollateralized swaps to be cleared takes a cost that is implicit in an uncleared, uncollateralized swap and makes it explicit.[160] This observation

[150] *E.g.,* under the terms of a credit support annex.

[151] Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 81 FR 636 (Jan. 6, 2016); Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants, 85 FR 71246 (Nov. 9, 2020).

[152] For example, if such swaps do not meet the specifications set forth in proposed revised regulation § 50.4(a).

[153] See subpart C of part 50 (Exceptions and Exemptions to the Clearing Requirement).

[154] Certain entities, such as pension funds and asset managers, may use as initial margin assets that they already own. In such cases, market participants would not incur funding costs in order to post initial margin.

[155] *See generally* subpart E of part 23 of the Commission's regulations. Swap clearing requirements under part 50 of the Commission's regulations apply to a broader scope of market participants than the uncleared swap margin regulations. For example, under subpart E of part 23, a ''financial end-user'' that does not have ''material swaps exposure'' (as defined by regulation § 23.151) is not required to post initial margin, but such an entity may be subject to the swap clearing requirement. 17 CFR 23.151.

[156] Commission regulation § 39.13(g)(2)(ii)(c), 17 CFR 39.13(g)(2)(ii)(c).

[157] Commission regulations §§ 23.154(b)(2)(i) and 23.159. *See generally* Margin and Capital Requirements for Covered Swap Entities, 80 FR 77840 (Nov. 3, 2015).

[158] It has been argued that the cash flows of an uncollateralized swap (*i.e.,* a swap with an implicit line of credit) are over time substantially equivalent to the cash flows of a collateralized swap with an explicit line of credit. *See generally* Antonio S. Mello & John E. Parsons, Margins, Liquidity, and the Cost of Hedging, MIT Center for Energy and Environmental Policy Research, May 2012, available at *http://dspace.mit.edu/bitstream/handle/1721.1/70896/2012-005.pdf?sequence=1.*

[159] *Id.* Mello and Parsons state, ''[h]edging is costly. But the real source of the cost is not the margin posted, but the underlying credit risk that motivates counterparties to demand that margin be posted.'' *Id.* at 12. They also note that, ''[t]o a first approximation, the cost charged for the non-margined swap must be equal to the cost of funding the margin account. This follows from the fact that the non-margined swap just includes funding of the margin account as an embedded feature of the package.'' *Id.* at 15–16.

[160] But note that the cost may be greater for uncleared swaps as the initial margin is computed on a counterparty by counterparty basis, whereas in the clearing context, there is most likely greater opportunity for netting exposures at the DCO.

applies to capital costs associated with both initial margin and variation margin.

The proposed rule also may result in added operational costs for those few market participants who are not already clearing these swaps voluntarily. With uncleared swaps, counterparties may agree not to collect variation margin until certain thresholds of material swaps exposure are reached, thus reducing or eliminating the need to exchange variation margin as exposure changes.[161] However, DCOs collect and pay variation margin daily, and sometimes more frequently. Increased required clearing therefore may increase certain operational costs associated with paying variation margin to the DCO.[162]

The proposed rule may result in slight additional costs for clearing members in the form of guaranty fund contributions that are held by the DCO. However, it also could decrease guaranty fund contributions for certain clearing members. Once the proposed determination takes effect, there may be market participants that currently transact swaps bilaterally who would have to either become clearing members of a DCO or submit such swaps for clearing through an existing clearing member. A market participant that becomes a direct clearing member must make a guaranty fund contribution, while a market participant that clears its swaps through a clearing member may pay higher fees if the clearing member passes the costs of the guaranty fund contribution to its customers. While the addition of new clearing members and new customers for existing clearing members may result in an increase in guaranty fund requirements, it should be noted that if (1) new clearing members are not among the two clearing members used to calculate the guaranty fund and (2) any new customers trading through a clearing member do not increase the size of uncollateralized risks at either of the two clearing members used to calculate the guaranty fund, all else held constant, existing clearing members may experience a decrease in their guaranty fund requirement.

Request for Comment

The Commission requests comment regarding the total amount of additional collateral that would be posted due to required clearing of the RFR OIS covered by this proposed determination. The Commission also invites comment regarding (1) the cost of capital and returns on capital for that collateral, (2) the effects of required clearing on the capital requirements for financial institutions, and (3) the costs and benefits associated with operational differences related to the collateralization of uncleared versus cleared swaps. Please supply quantifiable data and analysis regarding these subjects, if possible.

3. Benefits of Clearing

As noted above, there are significant benefits to central clearing of swaps. These benefits include reducing and standardizing counterparty credit risk, improving market transparency, and promoting access to clearing services. Specifically, there are important risk mitigation benefits of clearing RFR OIS that replace IBOR swaps (which would be removed from the clearing requirement under the proposal). In addition, requiring the central clearing of RFR OIS would promote regulatory continuity and cross-border harmonization of clearing requirements.

The Commission believes that while the requirement to margin uncleared swaps mitigates counterparty credit risk, such risk is mitigated further for swaps that are cleared through a central counterparty. Moreover, the proposed determination would apply to a larger set of market participants than the uncleared swaps margin requirements. Thus, to the extent that the proposed determination to add RFR OIS to the clearing requirement leads to increased clearing overall, these benefits are likely to result. As is the case for the costs noted above, it is likely that the use of clearing will not increase materially as a result of the proposed rule, but implementing a clearing requirement would help ensure the benefits of the proposed rule would continue to be realized as market participants continue to clear RFR OIS.

The proposed rule's requirement that certain swaps be cleared is intended to ensure that market participants will face a DCO, and therefore, will face a highly creditworthy counterparty. As discussed above, DCOs are some of the most creditworthy counterparties in the swap market because of the risk management tools they have available. The Commission recognizes that the beneficial value of the proposal to add RFR OIS to the clearing requirement may be lessened, in part, because the swap volumes that will be subject to a new clearing requirement are expected to be shifting from one set of swaps (IBORs) to another (RFRs) rather than a straightforward addition of new swap products to the clearing requirement.[163] Moreover, as noted, these benefits are already being realized for the large majority of these swaps that are cleared voluntarily.

Request for Comment

The Commission requests comment on whether benefits will result from the proposed rule, and, if so, the expected magnitude of such benefits. The Commission also requests comment on whether the proposed rule would provide benefits by furthering international harmonization of clearing requirements.

D. Costs and Benefits of the Proposed Rule as Compared to Alternatives

The proposed rule is a function of both the market importance of these products and the fact that they already are widely cleared. The Commission believes that these interest rate swaps should be required to be cleared because they are widely used and infrastructure for clearing and risk management of these swaps already exists.

Given the Commission's prior clearing requirement determinations, and the widespread use of clearing for RFR OIS to be added under this proposal, DCOs, FCMs, and market participants already have experience clearing the types of swaps proposed for required clearing. Because of the wide use of these swaps and their importance to the market, and because these swaps are already successfully being cleared, the Commission is proposing to include RFR OIS in the interest rate swap clearing requirement.

The Commission believes that RFR OIS should be added to the swap clearing requirement under this proposed determination after analyzing the factors under section 2(h)(2)(D) of the CEA, in order to promote consistency with its regulatory counterparts in other jurisdictions and to ensure that the benefits of required clearing accrue to the RFR OIS that replace IBOR swaps no longer offered for clearing.

The Commission could consider alternative implementation scenarios for its proposed RFR OIS clearing requirements, as discussed above. Specifically, the Commission could consider:

i. Whether to remove existing requirements to clear USD LIBOR and SGD SOR–VWAP swaps 30 days after publication of the final rule in the **Federal Register** instead of on July 1, 2023. The Commission notes that

[161] Among other things, the Commission's part 23 regulations set forth material swap exposure thresholds above which the exchange of variation margin is no longer voluntary. 17 CFR 23.151 and 23.153.

[162] However, exchange of variation margin will lower the build-up of current exposure.

[163] As discussed in section IV.A above.

liquidity in USD LIBOR swaps may decline sufficiently over the coming months to support removing such swaps from the clearing requirement on a date earlier than July 1, 2023.

ii. Whether to delay implementation of the proposed requirement to clear USD SOFR and SGD SORA OIS until July 1, 2023 (or phase-in the compliance date) rather than to require compliance beginning 30 days after publication of the final rule in the **Federal Register**. The Commission is considering this alternative in the event that market participants have significant concerns regarding sufficiency of outstanding notional and liquidity (or pricing data) to support requiring clearing of USD SOFR swaps out to 50 years, and SGD SORA swaps out to 10 years, at an earlier time.

The Commission requests comment on these implementation alternatives.

Finally, the Commission may consider an alternative scenario in which it does not adopt any new clearing requirement for RFR OIS. Under that alternative, the cost to the market would be an increased risk of uncleared swaps (and the associated financial stability risks) should market participants decide to clear less in the future. The cost may be significant in this instance because of the potential effect on the market-wide effort to replace IBOR swaps with RFR swaps, but may be mitigated given the current high level of clearing. The benefit of not adopting any new clearing requirements would be a savings experienced by market participants that would not be required to clear new swaps referencing an RFR and did not otherwise find it beneficial to do so. However, given the high rate of voluntary clearing, any cost savings may be *de minimis.* In light of this, the Commission may be less likely to pursue this alternative without some type of significant change in the interest rate swap markets.

E. Section 15(a) Factors

The Commission anticipates that the proposed amendments to add and remove certain swaps from the clearing requirement will result in a slight increase in the already high use of clearing, although it is impossible to quantify with certainty the extent of that increase.[164] This section discusses the expected results from an overall increase, or maintenance at high levels, in the use of swap clearing in terms of the factors set forth in section 15(a) of the CEA.

1. Protection of Market Participants and the Public

The required clearing of the RFR OIS to be added under this proposed rule should ensure the reduction of counterparty risk for market participants that clear those swaps, because they will be required to face the DCO rather than another market participant that lacks the full set of risk management tools that the DCO possesses. This also should reduce uncertainty in times of market stress because, for cleared trades, market participants facing a DCO would not be concerned with the impact of such stress on the solvency of their original counterparty. By proposing to require clearing of RFR OIS, all of which are already available for clearing and predominantly cleared voluntarily, the Commission aims to further encourage a smooth transition away from IBORs. More specifically, the registered DCOs currently clearing these RFR OIS would clear a slightly increased volume of swaps that they already understand and have experience managing.[165] Similarly, FCMs may realize slightly increased customer and transaction volume as the result of the requirement, but would not have to simultaneously learn how to operationalize clearing for the covered interest rate swaps.

In addition, uncleared swaps subject to collateral agreements can be the subject of valuation disputes, which sometimes require several months or longer to resolve. Potential future exposures can grow significantly and even beyond the amount of initial margin posted during that time, leaving one of the two counterparties exposed to counterparty credit risk. DCOs virtually eliminate valuation disputes for cleared swaps, as well as the risk that uncollateralized exposure can develop and accumulate during the time when such a dispute would have otherwise occurred, thus providing additional protection to market participants who transact in swaps that are cleared. Because most RFR OIS are cleared voluntarily, these protections are currently being realized. Requiring clearing under part 50 of the Commission's regulations would ensure that they continue to be realized.

2. Efficiency, Competitiveness, and Financial Integrity of Swap Markets

Swap clearing, in general, reduces uncertainty regarding counterparty risk in times of market stress and promotes liquidity and efficiency during those times. Increased liquidity promotes the ability of market participants to limit losses by exiting positions effectively and efficiently when necessary in order to manage risk during a time of market stress. In addition, to the extent that positions move from facing multiple counterparties in the bilateral market to being cleared through a smaller number of clearinghouses, clearing facilitates increased netting. This reduces the amount of collateral that a party must post in margin accounts. As discussed above, in formulating this proposed determination, the Commission considered a number of specific factors that relate to the financial integrity of the swap markets. Specifically, as discussed above, the Commission assessed whether the registered DCOs that clear the RFR OIS that are the subject of this proposal have the rule framework, capacity, operational expertise and resources, and credit support infrastructure to clear these swaps on terms that are consistent with the material terms and trading conventions on which the contract is then traded.[166] The Commission also considered the resources of DCOs to handle additional clearing during stressed and non-stressed market conditions, as well as the existence of reasonable legal certainty in the event of a clearing member or DCO insolvency.

Also, as discussed above, bilateral swaps create counterparty risk that may lead market participants to discriminate among potential counterparties based on their creditworthiness. Such discrimination is expensive and time consuming insofar as market participants must conduct due diligence in order to evaluate a potential counterparty's creditworthiness. Requiring certain types of swaps to be cleared reduces the number of transactions for which such due

[164] It is possible that the level of clearing overall may remain similar if the use of swaps referencing RFRs replaces the use of swaps referencing IBORs.

[165] *See* CMEG Letter (''CME Clearing currently accepts OIS referencing SOFR, SARON, €STR, SONIA and TONA . . . . CME Clearing is therefore already in a position to support a Clearing Requirement in relation to these swaps.''); LSEG (noting RFR OIS that LCH already clears and discussing significant recent increases in liquidity in certain swaps, particularly JPY TONA and USD SOFR); Eurex Letter (''Eurex Clearing has a well-developed rule framework, compliance process and procedures, and support infrastructure to support clearing of swaps referencing the RFRs and already offers clearing of these swaps. Eurex Clearing has leveraged and will continue to leverage this operational capacity for the clearing of swaps referencing the RFRs and has the appropriate risk management, operations, technology, and compliance capabilities in place to continue to provide for compliance with all CEA core principles for DCOs.''). *See also* JSCC Letter (noting that JSCC has been clearing JPY TONA OIS since 2014 and that because ''JPY swap market liquidity has already fully transitioned from IRS referencing LIBOR to TONA OIS,'' there is ''no concern for DCOs to accept [JPY TONA OIS] for clearing.'').

[166] *See* section V above.

diligence is necessary, thereby contributing to the efficiency of the swap markets. In proposing a clearing requirement for RFR OIS, the Commission must consider the effect on competition, including appropriate fees and charges applied to clearing. There are a number of potential outcomes that may result from required clearing. Some of these outcomes may impose costs, such as if a DCO possessed market power and exercised that power in an anticompetitive manner, and some of the outcomes would be positive, such as if the clearing requirement facilitated a stronger entry opportunity for competitors.[167] Because most of these swaps are cleared voluntarily, these effects on efficiency, competitiveness, and financial integrity are, to a large degree, currently being realized. Requiring clearing would ensure that they continue to be realized.

3. Price Discovery

Clearing, in general, encourages better price discovery because it eliminates the importance of counterparty creditworthiness in pricing swaps cleared through a given DCO. By making the counterparty creditworthiness of all swaps of a certain type essentially the same, prices should reflect factors related to the terms of the swap, rather than the idiosyncratic risk posed by the entities trading it. Because most of these swaps are cleared voluntarily, these effects on price discovery are currently being realized. Requiring clearing would ensure that they continue to be realized.

4. Sound Risk Management Practices

If a firm enters into uncleared and uncollateralized swaps to hedge certain positions and then the counterparty to those swaps defaults unexpectedly, the firm could be left with large outstanding exposures. Even for uncleared swaps that are subject to the Commission's uncleared swap margin regulations, some counterparty credit risk remains.[168] As stated above, when a swap is cleared the DCO becomes the counterparty facing each of the two original participants in the swap. This standardizes and reduces counterparty risk for each of the two original participants. To the extent that a market participant's hedges comprise swaps that are required to be cleared and would not be cleared voluntarily, the requirement enhances their risk management practices by reducing their counterparty risk.

In addition, to the extent that required clearing reduces or deters a potential increase in bilateral trading, it reduces the complexity of unwinding or transferring swap positions from large entities that default. Procedures for transfer of swap positions and mutualization of losses among DCO members are already in place, and the Commission anticipates that they are much more likely to function in a manner that enables rapid transfer of defaulted positions than legal processes that would surround the enforcement of bilateral contracts for uncleared swaps.[169]

Central clearing has evolved since the 2009 G20 Pittsburgh Summit, when G20 leaders committed to central clearing of all standardized swaps.[170] The percentage of the swap market that is centrally cleared has increased significantly, clearinghouses have expanded their offerings, and the range of banks and other financial institutions that submit swaps to clearinghouses has broadened. At the same time, the numbers of swap clearinghouses and swap clearing members has remained highly concentrated. This has created concerns about a concentration of credit and liquidity risk at clearinghouses that could have systemic implications.[171]

However, the Commission believes that DCOs are capable of risk managing the swaps that are the subject of this proposed determination. Moreover, because most of the RFR OIS to be added to the clearing requirement under this proposed determination are already cleared voluntarily, the Commission anticipates that the extent to which this proposed determination would increase the credit risk and liquidity risk that is concentrated at DCOs would be relatively small. The Commission requests comments on this issue.

5. Other Public Interest Considerations

In September 2009, the President and other leaders of the G20 nations met in Pittsburgh and committed to a program of action that includes, among other things, central clearing of all standardized swaps.[172] The Commission believes that this clearing requirement proposal would be consistent with the G20's commitment and would reflect the Commission's ongoing confidence in central clearing for swaps and other derivatives. As discussed throughout this proposal, central clearing of derivatives by DCOs can serve the public interest in numerous ways.

VIII. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, provide a regulatory flexibility analysis with respect to such impact.[173] This proposed determination will not affect any small entities, as the RFA uses that term. Only eligible contract participants (ECPs) may enter into swaps, unless the swap is listed on a designated contract market (DCM),[174] and the Commission has determined that ECPs are not small entities for purposes of the RFA.[175] This proposed determination would affect only ECPs because all persons that are not ECPs are required to execute their swaps on a DCM, and all contracts executed on a DCM must be cleared by a DCO, as required by statute and regulation, not the operation of any clearing requirement determination. Therefore, the Chairman, on behalf of the Commission, hereby certifies pursuant to 5 U.S.C. 605(b) that this proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (PRA) [176] imposes certain requirements

[167] Issues related to competition also are considered in sections V and VIII.

[168] For example, there is a small risk of a sudden price move so large that a counterparty would be unable to post sufficient variation margin to cover the loss, which may exceed the amount of initial margin posted, and could be forced into default.

[169] Sound risk management practices are critical for all DCOs, especially those offering clearing for interest rate swaps given the size and interconnectedness of the global interest rate swap market, as presented throughout this proposal. The Commission considered whether each regulation § 39.5(b) submission under review was consistent with the DCO core principles. In particular, the Commission considered the DCO submissions in light of Core Principle D, which relates to risk management. *See also* section V.C above for a discussion of the effect on the mitigation of systemic risk in the interest rate swap market, as well as the protection of market participants during insolvency events at either the clearing member or DCO level.

[170] The G20 Leaders Statement made in Pittsburgh is available at *http://www.g20.utoronto.ca/2009/2009communique0925.html.*

[171] *See* Dietrich Domanski, et al., ''Central clearing: Trends and current issues,'' BIS Quarterly Review, Dec. 2015, available at *https://www.bis.org/publ/qtrpdf/r_qt1512g.pdf;* U.S. Department of the Treasury, Office of Financial Research, Financial Stability Report, at 35 (Nov. 2018), available at *https://www.federalreserve.gov/publications/files/financial-stability-report-201811.pdf;* Umar Faruqui, et al., ''Clearing risks in OTC derivatives markets: the CCP-bank nexus,'' at 77–79 (2018), available at *https://www.bis.org/publ/qtrpdf/r_qt1812h.pdf.*

[172] The G20 Leaders Statement made in Pittsburgh is available at *http://www.g20.utoronto.ca/2009/2009communique0925.html.*

[173] 5 U.S.C. 601 *et seq.*

[174] Section 2(e) of the CEA, 7 U.S.C. 2(e).

[175] Opting Out of Segregation, 66 FR 20740, 20743 (Apr. 25, 2001).

[176] 44 U.S.C. 3507(d).

on Federal agencies, including the Commission, in connection with conducting or sponsoring any collection of information as defined by the PRA. This rulemaking will not require a new collection of information from any persons or entities, and there are no existing information collections related to this proposal.

C. Antitrust Considerations

Section 15(b) of the Act requires the Commission to take into consideration the public interest to be protected by the antitrust laws and endeavor to take the least anticompetitive means of achieving the objectives of the Act, as well as the policies and purposes of the Act, in issuing any order or adopting any Commission rule or regulation (including any exemption under section 4(c) or 4c(b)), or in requiring or approving any bylaw, rule, or regulation of a contract market or registered futures association established pursuant to section 17 of the Act.[177] The Commission believes that the public interest to be protected by the antitrust laws is generally to protect competition. The Commission requests comment on whether the proposal implicates any other specific public interest to be protected by the antitrust laws.

The Commission has considered the proposal to determine whether it is anticompetitive and has preliminarily identified no anticompetitive effects. The Commission requests comment on whether the proposal is anticompetitive and, if it is, what the anticompetitive effects are.

Because the Commission has preliminarily determined that the proposal is not anticompetitive and has no anticompetitive effects, the Commission has not identified any less anticompetitive means of achieving the purposes of the Act. The Commission requests comment on whether there are less anticompetitive means of achieving the relevant purposes of the Act.

List of Subjects in 17 CFR Part 50

Business and industry, Clearing, Swaps.

For the reasons set forth in the preamble, the Commodity Futures Trading Commission proposes to amend 17 CFR part 50 as follows:

PART 50—CLEARING REQUIREMENT AND RELATED RULES

■ 1. The authority citation for part 50 continues to read as follows:

Authority: 7 U.S.C. 2(h), 6(c), and 7a–1, as amended by Pub. L. 111–203, 124 Stat. 1376.

[The following amendments would be effective 30 days after publication of the final rule.]

■ 2. In § 50.4, revise paragraph (a) to read as follows:

§ 50.4 Classes of swaps required to be cleared.

(a) *Interest rate swaps.* Swaps that have the following specifications are required to be cleared under section 2(h)(1) of the Act, and shall be cleared pursuant to the rules of any derivatives clearing organization eligible to clear such swaps under § 39.5(a) of this chapter.

[177] Section 15(b) of the CEA, 7 U.S.C. 15(b).

TABLE 1 TO PARAGRAPH (a)

Specification	Fixed-to-floating swap class									
1. Currency	Australian Dollar (AUD).	Canadian Dollar (CAD).	Euro (EUR)	Hong Kong Dollar (HKD).	Mexican Peso (MXN).	Norwegian Krone (NOK).	Polish Zloty (PLN).	Singapore Dollar (SGD).	Swedish Krona (SEK).	U.S. Dollar (USD).
2. Floating Rate Indexes.	BBSW	CDOR	EURIBOR	HIBOR	TIIE–BANXICO	NIBOR	WIBOR	SOR–VWAP	STIBOR	LIBOR.
3. Stated Termination Date Range.	28 days to 30 years.	28 days to 30 years.	28 days to 50 years.	28 days to 10 years.	28 days to 21 years.	28 days to 10 years.	28 days to 10 years.	28 days to 10 years.	28 days to 15 years.	28 days to 50 years.
4. Optionality	No	No	No	No	No	No	No	No	No	No.
5. Dual Currencies	No	No	No	No	No	No	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No	No	No	No	No	No	No.

TABLE 2 TO PARAGRAPH (a)

Specification	Basis swap class		
1. Currency	Australian Dollar (AUD)	Euro (EUR)	U.S. Dollar (USD).
2. Floating Rate Indexes	BBSW	EURIBOR	LIBOR.
3. Stated Termination Date Range	28 days to 30 years	28 days to 50 years	28 days to 50 years.
4. Optionality	No	No	No.
5. Dual Currencies	No	No	No.
6. Conditional Notional Amounts	No	No	No.

TABLE 3 TO PARAGRAPH (a)

Specification	Forward rate agreement class				
1. Currency	Euro (EUR)	Polish Zloty (PLN)	Norwegian Krone (NOK).	Swedish Krona (SEK)	U.S. Dollar (USD).
2. Floating Rate Indexes.	EURIBOR	WIBOR	NIBOR	STIBOR	LIBOR.
3. Stated Termination Date Range.	3 days to 3 years	3 days to 2 years	3 days to 2 years	3 days to 3 years	3 days to 3 years.
4. Optionality	No	No	No	No	No.
5. Dual Currencies	No	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No	No.

TABLE 4 TO PARAGRAPH (a)

Specification	Overnight index swap class								
1. Currency	Australian Dollar (AUD).	Canadian Dollar (CAD).	Euro (EUR)	Singapore Dollar (SGD).	Sterling (GBP).	Swiss Franc (CHF).	U.S. Dollar (USD).	U.S. Dollar (USD).	Yen (JPY).
2. Floating Rate Indexes	AONIA–OIS	CORRA–OIS.	€STR	SORA	SONIA	SARON	FedFunds	SOFR	TONA.
3. Stated Termination Date Range.	7 days to 2 years	7 days to 2 years.	7 days to 3 years.	7 days to 10 years.	7 days to 50 years.	7 days to 30 years.	7 days to 3 years.	7 days to 50 years.	7 days to 30 years.
4. Optionality	No	No	No	No	No	No	No	No	No.
5. Dual Currencies	No	No	No	No	No	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No	No	No	No	No	No.

* * * * *

■ 3. Revise § 50.26 to read as follows:

§ 50.26 Swap clearing requirement compliance dates.

(a) *Compliance dates for interest rate swap classes.* The compliance dates for swaps that are required to be cleared under § 50.4(a) are specified in the following table.

TABLE 1 TO PARAGRAPH (a)

Swap asset class	Swap class subtype	Currency and floating rate index	Stated termination date range	Clearing requirement compliance date
Interest Rate Swap	Fixed-to-Floating	Euro (EUR) EURIBOR	28 days to 50 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Fixed-to-Floating	U.S. Dollar (USD) LIBOR.	28 days to 50 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Fixed-to-Floating	Australian Dollar (AUD) BBSW.	28 days to 30 years	All entities December 13, 2016.
Interest Rate Swap	Fixed-to-Floating	Canadian Dollar (CAD) CDOR.	28 days to 30 years	All entities July 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Hong Kong Dollar (HKD) HIBOR.	28 days to 10 years	All entities August 30, 2017.
Interest Rate Swap	Fixed-to-Floating	Mexican Peso (MXN) TIIE–BANXICO.	28 days to 21 years	All entities December 13, 2016.
Interest Rate Swap	Fixed-to-Floating	Norwegian Krone (NOK) NIBOR.	28 days to 10 years	All entities April 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Polish Zloty (PLN) WIBOR.	28 days to 10 years	All entities April 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Singapore Dollar (SGD) SOR–VWAP.	28 days to 10 years	All entities October 15, 2018.

TABLE 1 TO PARAGRAPH (a)—Continued

Swap asset class	Swap class subtype	Currency and floating rate index	Stated termination date range	Clearing requirement compliance date
Interest Rate Swap	Fixed-to-Floating	Swedish Krona (SEK) STIBOR.	28 days to 15 years ...	All entities April 10, 2017.
Interest Rate Swap	Basis	Euro (EUR) EURIBOR	28 days to 50 years ...	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Basis	U.S. Dollar (USD) LIBOR.	28 days to 50 years ...	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Basis	Australian Dollar (AUD) BBSW.	28 days to 30 years ...	All entities December 13, 2016.
Interest Rate Swap	Forward Rate Agreement.	Euro (EUR) EURIBOR	3 days to 3 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Forward Rate Agreement.	U.S. Dollar (USD) LIBOR.	3 days to 3 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Forward Rate Agreement.	Polish Zloty (PLN) WIBOR.	3 days to 2 years	All entities April 10, 2017.
Interest Rate Swap	Forward Rate Agreement.	Norwegian Krone (NOK) NIBOR.	3 days to 2 years	All entities April 10, 2017.
Interest Rate Swap	Forward Rate Agreement.	Swedish Krona (SEK) STIBOR.	3 days to 3 years	All entities April 10, 2017.
Interest Rate Swap	Overnight Index Swap	Euro (EUR) €STR	7 days to 3 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].
Interest Rate Swap	Overnight Index Swap	Singapore Dollar (SGD) SORA.	7 days to 10 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].
Interest Rate Swap	Overnight Index Swap	Sterling (GBP) SONIA	7 days to 2 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
			2 years + 1 day to 3 years.	All entities December 13, 2016.
			3 years + 1 day to 50 years.	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].
Interest Rate Swap	Overnight Index Swap	Swiss Franc (CHF) SARON.	7 days to 30 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].
Interest Rate Swap	Overnight Index Swap	U.S. Dollar (USD) FedFunds.	7 days to 2 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
			2 years + 1 day to 3 years.	All entities December 13, 2016.
Interest Rate Swap	Overnight Index Swap	U.S. Dollar (USD) SOFR.	7 days to 50 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].
Interest Rate Swap	Overnight Index Swap	Australian Dollar (AUD) AONIA–OIS.	7 days to 2 years	All entities December 13, 2016.
Interest Rate Swap	Overnight Index Swap	Canadian Dollar (CAD) CORRA–OIS.	7 days to 2 years	All entities July 10, 2017.
Interest Rate Swap	Overnight Index Swap	Yen (JPY) TONA	7 days to 30 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**].

(b) *Compliance dates for credit default swap classes.* The compliance dates for swaps that are required to be cleared under § 50.4(b) are specified in the following table.

TABLE 2 TO PARAGRAPH (b)

Swap asset class	Swap class subtype	Indices	Tenor	Clearing requirement compliance date
Credit Default Swap	North American untranched CDS indices.	CDX.NA.IG	3Y, 5Y, 7Y, 10Y.	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.

TABLE 2 TO PARAGRAPH (b)—Continued

Swap asset class	Swap class subtype	Indices	Tenor	Clearing requirement compliance date
Credit Default Swap	North American untranched CDS indices.	CDX.NA.HY	5Y	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Credit Default Swap	European untranched CSD indices.	iTraxx Europe	5Y, 10Y	Category 1 entities April 26, 2013. Category 2 entities July 25, 2013. All non-Category 2 entities October 23, 2013.
Credit Default Swap	European untranched CSD indices.	iTraxx Europe Crossover.	5Y	Category 1 entities April 26, 2013. Category 2 entities July 25, 2013. All non-Category 2 entities October 23, 2013.
Credit Default Swap	European untranched CSD indices.	iTraxx Europe HiVol	5Y	Category 1 entities April 26, 2013. Category 2 entities July 25, 2013. All non-Category 2 entities October 23, 2013.

[The following amendments would be effective July 1, 2023.]

■ 4. In § 50.4 revise paragraph (a) to read as follows:

§ 50.4 Classes of swaps required to be cleared.

(a) *Interest rate swaps.* Swaps that have the following specifications are required to be cleared under section 2(h)(1) of the Act, and shall be cleared pursuant to the rules of any derivatives clearing organization eligible to clear such swaps under § 39.5(a) of this chapter.

TABLE 1 TO PARAGRAPH (a)

Specification	Fixed-to-floating swap class							
1. Currency	Australian Dollar (AUD).	Canadian Dollar (CAD).	Euro (EUR)	Hong Kong Dollar (HKD).	Mexican Peso (MXN).	Norwegian Krone (NOR).	Polish Zloty (PLN).	Swedish Krona (SEK).
2. Floating Rate Indexes	BBSW	CDOR	EURIBOR	HIBOR	TIIE–BANXICO.	NIBOR	WIBOR	STIBOR.
3. Stated Termination Date Range.	28 days to 30 years.	28 days to 30 years.	28 days to 50 years.	28 days to 10 years.	28 days to 21 years.	28 days to 10 years.	28 days to 10 years.	28 days to 15 years.
4. Optionality	No	No	No	No	No	No	No	No.
5. Dual Currencies	No	No	No	No	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No	No	No	No	No.

TABLE 2 TO PARAGRAPH (a)

Specification	Basis swap class	
1. Currency	Australian Dollar (AUD)	Euro (EUR).
2. Floating Rate Indexes	BBSW	EURIBOR.
3. Stated Termination Date Range	28 days to 30 years	28 days to 50 years.
4. Optionality	No	No.
5. Dual Currencies	No	No.
6. Conditional Notional Amounts	No	No.

TABLE 3 TO PARAGRAPH (a)

Specification	Forward rate agreement class			
1. Currency	Euro (EUR)	Polish Zloty (PLN)	Norwegian Krone (NOK)	Swedish Krona (SEK).
2. Floating Rate Indexes	EURIBOR	WIBOR	NIBOR	STIBOR.
3. Stated Termination Date Range.	3 days to 3 years	3 days to 2 years	3 days to 2 years	3 days to 3 years.
4. Optionality	No	No	No	No.
5. Dual Currencies	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No.

TABLE 4 TO PARAGRAPH (a)

Specification	Overnight index swap class								
1. Currency	Australian Dollar (AUD).	Canadian Dollar (CAD).	Euro (EUR)	Singapore Dollar (SGD).	Sterling (GBP).	Swiss Franc (CHF).	U.S. Dollar (USD).	U.S. Dollar (USD).	Yen (JPY).
2. Floating Rate Indexes	AONIA–OIS	CORRA–OIS.	€STR	SORA	SONIA	SARON	FedFunds	SOFR	TONA.

TABLE 4 TO PARAGRAPH (a)—Continued

Specification									
3. Stated Termination Date Range.	7 days to 2 years.	7 days to 2 years.	7 days to 3 years.	7 days to 10 years.	7 days to 50 years.	7 days to 30 years.	7 days to 3 years.	7 days to 50 years.	7 days to 30 years.
4. Optionality	No	No	No	No	No	No	No	No	No.
5. Dual Currencies	No	No	No	No	No	No	No	No	No.
6. Conditional Notional Amounts.	No	No	No	No	No	No	No	No	No.

* * * * *

■ 5. In § 50.26, revise paragraph (a) to read as follows:

§ 50.26 Swap clearing requirement compliance dates.

(a) *Compliance dates for interest rate swap classes.* The compliance dates for swaps that are required to be cleared under § 50.4(a) are specified in the following table.

TABLE 1 TO PARAGRAPH (a)

Swap asset class	Swap class subtype	Currency and floating rate index	Stated termination date range	Clearing requirement compliance date
Interest Rate Swap	Fixed-to-Floating	Euro (EUR) EURIBOR	28 days to 50 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Fixed-to-Floating	Australian Dollar (AUD) BBSW.	28 days to 30 years	All entities December 13, 2016.
Interest Rate Swap	Fixed-to-Floating	Canadian Dollar (CAD) CDOR.	28 days to 30 years	All entities July 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Hong Kong Dollar (HKD) HIBOR.	28 days to 10 years	All entities August 30, 2017.
Interest Rate Swap	Fixed-to-Floating	Mexican Peso (MXN) TIIE–BANXICO.	28 days to 21 years	All entities December 13, 2016.
Interest Rate Swap	Fixed-to-Floating	Norwegian Krone (NOK) NIBOR.	28 days to 10 years	All entities April 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Polish Zloty (PLN) WIBOR.	28 days to 10 years	All entities April 10, 2017.
Interest Rate Swap	Fixed-to-Floating	Swedish Krona (SEK) STIBOR.	28 days to 15 years	All entities April 10, 2017.
Interest Rate Swap	Basis	Euro (EUR) EURIBOR	28 days to 50 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Basis	Australian Dollar (AUD) BBSW.	28 days to 30 years	All entities December 13, 2016.
Interest Rate Swap	Forward Rate Agreement.	Euro (EUR) EURIBOR	3 days to 3 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
Interest Rate Swap	Forward Rate Agreement.	Polish Zloty (PLN) WIBOR.	3 days to 2 years	All entities April 10, 2017.
Interest Rate Swap	Forward Rate Agreement.	Norwegian Krone (NOK) NIBOR.	3 days to 2 years	All entities April 10, 2017.
Interest Rate Swap	Forward Rate Agreement.	Swedish Krona (SEK) STIBOR.	3 days to 3 years	All entities April 10, 2017.
Interest Rate Swap	Overnight Index Swap	Euro (EUR) €STR	7 days to 3 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register.**]
Interest Rate Swap	Overnight Index Swap	Singapore Dollar (SGD) SORA.	7 days to 10 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register**.]
Interest Rate Swap	Overnight Index Swap	Sterling (GBP) SONIA	7 days to 2 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
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Interest Rate Swap	Overnight Index Swap	Swiss Franc (CHF) SARON.	7 days to 30 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register.**]
Interest Rate Swap	Overnight Index Swap	U.S. Dollar (USD) FedFunds.	7 days to 2 years	Category 1 entities March 11, 2013. All non-Category 2 entities June 10, 2013. Category 2 entities September 9, 2013.
.....	.....	.....	2 years + 1 day to 3 years.	All entities December 13, 2016.

TABLE 1 TO PARAGRAPH (a)—Continued

Swap asset class	Swap class subtype	Currency and floating rate index	Stated termination date range	Clearing requirement compliance date
Interest Rate Swap	Overnight Index Swap	U.S. Dollar (USD) SOFR.	7 days to 50 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register.**]
Interest Rate Swap	Overnight Index Swap	Australian Dollar (AUD) AONIA–OIS.	7 days to 2 years	All entities December 13, 2016.
Interest Rate Swap	Overnight Index Swap	Canadian Dollar (CAD) CORRA–OIS.	7 days to 2 years	All entities July 10, 2017.
Interest Rate Swap	Overnight Index Swap	Yen (JPY) TONA	7 days to 30 years	All entities [30 DAYS AFTER DATE OF PUBLICATION OF FINAL RULE IN THE **Federal Register.**]

* * * * *

Issued in Washington, DC, on May 11, 2022, by the Commission.

Christopher Kirkpatrick,

Secretary of the Commission.

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

Appendices to Clearing Requirement Determination Under Section 2(h) of the Commodity Exchange Act for Interest Rate Swaps To Account for the Transition From LIBOR and Other IBORs to Alternative Reference Rates—Commission Voting Summary and Commissioner's Statement

Appendix 1—Commission Voting Summary

On this matter, Chairman Behnam and Commissioners Johnson, Goldsmith Romero, Mersinger, and Pham voted in the affirmative. No Commissioner noted in the negative.

Appendix 2—Statement of Commissioner Christy Goldsmith Romero

The amendments the Commission proposes today support initiatives designed to reduce risk posed by reliance on the London Interbank Offered Rate (LIBOR), and other interbank offered rates (IBORs), as benchmark reference rates. A decade ago, allegations of manipulation of LIBOR led to government investigations. In the years since, regulators in the U.S. and abroad have recognized the need to replace LIBOR with benchmarks that promote market integrity and carry far less risk. However, it has always been recognized that this transition would be a complex and lengthy undertaking. As a result of significant coordinated efforts across the public and private sectors, great progress has been made in the transition to alternative reference rates that are less susceptible to manipulation. I commend Chairman Behnam for his steadfast leadership in pursuing a successful transition away from LIBOR. I commend the Commission's staff for their steadfast efforts to be thoughtful, careful and comprehensive at each step of the transition, including the step that brings us here today.

I will support the Notice of Proposed Rulemaking to amend the swap clearing requirement to account for the market shift to alternative reference rates that would significantly limit risk. This step would add to the successful progress in, and the Commission's commitment to, a smooth transition away from LIBOR.

Sound functioning benchmark rates promote the stability and integrity of derivatives markets. The Commission and its staff have worked closely with regulatory counterparts, in the U.S. and abroad, to support and harmonize initiatives to decrease reliance on IBORs and to encourage market adoption of overnight, nearly risk-free reference rates (RFRs). The Commission's proposal recognizes that liquidity in IBOR-linked interest rate swaps has continued to transition to RFRs, as IBORs are discontinued or become nonrepresentative. The proposal also recognizes that, in light of U.S.-led initiatives including SOFR First, there is decreasing market reliance on USD LIBOR—and significant liquidity in, and voluntary clearing of, overnight index swaps (OIS) referencing the Secured Overnight Financing Rate (SOFR).

I support the objective of aligning the Commission's approach with that of its regulatory counterparts in other jurisdictions who are similarly in the process of revisiting their clearing obligations to account for the transition away from LIBOR. International coordination is necessary for a successful transition to reduce benchmark-related risk. International coordination also will help to ensure that central clearing remains, globally, a pillar of post-crisis financial regulatory reform.

I thank the Commission's staff for all of their detailed and comprehensive work on the proposal, and look forward to reviewing the public comments provided in response.

[FR Doc. 2022–10490 Filed 5–27–22; 8:45 am]

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FEDERAL REGISTER

Vol. 87 Tuesday,
No. 104 May 31, 2022

Part VI

The President

Federal Register
Vol. 87, No. 104
Tuesday, May 31, 2022

Presidential Documents

Title 3—

The President

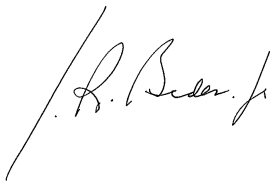
Presidential Determination No. 2022–14 of May 23, 2022

Designation of Colombia as a Major Non-NATO Ally

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 517 of the Foreign Assistance Act of 1961, as amended (22 U.S.C. 2321k) (the ''Act''), I hereby designate Colombia as a Major Non-NATO Ally of the United States for the purposes of the Act and the Arms Export Control Act (22 U.S.C. 2751 *et seq.*).

You are authorized and directed to publish this determination in the *Federal Register*.



THE WHITE HOUSE,
Washington, May 23, 2022

[FR Doc. 2022–11809
Filed 5–27–22; 11:15 am]
Billing code 4710–10–P

Presidential Documents

Executive Order 14074 of May 25, 2022

Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. *Policy.* Our criminal justice system must respect the dignity and rights of all persons and adhere to our fundamental obligation to ensure fair and impartial justice for all. This is imperative—not only to live up to our principles as a Nation, but also to build secure, safe, and healthy communities. Protecting public safety requires close partnerships between law enforcement and the communities it serves. Public safety therefore depends on public trust, and public trust in turn requires that our criminal justice system as a whole embodies fair and equal treatment, transparency, and accountability.

Law enforcement officers are often a person's first point of contact with our criminal justice system, and we depend on them to uphold these principles while doing the demanding and often life-threatening work of keeping us safe. We expect them to help prevent and solve crimes and frequently call upon them to respond to social problems outside their expertise and beyond their intended role, diverting attention from their critical public safety mission and increasing the risks of an already dangerous job—which has led to the deaths of law enforcement officers and civilians alike. The vast majority of law enforcement officers do these difficult jobs with honor and integrity, and they work diligently to uphold the law and preserve the public's trust.

Yet, there are places in America today, particularly in Black and Brown communities and other communities of color, where the bonds of trust are frayed or broken. We have collectively mourned following law enforcement encounters that have tragically ended in the loss of life. To heal as a Nation, we must acknowledge that those fatal encounters have disparately impacted Black and Brown people and other people of color. The pain of the families of those who have been killed is magnified when expectations for accountability go unmet, and the echoes of their losses reverberate across generations. More broadly, numerous aspects of our criminal justice system are still shaped by race or ethnicity. It is time that we acknowledge the legacy of systemic racism in our criminal justice system and work together to eliminate the racial disparities that endure to this day. Doing so serves all Americans.

Through this order, my Administration is taking a critical step in what must be part of a larger effort to strengthen our democracy and advance the principles of equality and dignity. While we can make policing safer and more effective by strengthening trust between law enforcement officers and the communities they serve, we must also reform our broader criminal justice system so that it protects and serves all people equally. To be clear, certain obstacles to lasting reform require legislative solutions. In particular, system-wide change requires funding and support that only the Congress can authorize. But my Administration will use its full authority to take action, including through the implementation of this order, to build and sustain fairness and accountability throughout the criminal justice system.

The need for such action could not be more urgent. Since early 2020, communities around the country have faced rising rates of violent crime,

requiring law enforcement engagement at a time when law enforcement agencies are already confronting the challenges of staffing shortages and low morale. Strengthening community trust is more critical now than ever, as a community's cooperation with the police to report crimes and assist investigations is essential for deterring violence and holding perpetrators accountable. Reinforcing the partnership between law enforcement and communities is imperative for combating crime and achieving lasting public safety.

It is therefore the policy of my Administration to increase public trust and enhance public safety and security by encouraging equitable and community-oriented policing. We must commit to new practices in law enforcement recruitment, hiring, promotion, and retention, as well as training, oversight, and accountability. Insufficient resources, including those dedicated to support officer wellness—needed more than ever as officers confront rising crime and the effects of the coronavirus disease 2019 (COVID–19) pandemic—jeopardize the law enforcement community's ability to build and retain a highly qualified and diverse professional workforce. We must work together to ensure that law enforcement agencies have the resources they need as well as the capacity to attract, hire, and retain the best personnel, including resources to institute screening mechanisms to identify unqualified applicants and to support officers in meeting the stresses and challenges of the job. We must also ensure that law enforcement agencies reflect the communities they serve, protect all community members equally, and offer comprehensive training and development opportunities to line officers and supervisors alike.

Building trust between law enforcement agencies and the communities they are sworn to protect and serve also requires accountability for misconduct and transparency through data collection and public reporting. It requires proactive measures to prevent profiling based on actual or perceived race, ethnicity, national origin, religion, sex (including sexual orientation and gender identity), or disability, including by ensuring that new law enforcement technologies do not exacerbate disparities based on these characteristics. It includes ending discriminatory pretextual stops and offering support for evidence-informed, innovative responses to people with substance use disorders; people with mental health needs; veterans; people with disabilities; vulnerable youth; people who are victims of domestic violence, sexual assault, or trafficking; and people experiencing homelessness or living in poverty. It calls for improving and clarifying standards for police activities such as the execution of search warrants and the use of force.

Many law enforcement agencies across the country—including at the Federal, State, Tribal, local, and territorial level—have already undertaken important efforts to modernize policing and make our broader criminal justice system more effective and more equitable. Their work has inspired many of the provisions of this order. These agencies—and the officers who serve within them—deserve recognition for their leadership and appreciation for setting a standard that others can follow. This order seeks to recognize these key reforms and implement them consistently across Federal law enforcement agencies. Through this order, the Federal Government will also seek to provide State, Tribal, local, and territorial law enforcement agencies with the guidance and support they need to advance their own efforts to strengthen public trust and improve public safety.

It is also the policy of my Administration to ensure that conditions of confinement are safe and humane, and that those who are incarcerated are not subjected to unnecessary or excessive uses of force, are free from prolonged segregation, and have access to quality health care, including substance use disorder care and mental health care. We must provide people who are incarcerated with meaningful opportunities for rehabilitation and the tools and support they need to transition successfully back to society. Individuals who have been involved in the criminal justice system face many barriers in transitioning back into society, including limited access

to housing, public benefits, health care, trauma-informed services and support, education, nutrition, employment and occupational licensing, credit, the ballot, and other critical opportunities. Lowering barriers to reentry is essential to reducing recidivism and reducing crime.

Finally, no one should be required to serve an excessive prison sentence. When the Congress passed the First Step Act of 2018 (Public Law 115–391), it sought to relieve people from unfair and unduly harsh sentences, including those driven by harsh mandatory minimums and the unjust sentencing disparity between crack and powder cocaine offenses. My Administration will fully implement the First Step Act, including by supporting sentencing reductions in appropriate cases and by allowing eligible incarcerated people to participate in recidivism reduction programming and earn time credits.

With these measures, together we can strengthen public safety and the bonds of trust between law enforcement and the community and build a criminal justice system that respects the dignity and equality of all in America.

Sec. 2. *Sharing of Federal Best Practices with State, Tribal, Local, and Territorial Law Enforcement Agencies to Enhance Accountability.* (a) *Independent Investigations of In-Custody Deaths.* The Attorney General shall issue guidance to State, Tribal, local, and territorial law enforcement agencies (LEAs) regarding best practices for conducting independent criminal investigations of deaths in custody that may involve conduct by law enforcement or prison personnel.

(b) *Improving Training for Investigations into Deprivation of Rights Under Color of Law.* The Attorney General shall assess the steps necessary to enhance the Department of Justice's (DOJ's) capacity to investigate law enforcement deprivation of rights under color of law, including through improving and increasing training of Federal law enforcement officers, their supervisors, and Federal prosecutors on how to investigate and prosecute cases involving the deprivation of rights under color of law pursuant to 18 U.S.C. 242. The Attorney General shall also, as appropriate, provide guidance, technical assistance, and training to State, Tribal, local, and territorial investigators and prosecutors on best practices for investigating and prosecuting civil rights violations under applicable law.

(c) *Pattern or Practice Investigations.* The Attorney General shall consider ways in which the DOJ could strengthen communication with State Attorneys General to help identify relevant data, complaints from the public, and other information that may assist the DOJ's investigations of patterns or practices of misconduct by law enforcement officers, including prosecutors, pursuant to 34 U.S.C. 12601 and other statutes. The Attorney General shall also develop training and technical assistance for State, local, and territorial officials who have similar investigatory authority.

(d) *Ensuring Timely Investigations.* The heads of all Federal LEAs shall assess whether any of their respective agency's policies or procedures cause unwarranted delay in investigations of Federal law enforcement officers for incidents involving the use of deadly force or deaths in custody, including delays in interagency jurisdictional determinations and subject and witness interviews, and shall, without abrogating any collective bargaining obligations, make changes as appropriate to ensure the integrity and effectiveness of such investigations. Within 240 days of the date of this order, the Attorney General, the Secretary of Homeland Security, and the heads of other executive departments and agencies (agencies) with law enforcement authority shall report to the President what, if any, changes to their respective policies or practices they have made.

(e) *Ensuring Thorough Investigations.* The Attorney General shall instruct the Federal Bureau of Investigation (FBI) and all United States Attorneys to coordinate closely with the internal oversight bodies of Federal LEAs to ensure that, without abrogating any collective bargaining obligations, for incidents involving the use of deadly force or deaths in custody, initial

investigative efforts (including evidence collection and witness interviews) preserve the information required to complete timely administrative investigations as required by the Death in Custody Reporting Act of 2013 (Public Law 113–242) and agency use-of-force guidelines.

(f) *Ensuring Timely and Consistent Discipline.* The heads of all Federal LEAs shall assess whether any of their respective agency's policies or procedures cause unwarranted delay or inconsistent application of discipline for incidents involving the use of deadly force or deaths in custody, and shall, without abrogating any collective bargaining obligations, make changes as appropriate. Within 240 days of the date of this order, the Attorney General, the Secretary of Homeland Security, and the heads of other Federal LEAs shall report to the President what, if any, changes to their respective policies or practices they have made.

Sec. 3. *Strengthening Officer Recruitment, Hiring, Promotion, and Retention Practices.* (a) Within 180 days of the date of this order, the Director of the Office of Personnel Management shall convene and chair an interagency working group to strengthen Federal law enforcement recruitment, hiring, promotion, and retention practices, with particular attention to promoting an inclusive, diverse, and expert law enforcement workforce, culminating in an action plan to be published within 365 days of the date of this order. The interagency working group shall consist of the heads of Federal LEAs and shall consult with other stakeholders, such as law enforcement organizations. The interagency working group shall, to the extent possible, coordinate on the development of a set of core policies and best practices to be used across all Federal LEAs regarding recruitment, hiring, promotion, and retention, while also identifying any agency-specific unique recruitment, hiring, promotion, and retention challenges. As part of this process, the interagency working group shall:

(i) assess existing policies and identify and share best practices for recruitment and hiring, including by considering the merits and feasibility of recruiting law enforcement officers who are representative of the communities they are sworn to serve (including recruits who live in or are from these communities) and by considering the recommendations made in the Federal LEAs' strategic plans required under Executive Order 14035 of June 25, 2021 (Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce);

(ii) assess existing policies and identify and share best practices for promotion and retention, including by identifying ways to expand mentorship and leadership development opportunities for law enforcement officers;

(iii) develop best practices for ensuring that performance evaluations and promotion decisions for Federal law enforcement officers include an assessment of the officer's adherence to agency policies, and that performance evaluations and promotion decisions for supervisors include an assessment of the supervisor's effectiveness in addressing misconduct by officers they supervise; and

(iv) develop best practices for conducting background investigations and implementing properly validated selection procedures, including vetting mechanisms and ongoing employment screening, that, consistent with the First Amendment and all applicable laws, help avoid the hiring and retention of law enforcement officers who promote unlawful violence, white supremacy, or other bias against persons based on race, ethnicity, national origin, religion, sex (including sexual orientation and gender identity), or disability.

(b) Within 180 days of the publication of the interagency working group's action plan described in subsection (a) of this section, the heads of Federal LEAs shall update and implement their policies and protocols for recruiting, hiring, promotion, and retention, consistent with the core policies and best practices identified and developed pursuant to subsection (a) of this section. Such policies and protocols shall include mechanisms for Federal LEAs to regularly assess the effectiveness of their recruitment, hiring, promotion,

and retention practices in accomplishing the goals of subsection (a) of this section.

(c) The heads of Federal LEAs shall develop and implement protocols for background investigations and screening mechanisms, consistent with the best practices identified and developed pursuant to subsection (a) of this section, for State, Tribal, local, and territorial law enforcement participation in programs or activities over which Federal agencies exercise control, such as joint task forces or international training and technical assistance programs, including programs managed by the Department of State and the Department of Justice.

(d) The Attorney General shall develop guidance regarding best practices for State, Tribal, local, and territorial LEAs seeking to recruit, hire, promote, and retain highly qualified and service-oriented officers. In developing this guidance, the Attorney General shall consult with State, Tribal, local, and territorial law enforcement, as appropriate, and shall incorporate the best practices identified by the interagency working group established pursuant to subsection (a) of this section.

Sec. 4. *Supporting Officer Wellness.* (a) Within 180 days of the date of this order, the Attorney General shall, in coordination with the Secretary of Health and Human Services (HHS), develop and publish a report on best practices to address law enforcement officer wellness, including support for officers experiencing substance use disorders, mental health issues, or trauma from their duties. This report shall:

(i) consider the work undertaken already pursuant to the Law Enforcement Mental Health and Wellness Act of 2017 (Public Law 115–113); and

(ii) identify existing and needed resources for supporting law enforcement officer wellness.

(b) Upon publication of these best practices, the Attorney General and the heads of all other Federal LEAs shall assess their own practices and policies for Federal officer wellness and develop and implement changes as appropriate.

(c) The Attorney General shall, in coordination with the Secretary of HHS and in consultation with multidisciplinary experts and stakeholders, including the National Consortium on Preventing Law Enforcement Suicide and other law enforcement organizations, conduct an assessment of current efforts and available evidence on suicide prevention and present to the President within 180 days of the date of this order evidence-informed recommendations regarding the prevention of death by suicide of law enforcement officers. These recommendations shall also identify methods to encourage submission of data from Federal, State, Tribal, local, and territorial LEAs to the FBI's Law Enforcement Suicide Data Collection, in a manner that respects the privacy interests of law enforcement officers and is consistent with applicable law.

Sec. 5. *Establishing a National Law Enforcement Accountability Database.* (a) The Attorney General shall, within 240 days of the date of this order, establish the National Law Enforcement Accountability Database (Accountability Database) as a centralized repository of official records documenting instances of law enforcement officer misconduct as well as commendations and awards. The Attorney General shall ensure that the establishment and administration of the Accountability Database is consistent with the Privacy Act of 1974 and all other applicable laws, and respects appropriate due process protections for law enforcement officers included in the Accountability Database.

(b) The Attorney General, in consultation with the heads of other agencies as appropriate, shall take the following actions with respect to the Accountability Database established pursuant to subsection (a) of this section:

(i) include in the Accountability Database all available information that the Attorney General deems necessary, appropriate, and consistent with

law and with considerations of victim confidentiality, concerning misconduct by Federal law enforcement officers relevant to carrying out their official duties;

(ii) include in the Accountability Database, to the maximum extent permitted by law, official records documenting officer misconduct, including, as appropriate: records of criminal convictions; suspension of a law enforcement officer's enforcement authorities, such as de-certification; terminations; civil judgments, including amounts (if publicly available), related to official duties; and resignations or retirements while under investigation for serious misconduct or sustained complaints or records of disciplinary action based on findings of serious misconduct;

(iii) include in the Accountability Database records of officer commendations and awards, as the Attorney General deems appropriate; and

(iv) establish appropriate procedures to ensure that the records stored in the Accountability Database are accurate, including by providing officers with sufficient notice and access to their records, as well as a full and fair opportunity to request amendment or removal of any information about themselves from the Accountability Database on the grounds that it is inaccurate or that it is predicated on an official proceeding that lacked appropriate due process protections.

(c) Requirements for the submission of information to the Accountability Database are as follows:

(i) the heads of Federal LEAs shall submit the information determined appropriate for inclusion by the Attorney General under subsection (b) of this section on a quarterly basis, beginning no later than 60 days from the establishment of the Accountability Database; and

(ii) the Attorney General shall encourage State, Tribal, local, and territorial LEAs to contribute to and use the Accountability Database in a manner consistent with subsection (b)(i) of this section and as permitted by law. The Attorney General shall also issue appropriate guidance and technical assistance to further this goal.

(d) In establishing the Accountability Database under subsection (a) of this section, the Attorney General shall:

(i) make use of Federal records from DOJ databases to the maximum extent permitted by law;

(ii) make use of information held by other agencies or entities by entering into agreements with the heads of other agencies or entities, as necessary and appropriate;

(iii) make use of publicly accessible and reliable sources of information, such as court records, as necessary and appropriate; and

(iv) make use of information submitted by State, Tribal, local, and territorial LEAs, as necessary and appropriate.

(e) The heads of Federal LEAs shall ensure that the Accountability Database established pursuant to subsection (a) of this section is used, as appropriate and consistent with applicable law, in the hiring, job assignment, and promotion of law enforcement officers within Federal LEAs, as well as in the screening of State, Tribal, local, and territorial law enforcement officers who participate in programs or activities over which Federal agencies exercise control, such as joint task forces or international training and technical assistance programs, including programs managed by the Department of State and the DOJ.

(f) The Attorney General shall establish procedures for the submission of employment-related inquiries by Federal, State, Tribal, local, and territorial LEAs, and for the provision, upon such a query, of relevant information to the requestor as appropriate. The Attorney General shall develop guidance

and provide technical assistance to encourage State, Tribal, local, and territorial LEAs to integrate use of the Accountability Database established pursuant to subsection (a) of this section into their hiring decisions, consistent with applicable law.

(g) The Attorney General shall ensure that all access to the Accountability Database established pursuant to subsection (a) of this section is consistent with applicable law, and shall also take the following steps related to public access to the Accountability Database:

(i) publish on at least an annual basis public reports that contain anonymized data from the Accountability Database aggregated by law enforcement agency and by any other factor determined appropriate by the Attorney General, in a manner that does not jeopardize law enforcement officer anonymity due to the size of the agency or other factors; and

(ii) assess the feasibility of what records from the Accountability Database may be accessible to the public and the manner in which any such records may be accessible by the public, taking into account the critical need for public trust, transparency, and accountability, as well as the duty to protect the safety, privacy, and due process rights of law enforcement officers who may be identified in the Accountability Database, including obligations under the Privacy Act of 1974 and any other relevant legal obligations; protection of sensitive law enforcement operations; and victim, witness, and source confidentiality.

(h) The Attorney General shall determine whether additional legislation or appropriation of funds is needed to achieve the full objectives of this section.

Sec. 6. *Improving Use-of-Force Data Collection.* (a) Within 180 days of the date of this order, the heads of Federal LEAs shall submit data on a monthly basis to the FBI National Use-of-Force Data Collection (Use-of-Force Database), in accordance with the definitions and categories set forth by the FBI. To the extent not already collected, such data shall include either all deaths of a person due to law enforcement use of force (including deaths in custody incident to an official use of force); all serious bodily injuries of a person due to law enforcement use of force; all discharges of a firearm by law enforcement at or in the direction of a person not otherwise resulting in death or serious bodily injury; or, if applicable, a report for each category that no qualifying incidents occurred and:

(i) information about the incident, including date, time, and location; the reason for initial contact; the offenses of which the subject was suspected, if any; the charges filed against the suspect by a prosecutor, if any; and the National Incident-Based Reporting System (NIBRS) record or local incident number of the report;

(ii) information about the subject of the use of force, including demographic data by subcategory to the maximum extent possible; types of force used against the subject; resulting injuries or death; and reason for the use of force, including any threat or resistance from, or weapon possessed by, the subject;

(iii) information about the officers involved, including demographic data by subcategory to the maximum extent possible; years of service in law enforcement and employing agency at the time of the incident; and resulting injuries or death; and

(iv) such other information as the Attorney General deems appropriate.

(b) The Attorney General, in consultation with the United States Chief Technology Officer, shall work with State, Tribal, local, and territorial LEAs to identify the obstacles to their participation in the Use-of-Force Database; to reduce the administrative burden of reporting by using existing data collection efforts and improving those LEAs' experience; and to provide training and technical assistance to those LEAs to encourage and facilitate their regular submission of use-of-force information to the Use-of-Force Database.

(c) The Attorney General shall, in a manner that does not reveal the identity of any victim or law enforcement officer, publish quarterly data collected pursuant to subsection (a) of this section and make the data available for research and statistical purposes, in accordance with the standards of data privacy and integrity required by the Office of Management and Budget (OMB).

(d) The Attorney General shall also provide training and technical assistance to encourage State, Tribal, local, and territorial LEAs to submit information to the Law Enforcement Officers Killed and Assaulted Data Collection program of the FBI's Uniform Crime Reporting Program.

(e) The Attorney General shall publish a report within 120 days of the date of this order on the steps the DOJ has taken and plans to take to fully implement the Death in Custody Reporting Act of 2013.

Sec. 7. *Banning Chokeholds and Carotid Restraints.* (a) The heads of Federal LEAs shall, as soon as practicable, but no later than 90 days from the date of this order, ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on September 13, 2021, which generally prohibits the use of chokeholds and carotid restraints except where the use of deadly force is authorized by law.

(b) The head of every Federal LEA shall incorporate training consistent with this section.

Sec. 8. *Providing Federal Law Enforcement Officers with Clear Guidance on Use-of-Force Standards.* (a) The heads of Federal LEAs shall, as soon as practicable but no later than 90 days from the date of this order, ensure that their respective agencies issue policies with requirements that reflect principles of valuing and preserving human life and that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on May 20, 2022, which establishes standards and obligations for the use of force.

(b) The heads of Federal LEAs shall, within 365 days of the date of this order, incorporate annual, evidence-informed training for their respective law enforcement officers that is consistent with the DOJ's use-of-force policy; implement early warning systems or other risk management tools that enable supervisors to identify problematic conduct and appropriate interventions to help prevent avoidable uses of force; and ensure the use of effective mechanisms for holding their law enforcement officers accountable for violating the policies addressed in subsection (a) of this section, consistent with sections 2(f) and 3(a)(iii) of this order.

Sec. 9. *Providing Anti-Bias Training and Guidance.* (a) Within 180 days of the date of this order, the Director of the Office of Personnel Management and the Attorney General shall develop an evidence-informed training module for law enforcement officers on implicit bias and avoiding improper profiling based on the actual or perceived race, ethnicity, national origin, limited English proficiency, religion, sex (including sexual orientation and gender identity), or disability of individuals.

(b) The heads of Federal LEAs shall, to the extent consistent with applicable law, ensure that their law enforcement officers complete such training annually.

(c) The heads of Federal LEAs shall, to the extent consistent with applicable law, establish that effective procedures are in place for receiving, investigating, and responding meaningfully to complaints alleging improper profiling or bias by Federal law enforcement officers.

(d) Federal agencies that exercise control over joint task forces or international training and technical assistance programs in which State, Tribal, local, and territorial officers participate shall include training on implicit bias and profiling as part of any training program required by the Federal agency for officers participating in the task force or program.

(e) The Attorney General, in collaboration with the Secretary of Homeland Security and the heads of other agencies as appropriate, shall assess the

implementation and effects of the DOJ's December 2014 Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity; consider whether this guidance should be updated; and report to the President within 180 days of the date of this order as to any changes to this guidance that have been made.

Sec. 10. *Restricting No-Knock Entries.* (a) The heads of Federal LEAs shall, as soon as practicable, but no later than 60 days from the date of this order, ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on September 13, 2021, which limits the use of unannounced entries, often referred to as ''no-knock entries,'' and provides guidance to ensure the safe execution of announced entries.

(b) The heads of Federal LEAs shall maintain records of no-knock entries.

(c) The heads of Federal LEAs shall issue annual reports to the President—and post the reports publicly—setting forth the number of no-knock entries that occurred pursuant to judicial authorization; the number of no-knock entries that occurred pursuant to exigent circumstances; and disaggregated data by circumstances for no-knock entries in which a law enforcement officer or other person was injured in the course of a no-knock entry.

Sec. 11. *Assessing and Addressing the Effect on Communities of Use of Force by Law Enforcement.* (a) The Secretary of HHS shall, within 180 days of the date of this order, conduct a nationwide study of the community effects of use of force by law enforcement officers (whether lawful or unlawful) on physical, mental, and public health, including any disparate impacts on communities of color, and shall publish a public report including these findings.

(b) The Attorney General, the Secretary of HHS, and the Director of OMB shall, within 60 days of the completion of the report described in subsection (a) of this section, provide a report to the President outlining what resources are available and what additional resources may be needed to provide widely and freely accessible mental health and social support services for individuals and communities affected by incidents of use of force by law enforcement officers.

(c) The Attorney General, in collaboration with the heads of other agencies as appropriate, shall issue guidance for Federal, State, Tribal, local, and territorial LEAs on best practices for planning and conducting law enforcement-community dialogues to improve relations and communication between law enforcement and communities, particularly following incidents involving use of deadly force.

(d) Within 180 days of the date of this order, the Attorney General, in collaboration with the heads of other agencies as appropriate, shall issue guidance for Federal, State, Tribal, local, and territorial LEAs, or other entities responsible for providing official notification of deaths in custody, on best practices to promote the timely and appropriate notification of, and support to, family members or emergency contacts of persons who die in correctional or LEA custody, including deaths resulting from the use of force.

(e) After the issuance of the guidance described in subsection (d) of this section, the heads of Federal LEAs shall assess and revise their policies and procedures as necessary to accord with that guidance.

Sec. 12. *Limiting the Transfer or Purchase of Certain Military Equipment by Law Enforcement.* (a) The Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Homeland Security, and the Administrator of General Services shall each review all programs and authorities concerning property transfers to State, Tribal, local, and territorial LEAs, or property purchases by State, Tribal, local, and territorial LEAs either with Federal funds or from Federal agencies or contractors, including existing transfer contracts or grants. Within 60 days of the date of this order, the Secretary of the Treasury, the Secretary of Defense, the Attorney

General, the Secretary of Homeland Security, and the Administrator of General Services shall determine whether, pursuant to this order, such transfers or purchases can, consistent with applicable law, be prohibited beyond existing restrictions and, if so, shall further prohibit any such transfers or purchases, of the following property to the extent not already prohibited:

(i) firearms of .50 or greater caliber;

(ii) ammunition of .50 or greater caliber;

(iii) firearm silencers, as defined in 18 U.S.C. 921(a)(24);

(iv) bayonets;

(v) grenade launchers;

(vi) grenades (including stun and flash-bang);

(vii) explosives (except for explosives and percussion actuated non-electric disruptors used for accredited bomb squads and explosive detection canine training);

(viii) any vehicles that do not have a commercial application, including all tracked and armored vehicles, unless the LEA certifies that the vehicle will be used exclusively for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief;

(ix) weaponized drones and weapons systems covered by DOD Directive 3000.09 of November 21, 2012, as amended (Autonomy in Weapon Systems);

(x) aircraft that are combat-configured or combat-coded, have no established commercial flight application, or have no application for disaster-related emergencies; active shooter scenarios; hostage or other search and rescue operations; or anti-terrorism preparedness, protection, prevention, response, recovery, or relief; and

(xi) long-range acoustic devices that do not have a commercial application.

(b) Federal agencies shall review and take all necessary action, as appropriate and consistent with applicable law, to comply with and implement the recommendations established by the former Law Enforcement Equipment Working Group (LEEWG) pursuant to Executive Order 13688 of January 16, 2015 (Federal Support for Local Law Enforcement Equipment Acquisition), as contained in the LEEWG's May 2015 Report (Recommendations Pursuant to Executive Order 13688, Federal Support for Local Law Enforcement Equipment Acquisition), and October 2016 Implementation Update (Recommendations Pursuant to Executive Order 13688, Federal Support for Local Law Enforcement Equipment Acquisition). To the extent that there is any inconsistency between this order and either the LEEWG's May 2015 Report or October 2016 Implementation Update, this order shall supersede those documents.

(c) Prior to transferring any property included in the ''controlled equipment list'' within the October 2016 Implementation Update referenced in subsection (b) of this section, the agencies listed in subsection (a) of this section shall take all necessary action, as appropriate and consistent with applicable law, to ensure that the recipient State, Tribal, local, or territorial LEA:

(i) submits to that agency a description of how the recipient expects to use the property and demonstrates that the property will be tracked in an asset management system;

(ii) certifies that if the recipient determines that the property is surplus to its needs, the recipient will return the property;

(iii) certifies that the recipient notified the local community of its request for the property and translated the notification into appropriate languages to inform individuals with limited English proficiency, and certifies that the recipient notified the city council or other local governing body of

its intent to request the property and that the request comports with all applicable approval requirements of the local governing body; and

(iv) agrees to return the property if the DOJ determines or a Federal, State, Tribal, local, or territorial court enters a final judgment finding that the LEA has engaged in a pattern or practice of civil rights violations.

Sec. 13. *Ensuring Appropriate Use of Body-Worn Cameras and Advanced Law Enforcement Technologies.* (a) The heads of Federal LEAs shall take the following actions with respect to body-worn camera (BWC) policies:

(i) As soon as practicable, but no later than 90 days from the date of this order, the heads of Federal LEAs shall ensure that their respective agencies issue policies with requirements that are equivalent to, or exceed, the requirements of the policy issued by the DOJ on June 7, 2021, requiring the heads of certain DOJ law enforcement components to develop policies regarding the use of BWC recording equipment. The heads of Federal LEAs shall further identify the resources necessary to fully implement such policies.

(ii) For Federal LEAs that regularly conduct patrols or routinely engage with the public in response to emergency calls, the policies issued under subsection (a)(i) of this section shall be designed to ensure that cameras are worn and activated in all appropriate circumstances, including during arrests and searches.

(iii) The heads of Federal LEAs shall ensure that all BWC policies shall be publicly posted and shall be designed to promote transparency and protect the privacy and civil rights of members of the public.

(b) Federal LEAs shall include within the policies developed pursuant to subsection (a)(i) of this section protocols for expedited public release of BWC video footage following incidents involving serious bodily injury or deaths in custody, which shall be consistent with applicable law, including the Privacy Act of 1974, and shall take into account the need to promote transparency and accountability, the duty to protect the privacy rights of persons depicted in the footage, and any need to protect ongoing law enforcement operations.

(c) Within 365 days of the date of this order, the Attorney General, in coordination with the Secretary of HHS and the Director of the Office of Science and Technology Policy (OSTP), shall conduct a study that assesses the advantages and disadvantages of officer review of BWC footage prior to the completion of initial reports or interviews concerning an incident involving use of force, including an assessment of current scientific research regarding the effects of such review. Within 180 days of the completion of that study, the Attorney General, in coordination with the Secretary of HHS, shall publish a report detailing the findings of that study, and shall identify best practices regarding law enforcement officer review of BWC footage.

(d) Within 180 days of the date of this order, the Attorney General shall request the National Academy of Sciences (NAS), through its National Research Council, to enter into a contract to:

(i) conduct a study of facial recognition technology, other technologies using biometric information, and predictive algorithms, with a particular focus on the use of such technologies and algorithms by law enforcement, that includes an assessment of how such technologies and algorithms are used, and any privacy, civil rights, civil liberties, accuracy, or disparate impact concerns raised by those technologies and algorithms or their manner of use; and

(ii) publish a report detailing the findings of that study, as well as any recommendations for the use of or for restrictions on facial recognition technologies, other technologies using biometric information, and predictive algorithms by law enforcement.

(e) The Attorney General, the Secretary of Homeland Security, and the Director of OSTP shall jointly lead an interagency process regarding the

use by LEAs of facial recognition technology, other technologies using biometric information, and predictive algorithms, as well as data storage and access regarding such technologies, and shall:

(i) ensure that the interagency process addresses safeguarding privacy, civil rights, and civil liberties, and ensure that any use of such technologies is regularly assessed for accuracy in the specific deployment context; does not have a disparate impact on the basis of race, ethnicity, national origin, religion, sex (including sexual orientation and gender identity), or disability; and is consistent with the policy announced in section 1 of this order;

(ii) coordinate and consult with:

(A) the NAS, including by incorporating and responding to the study described in subsection (d)(i) of this section;

(B) the Subcommittee on Artificial Intelligence and Law Enforcement established by section 5104(e) of the National Artificial Intelligence Initiative Act of 2020 (Division E of Public Law 116–283); and

(C) law enforcement, civil rights, civil liberties, criminal defense, and data privacy organizations; and

(iii) within 18 months of the date of this order, publish a report that:

(A) identifies best practices, specifically addressing the concerns identified in subsection (e)(i) of this section;

(B) describes any changes made to relevant policies of Federal LEAs; and

(C) recommends guidelines for Federal, State, Tribal, local, and territorial LEAs, as well as technology vendors whose goods or services are procured by the Federal Government, on the use of such technologies, including electronic discovery obligations regarding the accuracy and disparate impact of technologies employed in specific cases.

(f) The heads of Federal LEAs shall review the conclusions of the interagency process described in subsection (e) of this section and, where appropriate, update each of their respective agency's policies regarding the use of facial recognition technology, other technologies using biometric information, and predictive algorithms, as well as data storage and access regarding such technologies.

Sec. 14. *Promoting Comprehensive and Collaborative Responses to Persons in Behavioral or Mental Health Crisis.* (a) Within 180 days of the date of this order, the Attorney General and the Secretary of HHS, in coordination with the heads of other agencies and after consultation with stakeholders, including service providers, nonprofit organizations, and law enforcement organizations, as appropriate, shall assess and issue guidance to State, Tribal, local, and territorial officials on best practices for responding to calls and interacting with persons in behavioral or mental health crisis or persons who have disabilities.

(b) The assessment made under subsection (a) of this section shall draw on existing evidence and include consideration of co-responder models that pair law enforcement with health or social work professionals; alternative responder models, such as mobile crisis response teams for appropriate situations; community-based crisis centers and the facilitation of post-crisis support services, including supported housing, assertive community treatment, and peer support services; the risks associated with administering sedatives and pharmacological agents such as ketamine outside of a hospital setting to subdue individuals in behavioral or mental health crisis (including an assessment of whether the decision to administer such agents should be made only by individuals licensed to prescribe them); and the Federal resources, including Medicaid, that can be used to implement the identified best practices.

Sec. 15. *Supporting Alternatives to Arrest and Incarceration and Enhancing Reentry.* (a) There is established a Federal Interagency Alternatives and

Reentry Committee (Committee), to be chaired by the Assistant to the President for Domestic Policy.

(b) Committee members shall include:

(i) the Secretary of the Treasury;

(ii) the Attorney General;

(iii) the Secretary of the Interior;

(iv) the Secretary of Agriculture;

(v) the Secretary of Commerce;

(vi) the Secretary of Labor;

(vii) the Secretary of HHS;

(viii) the Secretary of Housing and Urban Development;

(ix) the Secretary of Transportation;

(x) the Secretary of Energy;

(xi) the Secretary of Education;

(xii) the Secretary of Veterans Affairs;

(xiii) the Secretary of Homeland Security;

(xiv) the Director of OMB;

(xv) the Administrator of the Small Business Administration;

(xvi) the Counsel to the President;

(xvii) the Chief of Staff to the Vice President;

(xviii) the Chair of the Council of Economic Advisers;

(xix) the Director of the National Economic Council;

(xx) the Director of OSTP;

(xxi) the Director of National Drug Control Policy;

(xxii) the Director of the Office of Personnel Management;

(xxiii) the Chief Executive Officer of the Corporation for National and Community Service;

(xxiv) the Executive Director of the Gender Policy Council; and

(xxv) the heads of such other executive departments, agencies, and offices as the Chair may designate or invite.

(c) The Committee shall consult and coordinate with the DOJ Reentry Coordination Council, which was formed in compliance with the requirement of the First Step Act that the Attorney General convene an interagency effort to coordinate on Federal programs, policies, and activities relating to the reentry of individuals returning from incarceration to the community. See sec. 505(a) of the First Step Act. The Committee may consult with other agencies; Government officials; outside experts; interested persons; service providers; nonprofit organizations; law enforcement organizations; and State, Tribal, local, and territorial governments, as appropriate.

(d) The Committee shall develop and coordinate implementation of an evidence-informed strategic plan across the Federal Government within 200 days of the date of this order to advance the following goals, with particular attention to reducing racial, ethnic, and other disparities in the Nation's criminal justice system:

(i) safely reducing unnecessary criminal justice interactions, including by advancing alternatives to arrest and incarceration; supporting effective alternative responses to substance use disorders, mental health needs, the needs of veterans and people with disabilities, vulnerable youth, people who are victims of domestic violence, sexual assault, or trafficking, and people experiencing homelessness or living in poverty; expanding the

availability of diversion and restorative justice programs consistent with public safety; and recommending effective means of addressing minor traffic and other public order infractions to avoid unnecessarily taxing law enforcement resources;

(ii) supporting rehabilitation during incarceration, such as through educational opportunities, job training, medical and mental health care, trauma-informed care, substance use disorder treatment and recovery support, and continuity of contact with children and other family members; and

(iii) facilitating reentry into society of people with criminal records, including by providing support to promote success after incarceration; sealing or expunging criminal records, as appropriate; and removing barriers to securing government-issued identification, housing, employment, occupational licenses, education, health insurance and health care, public benefits, access to transportation, and the right to vote.

(e) With respect to the goals described in subsections (d)(i) and (d)(ii) of this section, the Committee's strategic plan shall make recommendations for State, Tribal, local, and territorial criminal justice systems. With respect to the goal described in subsection (d)(iii) of this section, the Committee's strategic plan shall make recommendations for Federal, State, Tribal, local, and territorial criminal justice systems, and shall be informed by the Attorney General's review conducted pursuant to subsection (f) of this section. Following the 200 days identified in subsection (d) of this section, all agency participants shall continue to participate in, and provide regular updates to, the Committee regarding their progress in achieving the goals described in subsections (d)(i) through (iii) of this section.

(f) Within 150 days of the date of this order, the Attorney General shall submit a report to the President that provides a strategic plan to advance the goals in subsections (d)(ii) and (d)(iii) of this section as they relate to the Federal criminal justice system. In developing that strategic plan, the Attorney General shall, as appropriate, consult with the heads of other relevant agencies to improve the Federal criminal justice system, while safeguarding the DOJ's independence and prosecutorial discretion.

(g) The Committee and the Attorney General's efforts pursuant to this section may incorporate and build upon the report to the Congress issued pursuant to section 505(b) of the First Step Act. The Committee may refer the consideration of specific topics to be separately considered by the DOJ Reentry Coordination Council, with the approval of the Attorney General.

(h) Within 90 days of the date of this order and annually thereafter, and after appropriate consultation with the Administrative Office of the United States Courts, the United States Sentencing Commission, and the Federal Defender Service, the Attorney General shall coordinate with the DOJ Reentry Coordination Council and the DOJ Civil Rights Division to publish a report on the following data, disaggregated by judicial district:

(i) the resources currently available to individuals on probation or supervised release, and the additional resources necessary to ensure that the employment, housing, educational, and reentry needs of offenders are fulfilled; and

(ii) the number of probationers and supervised releasees revoked, modified, or reinstated for Grade A, B, and C violations, disaggregated by demographic data and the mean and median sentence length for each demographic category.

Sec. 16. *Supporting Safe Conditions in Prisons and Jails.* (a) For the duration of the HHS public health emergency declared with respect to COVID–19, the Attorney General shall continue to implement the core public health measures, as appropriate, of masking, distancing, testing, and vaccination in Federal prisons. In addition, the Attorney General shall undertake, as appropriate, the following actions within 120 days of the date of this order:

(i) updating Federal Bureau of Prisons (BOP) and United States Marshals Service (USMS) procedures and protocols, in consultation with the Secretary of HHS, as appropriate, to facilitate COVID–19 testing of BOP staff and individuals in BOP custody who are asymptomatic or symptomatic and do not have known, suspected, or reported exposure to SARS–CoV–2, the virus that causes COVID–19;

(ii) updating BOP and USMS procedures and protocols, in consultation with the Secretary of HHS, to identify alternatives consistent with public health recommendations to the use of facility-wide lockdowns to prevent the transmission of SARS–CoV–2, or to the use of restrictive housing for detainees and prisoners who have tested positive for SARS–CoV–2 or have known, suspected, or reported exposure;

(iii) identifying the number of individuals who meet the eligibility requirements under the CARES Act (Public Law 116–136), the First Step Act, 18 U.S.C. 3582(c), 18 U.S.C. 3622, and 18 U.S.C. 3624, for release as part of the DOJ's efforts to mitigate the impact and spread of COVID–19; and

(iv) expanding the sharing and publication of BOP and USMS data, in consultation with the Secretary of HHS, regarding vaccination, testing, infections, and fatalities due to COVID–19 among staff, prisoners, and detainees, in a manner that ensures the thoroughness and accuracy of the data; protects privacy; and disaggregates the data by race, ethnicity, age, sex, disability, and facility, after consulting with the White House COVID–19 Response Team, HHS, and the Equitable Data Working Group established in Executive Order 13985 of January 20, 2021 (Advancing Racial Equity and Support for Underserved Communities Through the Federal Government), as appropriate.

(b) The Attorney General shall take the following actions relating to other conditions of confinement in Federal detention facilities:

(i) within 180 days of the date of this order, submit a report to the President detailing steps the DOJ has taken, consistent with applicable law, to ensure that restrictive housing in Federal detention facilities is used rarely, applied fairly, and subject to reasonable constraints; to ensure that individuals in DOJ custody are housed in the least restrictive setting necessary for their safety and the safety of staff, other prisoners and detainees, and the public; to house prisoners as close to their families as practicable; and to ensure the DOJ's full implementation, at a minimum, of the Prison Rape Elimination Act of 2003 (Public Law 108–79) and the recommendations of the DOJ's January 2016 Report and Recommendations Concerning the Use of Restrictive Housing; and

(ii) within 240 days of the date of this order, complete a comprehensive review and transmit a report to the President identifying any planned steps to address conditions of confinement, including steps designed to improve the accessibility and quality of medical care (including behavioral and mental health care), the specific needs of women (including breast and cervical cancer screening, gynecological and reproductive health care, and prenatal and postpartum care), the specific needs of juveniles (including age-appropriate programming), recovery support services (including substance use disorder treatment and trauma-informed care), and the environmental conditions for all individuals in BOP and USMS custody.

Sec. 17. *Advancing First Step Act Implementation.* (a) The Attorney General is reviewing and updating as appropriate DOJ regulations, policies, and guidance in order to fully implement the provisions and intent of the First Step Act, and shall continue to do so consistent with the policy announced in section 1 of this order. Within 180 days of the date of this order and annually thereafter, the Attorney General shall, in consultation with the Director of OMB, submit a report to the President summarizing:

(i) the rehabilitative purpose for each First Step Act expenditure and proposal for the prior and current fiscal years, detailing the number of available and proposed dedicated programming staff and resources, the

use of augmentation among BOP staff, and BOP staffing levels at each facility;

(ii) any additional funding necessary to fully implement the rehabilitative purpose of the First Step Act, ensure dedicated programming staff for all prisoners, and address staffing shortages in all BOP facilities; and

(iii) the following information on the BOP's risk assessment tool, Prisoner Assessment Tool Targeting Estimated Risk and Needs (PATTERN):

(A) the number of individuals released early due to Earned Time Credits who were subsequently convicted and sentenced, as defined by United States Sentencing Guideline sec. 4A1.1(a), in the year following their release, disaggregated by their PATTERN risk level category of ''Minimum,'' ''Low,'' ''Medium,'' or ''High'' at time of release;

(B) an assessment of any disparate impact of PATTERN, including the weighting of static and dynamic risk factors and of the statutorily enumerated offenses and prior convictions that render individuals ineligible to earn time credits; and

(C) a strategic plan and timeline to improve PATTERN, including by addressing any disparities and developing a needs-based assessment system.

Sec. 18. *Collecting Comprehensive Criminal Justice Statistics.* (a) The Attorney General, in consultation with the United States Chief Data Scientist and the United States Chief Statistician, shall review the status of State, Tribal, local, and territorial LEAs transitioning from the Summary Reporting System to the NIBRS in the FBI's Uniform Crime Reporting Program, and shall submit a report to the President within 120 days of the date of this order summarizing the status of that transition for State, Tribal, local, and territorial LEAs and including recommendations to maximize participation in the NIBRS.

(b) Within 365 days of the date of this order, the Attorney General, through the Director of the Bureau of Justice Statistics, and the Director of OMB, through the United States Chief Statistician, shall jointly submit a report to the President detailing what, if any, steps the agencies will take:

(i) to improve their current data collections, such as the National Crime Victimization Survey and the Police-Public Contact Survey Supplement, including how to ensure that such data collections are undertaken and published annually, and that they include victimization surveys that measure law enforcement use of force; serious bodily injury or death that occurs in law enforcement encounters; public trust in law enforcement; and actual or perceived bias by demographic subgroups defined by race, ethnicity, and sex (including sexual orientation and gender identity); and

(ii) to improve the Law Enforcement Management and Administrative Statistics Survey, with a focus on ensuring that such data collections are undertaken and published regularly and measure law enforcement workforce data, use of force, public trust in law enforcement, and actual or perceived bias.

(c) The Equitable Data Working Group established in Executive Order 13985 shall work with the National Science and Technology Council to create a Working Group on Criminal Justice Statistics (Working Group), which shall be composed of representatives of the Domestic Policy Council and the office of the Counsel to the President, the DOJ, OMB, and OSTP, and which shall, as appropriate, consult with representatives of the Federal Defender Services; civil rights, civil liberties, data privacy, and law enforcement organizations; and criminal justice data scientists.

(i) Within 365 days of the date of this order, the Working Group and the Assistant to the President for Domestic Policy shall issue a report to the President that assesses current data collection, use, and data transparency practices with respect to law enforcement activities, including

calls for service, searches, stops, frisks, seizures, arrests, complaints, law enforcement demographics, and civil asset forfeiture.

(ii) Within 365 days of the date of this order, the Working Group shall assess practices and policies governing the acquisition, use, and oversight of advanced surveillance and forensic technologies, including commercial cyber intrusion tools, by Federal, State, Tribal, local, and territorial law enforcement, and shall include in the report referenced in subsection (c)(i) of this section recommendations based on this assessment that promote equitable, transparent, accountable, constitutional, and effective law enforcement practices.

Sec. 19. *Establishing Accreditation Standards.* (a) The Attorney General shall develop and implement methods to promote State, Tribal, local, and territorial LEAs seeking accreditation by an authorized, independent credentialing body, including by determining what discretionary grants shall require that the LEA be accredited or be in the process of obtaining accreditation.

(b) Within 240 days of the date of this order, the Attorney General shall develop and publish standards for determining whether an entity is an authorized, independent credentialing body, including that the entity requires policies that further the policies in sections 3, 4, and 7 through 10 of this order, and encourages participation in comprehensive collection and use of police misconduct and use-of-force-data, such as through the databases provided for in sections 5 and 6 of this order. In developing such standards, the Attorney General shall also consider the recommendations of the Final Report of the President's Task Force on 21st Century Policing issued in May 2015. Pending the development of such standards, the Attorney General shall maintain the current requirements related to accreditation.

(c) The Attorney General, in formulating standards for accrediting bodies, shall consult with professional accreditation organizations, law enforcement organizations, civil rights and community-based organizations, civilian oversight and accountability groups, and other appropriate stakeholders. The Attorney General's standards shall ensure that, in order to qualify as an authorized, independent credentialing body, the accrediting entity must conduct independent assessments of an LEA's compliance with applicable standards as part of the accreditation process and not rely on the LEA's self-certification alone.

Sec. 20. *Supporting Safe and Effective Policing Through Grantmaking.* (a) Within 180 days of the date of this order, the Attorney General, the Secretary of HHS, and the Secretary of Homeland Security shall promptly review and exercise their authority, as appropriate and consistent with applicable law, to award Federal discretionary grants in a manner that supports and promotes the adoption of policies of this order by State, Tribal, local, and territorial governments and LEAs. The Attorney General, the Secretary of HHS, and the Secretary of Homeland Security shall also use other incentives outside of grantmaking, such as training and technical assistance, as appropriate and consistent with applicable law, to support State, Tribal, local, and territorial governments and LEAs in adopting the policies in this order.

(b) On September 15, 2021, the Associate Attorney General directed a review of the DOJ's implementation and administrative enforcement of Title VI of the Civil Rights Act of 1964, 42 U.S.C. 200d *et seq.,* and of the nondiscrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. 10228, in connection with Federal financial assistance the DOJ provides, to ensure that the DOJ is providing sufficient oversight and accountability regarding the activities of its federally funded recipients.

(i) Within 30 days of the date of this order, and consistent with any other applicable guidance issued by the Attorney General, the head of every other Federal agency that provides grants to State, local, and territorial LEAs shall commence a similar review of its law enforcement-related grantmaking operations and the activities of its grant recipients.

(ii) Within 180 days of the date of this order, the head of each Federal agency that provides grants to State, local, and territorial LEAs shall submit to the Assistant Attorney General for the Civil Rights Division of the DOJ, for review under Executive Order 12250 of November 2, 1980 (Leadership and Coordination of Nondiscrimination Laws), a report of its review conducted pursuant to subsection (b)(i) of this section, including its conclusions and recommendations. Within 30 days following such review and clearance from the DOJ pursuant to this subsection, the head of each such agency shall make the conclusions of its review publicly available, as appropriate.

Sec. 21. *Definitions.* For the purposes of this order: (a) ''Federal law enforcement agency'' or ''Federal LEA'' means an organizational unit or subunit of the executive branch that employs officers who are authorized to make arrests and carry firearms, and that is responsible for the prevention, detection, and investigation of crime or the apprehension of alleged offenders. The ''heads of all Federal law enforcement agencies'' means the leaders of those units or subunits.

(b) The term ''sustained complaints or records of disciplinary action'' means an allegation of misconduct that is sustained through a completed official proceeding, such as an internal affairs or department disciplinary process.

(c) The term ''serious misconduct'' means excessive force, bias, discrimination, obstruction of justice, false reports, false statements under oath, theft, or sexual misconduct.

Sec. 22. *Superseding Prior Orders.* (a) Executive Order 13809 of August 28, 2017 (Restoring State, Tribal, and Local Law Enforcement's Access to Life-Saving Equipment and Resources), is revoked. All agencies are directed, consistent with applicable law, to take prompt action to rescind any rules, regulations, guidelines, or policies implementing Executive Order 13809 that are inconsistent with the provisions of this order.

(b) Executive Order 13929 of June 16, 2020 (Safe Policing for Safe Communities), is revoked. All agencies are directed, consistent with applicable law, to take prompt action to rescind any rules, regulations, guidelines, or policies implementing Executive Order 13929 that are inconsistent with the provisions of this order.

(c) To the extent that there are other executive orders that may conflict with or overlap with the provisions in this order, the provisions of this order supersede any prior Executive Order on these subjects.

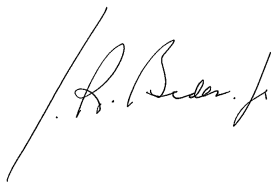
Sec. 23. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

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

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

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

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



THE WHITE HOUSE,
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