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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0376; Airspace Docket No. 22–ANE–4]

RIN 2120–AA66

Amendment of Class E Airspace; Montpelier, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Edward F. Knapp State Park, Montpelier, VT, due to the decommissioning of the Mount Mansfield non-directional beacon (NDB) and cancellation of associated approaches, as well as updating the airport's geographic coordinates. Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations in the area.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace for Edward F. Knapp State Park, Montpelier, VT, to support IFR operations in the area.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 21821, April 13, 2022) for Docket No. FAA–2022–0376 to amend Class E surface airspace and Class E airspace extending upward from 700 feet above the surface for Edward F. Knapp State Park, Montpelier, VT.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by amending Class E surface airspace and Class E airspace extending upward from 700 feet above the surface at Edward F. Knapp State Park, Montpelier, VT, due to the decommissioning of the Mount Mansfield NDB and cancellation of associated approaches. This action amends the north and south extensions, and eliminates the southwest extension. This action also removes the city name from the descriptions, and updates the airport's geographic coordinates to coincide with the FAA's database. In addition, this action removes all navigational aids from the Class E5 description, as they are not necessary in defining the airspace.

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

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 minimal. Since this is a routine matter that only affects air traffic procedures an air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental

Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a.

This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6002 Class E Surface Airspace.

* * * * *

ANE VT E2 Montpelier, VT [Amended]

Edward F. Knapp State Airport, VT
(Lat. 44°12′13″ N, long. 72°33′44″ W)

That airspace extending upward from the surface within a 4.1-mile radius of the Edward F. Knapp State Airport, and within 1 mile each side of the 152° bearing, extending from the 4.1-mile radius to 10.3-miles southeast of the airport, and within 1.2-miles each side of the 332° bearing, extending from the 4.1-mile radius to 10.3-miles northwest of the airport.

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

* * * * *

ANE VT E5 Montpelier, VT [Amended]

Edward F. Knapp State Airport, VT
(Lat. 44°12′13″ N, long. 72°33′44″ W)

That airspace extending upward from 700 feet above the surface within a 13-mile radius of Edward F. Knapp State Airport.

Issued in College Park, Georgia, on June 6, 2022.

Lisa Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–12466 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0253; Airspace Docket No. 21–ANM–9]

RIN 2120–AA66

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

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

ACTION: Final rule.

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

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under Title 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code (U.S.C.). 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, Sovereignty and Use of Airspace. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority, as it would modify Class E airspace at Coeur D'Alene—Pappy Boyington Field, ID, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** for Docket No. FAA–2022–0253 (87 FR 21586; April 12, 2022) to modify the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Coeur D'Alene—Pappy Boyington Field, ID. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

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

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

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

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

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

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

FAA Order JO 7400.11 is published annually and becomes effective on September 15.

Regulatory Notices and Analyses

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

Environmental Review

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

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the FAA amends 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

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

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

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

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

* * * * *

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

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

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

B.G. Chew,

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

[FR Doc. 2022–12479 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0332; Airspace Docket No. 22–AEA–4]

RIN 2120–AA66

Revocation of Class E Airspace; East Stroudsburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace in East Stroudsburg, PA, as Stroudsburg-Pocono Airport has been abandoned and controlled airspace is no longer required. This action enhances the safety and management of controlled airspace within the national airspace system.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order JO 7400.11F, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *https://www.faa.gov/air_traffic/publications/*. For further information, you can contact

the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; Telephone: (202) 267–8783.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, 1701 Columbia Avenue, College Park, GA 30337; Telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes Class E airspace extending upward from 700 feet above the surface at Stroudsburg-Pocono Airport, East Stroudsburg, PA, due to the closing of the airport.

History

The FAA published a notice of proposed rulemaking in the **Federal Register** (87 FR 20793, April 8, 2022) for Docket No. FAA–2022–0332 to remove Class E airspace extending upward from 700 feet above the surface at Stroudsburg-Pocono Airport, East Stroudsburg, PA.

Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

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

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

The FAA is amending 14 CFR part 71 by removing Class E airspace extending upward from 700 feet above the surface at Stroudsburg-Pocono Airport, East Stroudsburg, PA, as the airport has closed. Therefore, the airspace is no longer necessary. This action enhances the safety and management of controlled airspace within the national airspace system.

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 the FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. 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 minimal. Since this is a routine matter that only affects air traffic procedures an air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

■ 1. The authority citation for 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 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 East Stroudsburg, PA [Removed]

Issued in College Park, Georgia, on June 6, 2022.

Lisa Burrows,

Manager, Airspace & Procedures Team North, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2022–12452 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0041; Airspace Docket No. 21–ANM–47]

RIN 2120–AA66

Establishment of Class E Airspace; Limon Municipal Airport, CO; Correction

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule that published in the **Federal Register** on June 1, 2022. The rule established Class E airspace beginning at 700 feet above the surface. The final rule incorrectly listed the effective date

of 0901 UTC, July 14, 2022. This action corrects the error.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (87 FR 32982; June 1, 2022) for Docket No. FAA–2022–0041, which established Class E airspace beginning at 700 feet above the surface at Limon Municipal Airport, CO. The effective date listed in the final rule was incorrect. The final rule stated the effective date of 0901 UTC, July 14, 2022. However, the final rule was submitted too late to be effective on July 14, 2022, and should have listed the effective date as 0901 UTC, September 8, 2022. This action corrects this error.

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

Correction to Final Rule

Accordingly, pursuant to the authority delegated to the FAA, Establishment of Class E airspace; Limon Municipal Airport, CO, published in the **Federal Register** of June 1, 2022 (87 FR 32982), FR Doc. 2022–11586, is corrected as follows:

1. On page 32982, in the third column, beginning on line 18, **DATES** is corrected to read:

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.11, and publication of conforming amendments.

Issued in Des Moines, Washington, on June 3, 2022.

B.G. Chew,

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

[FR Doc. 2022–12393 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0030; Airspace Docket No. 21–AAL–54]

RIN 2120–AA66

Modification of Class E Airspace, and Revocation of Class E Airspace; Sitka Rocky Gutierrez Airport, AK; Correction

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

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting a final rule that published in the **Federal Register** on June 1, 2022. The rule modified the Class E surface airspace, removed Class E airspace designated as an extension to Class D and E surface areas, and modified Class E airspace beginning at 700 feet above the surface. The final rule incorrectly listed the effective date of 0901 UTC, July 14, 2022. This action corrects the effective date to 0901 UTC, September 8, 2022.

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

SUPPLEMENTARY INFORMATION:

History

The FAA published a final rule in the **Federal Register** (87 FR 32981; June 1, 2022) for Docket No. FAA–2022–0030, which modified the Class E surface airspace, removed Class E airspace designated as an extension to Class D and E surface areas, and modified Class E airspace beginning at 700 feet above the surface at Sitka Rocky Gutierrez Airport, AK. Subsequent to publication, the FAA identified that the effective date listed in the final rule was incorrect. The final rule stated the effective date of 0901 UTC, July 14, 2022. However, the final rule was submitted too late to be effective on July 14, 2022, and should have listed the effective date as 0901 UTC, September 8, 2022. This action corrects the error.

Class E2, Class E4, and Class E5 airspace designations are published in paragraphs 6002, 6004, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

Correction to Final Rule

Accordingly, pursuant to the authority delegated to the FAA, Modification of Class E airspace, and Revocation of Class E airspace; Sitka Rocky Gutierrez Airport, AK, published in the **Federal Register** of June 1, 2022, (87 FR 32981), FR Doc. 2022–11591, is corrected as follows:

1. On page 32981, in the first column, beginning on line 53, **DATES** is corrected to read:

DATES: Effective 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

Issued in Des Moines, Washington, on June 3, 2022.

B.G. Chew,

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

[FR Doc. 2022–12392 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2020–0988 Airspace Docket No. 18–AWA–3]

RIN 2120–AA66

Amendment of Class C Airspace and Revocation of Class E Airspace Extension; Fort Lauderdale, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action reconfigures and expands the Fort Lauderdale-Hollywood International Airport, FL (FLL), Class C airspace area. The FAA is taking this action to reduce the risk of midair collisions and enhance the efficient management of air traffic operations in the FLL terminal area. This action also updates the FLL Airport Reference Point (ARP) latitude/longitude geographic coordinates to match current airspace database information. Additionally, this action revokes the Class E airspace

extension to the FLL Class C airspace surface area. This action is separate and distinct from the South Florida Metroplex Project. No flight path changes are associated with this proposal.

DATES: Effective date 0901 UTC, September 8, 2022. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order JO 7400.11 and publication of conforming amendments.

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

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 airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the Fort Lauderdale-Hollywood International Airport, FL, to reduce the potential for midair collisions and enhances the management of air traffic in the terminal area.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2020–0988 in the **Federal Register** (86 FR 17333; April 2, 2021) proposing to modify the Fort Lauderdale-Hollywood International Airport, FL (FLL), Class C airspace area. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. Two comments were received.

Class C airspace designations are published in paragraph 4000 of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR part 71.1. The Class C airspace designation listed in this document will be published subsequently in FAA Order JO 7400.11.

Correspondingly, the Class C airspace area, and the Class E airspace extension, in this document will subsequently be published in, or removed from, FAA Order JO 7400.11.

Discussion of Comments

The first commenter affirmed their support for the new airspace design. The second commenter, the Aircraft Owners and Pilots Association (AOPA), expressed four concerns about the proposal as discussed below.[1]

First, AOPA acknowledged FAA's action to improve the availability of Visual Flight Rules (VFR) flight following in the Miami Class B airspace, and the FLL Class C airspace areas, but stated that recent feedback from members indicated that VFR flight following can still be difficult to obtain particularly as ''FAA has indicated they are not able to provide a VFR corridor through this airspace.''

The current coronavirus (COVID–19) pandemic has impacted air traffic controller training and staffing which, at times, has limited the services controllers can provide to VFR aircraft due to workload. Within Miami Terminal Radar Approach Control (TRACON), training is resuming and staffing is returning to normal levels which will assist in creating additional opportunities to obtain/provide services to VFR aircraft when airborne. As a suggestion, VFR pilots wishing to receive air traffic control (ATC) services are encouraged to consider obtaining a VFR discreet transponder code from ATC prior to departure.

Second, AOPA stated that the ceiling of the Class D airspace areas should be consistent with the floor of the overlying Class B or C airspace as there ''needs to be more consistency to these altitudes and [AOPA] continue[s] to have concerns that this complexity could result in unintentional airspace violations.''

This rule establishes a new Area F north of FLL with a floor of 2,500 feet mean sea level (MSL). With regard to the FLL Class C airspace, the 1,200-foot MSL floor within the outer 10 nautical mile (NM) ring of the current Class C airspace design overlaps portions of the Fort Lauderdale Executive (FXE) Airport, and the Pompano Beach Airport (PMP), Class D airspace areas which both have ceilings at 2,500 feet MSL. Area F overlies portions of the FXE and PMP Class D airspace areas. The 2,500-foot floor of Area F is consistent with the 2,500-foot ceilings of the two underlying Class D airspace areas.

Third, AOPA restated its preference for the establishment of a VFR corridor through the MIA Class B airspace but expressed satisfaction that the FAA is considering the development of a VFR transition route as an alternative.

The FAA considered a VFR corridor but determined it is not feasible with current MIA area air traffic operations. As described in the Aeronautical Information Manual (AIM), VFR corridors are, in effect, a ''hole'' through Class B airspace in which aircraft can operate without an ATC clearance or communication with ATC. Considering local constraints, including traffic volume and traffic flows, plus the close proximity of numerous airports in the MIA area, a VFR corridor could not be established for operational and flight safety reasons.

As an alternative, the FAA designed and implemented VFR Transition Routes which became effective beginning with the February 25, 2021, aeronautical charting cycle. The routes currently are depicted on the Miami VFR Terminal Area Chart (TAC), and the Miami/South Florida VFR Flyway Planning Chart. These transition routes traverse both the MIA Class B, and the FLL Class C airspace areas, generally in north and south directions. An ATC clearance is required to fly these routes. Notes are placed on the charts to identify the routes and provide radio frequencies and altitudes to expect. Operationally, although access to the transition routes is based on controller workload, it does provide more flexibility for both controllers and pilots.

Fourth, AOPA called for the formation of a new Ad Hoc Committee to evaluate the Class B airspace changes proposed in the NPRM due to the lapse in time from the original Ad Hoc Committee and complexities as the changes.

The FAA considered the request for a second Ad Hoc Committee. After studying the recommendations from the previous Committee, and the public comments from the Informal Airspace Meetings, the FAA made a number of changes to the Class B design and published an NPRM for additional public comment. The FAA believes that

[1] AOPA submitted its comments directly to the FAA. The FAA placed AOPA's comments into the docket on January 25, 2022.

sufficient feedback was received to proceed with rulemaking, and therefore decided not to form a second Ad Hoc Committee. Moreover, the public was provided with an opportunity to submit comments in response to the NPRM.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by modifying the FLL Class C airspace area to expand the lateral dimensions to the east and west of the airport, and lower some airspace floors to enhance safety in the Fort Lauderdale terminal area (see the attached chart).

The current FLL Class C airspace area consists of two concentric circles centered on the airport reference point: (1) that airspace extending upward from the surface to 4,000 feet MSL within a 5 NM radius of the airport; and (2) that airspace extending upward from 1,200 feet MSL to 4,000 feet MSL within a 10 NM radius of the airport (excluding the airspace within the adjacent Miami Class B airspace area).

This action updates the FLL airport reference point coordinates to read ''lat. 26°04′18″ N, long. 80°08′59″ W'' which matches the latest information in the Airport Master Records file. In addition, this rule reconfigures the Class C airspace area from the traditional two concentric circles design, to a more rectangular shape consisting of seven sub-areas identified by the letters A though G. The lateral foot print of the area is expanded to the east and west, but the current 4,000-foot MSL ceiling of the Class C airspace area is retained. In developing these modifications, the FAA has considered the input received from the Ad Hoc Committee, the informal airspace meetings, and the NPRM. The airspace modifications are described below.

Area A. Area A extends from ground level upward to 4,000 feet MSL. The lateral dimension of Area A is expanded from the current 5 NM radius of FLL, to a 7 NM radius of the airport. It is bounded on the north by lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); and bounded on the south by a 15 NM radius of the Miami International Airport; and on the southeast by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood).

Setting the northern boundary of Area A along lat. 26°10′03″ N allows Fort Lauderdale Executive Airport (FXE) to continue using south downwind departures from FXE airport and returns most of the FXE Class D airspace area altitudes to FXE airport traffic control tower (ATCT) for their use. The new southeastern boundary of Area A provides more room for aircraft departing North Perry Airport (HWO) and Opa Locka Executive Airport (OPF) to transition to the east overwater.

Area B. Area B, located west of Area A, extends upward from 1,200 feet MSL to 4,000 feet MSL. It is bounded on the north by lat. 26°10′03″ N; on the west by State Road 869/Sawgrass Expressway, Interstate 595 and Interstate 75; on the south by the 15 NM radius of Miami International Airport; and on the east by the 7 NM radius of FLL (the western boundary of Area A). Aligning the boundaries with reference to existing major roadways give VFR pilots better visual references for determining the airspace boundaries.

Area C. Area C is located at the western end of the Class C expansion. It extends upward from 3,000 feet MSL to 4,000 feet MSL. Area C is bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach) (which is also the new northern boundary of FLL Class C airspace area); on the west by the 25 NM radius of FLL; on the south by lat. 25°57′48″ N; on the southeast by the 15 NM radius of MIA; and on the east by U.S. Route 27. Route 27 was selected as the eastern boundary based on suggestions that visual references be used to provide better situational awareness for VFR pilots.

Area D. Area D is located at the eastern end of the Class C expansion. It extends upward from 3,000 feet MSL to 4,000 feet MSL. It is bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach); on the east by the 25 NM radius of FLL; on the south by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood); and on the west by the 20 NM radius of FLL. Area D forms the eastern most section of the FLL Class C airspace area. In the original design, the Class C floor in Area D was proposed to be 2,500 feet MSL. To accommodate concerns, the floor is raised to 3,000 feet MSL to give VFR pilots a little more room to transition beneath the area.

Area E. Area E extends upward from 1,500 feet MSL to 4,000 feet MSL. It is bounded on the north by lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); on the east by the north-south portion of Interstate I–75 and State Road 869/Sawgrass Expressway; on the south by the 15 NM radius of MIA; and on the west by U.S. Route 27. Area E is located between Areas B and C.

A goal of the design of Area E is to resolve an issue caused by the configurations of the current MIA Class B airspace and the FLL Class C airspace areas. A gap, approximately 4–5 NM wide, exists in the airspace between the current 10 NM radius of FLL's Class C airspace (to the west of the airport), and the existing MIA Class B airspace area to the northwest of MIA (in the vicinity of U.S. Route 27). VFR aircraft that are not in communication with ATC frequently transit this gap and are climbing or descending through the final approach courses and the downwind legs for FLL arrivals to runways 10L/10R. The redesign of Area E is intended to close this gap to enhance safety for both FLL traffic and the transiting VFR aircraft. The original proposal set the Class C airspace floor in this area at 1,200 feet MSL. Due to concerns about restricting VFR aircraft transiting the area, the Area E floor is raised to 1,500 feet MSL to give VFR aircraft more room to transition north and south. The use of existing major roadways to mark the boundaries gives VFR pilots better situational awareness of the lateral confines of Area E.

Area F. Area F extends upward from 2,500 feet MSL to 4,000 feet MSL. The area's boundaries begin at a point northwest of FLL where U.S. Route 27 intersects lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard in Pompano Beach); thence moving east along lat. 26°13′53″ N to a point that intersects the 20 NM radius of FLL; thence moving clockwise along the 20 NM radius of FLL to a point that intersects lat. 26°00′39″ N; (the eastern most portion of Hollywood Boulevard located in Hollywood); thence moving west along lat. 26°00′39″ N to a point that intersects the 15 NM radius of FLL; thence moving counter-clockwise along the 15 NM radius of FLL to a point that intersects lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach); thence moving west along lat. 26°10′03″ N to a point that intersects U.S. route 27; thence moving north along U.S. Route 27 to the point of beginning. Area F forms the northern shelf of the FLL Class C airspace area, running east and west between areas C and D, as well as

a north/south segment running between Areas G and D.

In the current FLL Class C airspace configuration, the floor of Class C airspace over FXE is 1,200 feet MSL. This 1,200-foot floor extends right up to Pompano Beach Airpark (PMP). With the addition of Area F, the Class C airspace floor is raised to 2,500 feet MSL over FXE, and the northern boundary of Class C airspace is moved farther to the south of PMP and aligned with the eastern portion of Atlantic Boulevard. This 2,500-foot MSL Class C airspace shelf over FXE, and southward relocation of the northern Class C airspace boundary to be aligned with Atlantic Boulevard, provides a number of benefits, including: the use of visual references to identify airspace boundaries; better access for VFR pilots to the FXE and PMP areas; additional room below Class C airspace to accommodate downwind departures from FXE; better access for the flight schools based at FXE and PMP to airspace that is regularly used for flight training; and providing FXE and PMP ATCTs access to more altitudes within their respective Class D airspace areas.

Area G. Area G extends upward from 1,200 feet MSL to 4,000 feet MSL. The area boundaries begin at a point northeast of FLL where the 7 NM radius of FLL intersects lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale beach); thence moving clockwise along the 7 NM radius of FLL to a point that intersects lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood); thence moving east along lat. 26°00′39″ N to a point that intersects the 15 NM radius of FLL; thence moving counterclockwise along the 15 NM radius of FLL to a point that intersects lat. 26°10′03″ N; thence moving west along lat. 26°10′03″ N to the point of beginning. Area G is located between Areas A and F.

In addition, this action removes the Class E airspace extension to the FLL Class C airspace surface area. The expansion of Area A from the current 5 NM radius, to a 7 NM radius, incorporates the airspace in the Class E extension into the Class C surface area thereby rendering the extension unnecessary.

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

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new information collection requirement associated with this final rule.

Regulatory Notices and Analyses

Federal agencies consider impacts of regulatory actions under a variety of executive orders and other requirements. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify the costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year. The current threshold after adjustment for inflation is $158,000,000, using the most current (2020) Implicit Price Deflator for the Gross Domestic Product. This portion of the preamble summarizes the FAA's analysis of the economic impacts of this rule.

In conducting these analyses, the FAA has determined that this rule: will have a minimal cost impact; is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; will not have a significant economic impact on a substantial number of small entities; will not create unnecessary obstacles to the foreign commerce of the United States; and will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

Regulatory Impact Analysis

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this final rule.

In conducting these analyses, the FAA has determined that this final rule: (1) Is expected to have a minimal cost impact, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not significant under DOT's administrative procedure rule on rulemaking at 49 CFR 5.13; (4) not have a significant economic impact on a substantial number of small entities; (5) does not create unnecessary obstacles to the foreign commerce of the United States; and (6) does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

As discussed above, the FAA determined that changes put forth in this rule will increase airspace safety and efficiency with minimal cost impact. The rule will reconfigure and expand the FLL Class C airspace. Despite significant increases in aircraft operations and passenger enplanements over the years, the FLL Class C airspace has not been modified since its inception in 1986. The current Class C airspace area is not sufficient to accommodate the volume of aircraft operations in the congested South Florida airspace, nor the traffic pattern required by the increasing numbers of turbojet operations at FLL. The benefits of the rule are to reduce the risk of midair collisions and increase efficiency

of air traffic operations in the FLL terminals.

The discussion presented in this section reflects conditions that predate the coronavirus (COVID–19) pandemic in 2021. At the time of writing, there is uncertainty surrounding the timing of recovery and the long-term effects. To the extent that there are lingering or lasting changes to general aviation and air carrier operations, the benefits and costs of the FLL Class C airspace modification in this rule may vary relative to the level of future operations.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation.'' To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA. However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The final rule modifies Class C airspace around FLL. The change affects general aviation operators using the airspace at or near FLL. Operators flying VFR need to adjust their flight paths to avoid the modified Class C airspace. However, the modifications to Class C airspace are intended to be the least restrictive option while enhancing safety. Additionally, VFR operators can also use the current north-south charted VFR flyway below the 3,000-foot Class B floor to the west of MIA, which enables pilots to fly beneath the Class B, and east-west flyway below 2000 MSL located to the south of HWO, or to the north of Miami OPF. VFR pilots have the option to contact ATC at Miami TRACON or FLL ATCT, and request flight following, if desired. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking would not result in a significant economic impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this final rule and determined that it should improve safety and is consistent with the Trade Agreements Act.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $155 million in $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

Environmental Review

The FAA has determined that this action of (1) reconfiguring and expanding the Fort Lauderdale-Hollywood International Airport, FL (FLL), Class C airspace area and, (2) updating the FLL Airport Reference Point (ARP) latitude/longitude geographic coordinates to match current airspace database information, and (3) revoking the Class E airspace extension to the FLL Class C airspace surface area qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Amendment

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

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

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, effective September 15, 2021, is amended as follows:

Paragraph 4000 Class C Airspace.

* * * * *

ASO FL C Fort Lauderdale-Hollywood International Airport, FL

Fort Lauderdale-Hollywood International Airport, FL
(Lat. 26°04′18″ N, long. 80°08′59″ W)

Boundaries

Area A. That airspace extending upward from the surface to and including 4,000 feet

MSL within a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, excluding the airspace north of lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), and bounded on the south by a 15 nautical mile radius of Miami International Airport, and on the southeast by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood).

Area B. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning at a point northwest of Fort Lauderdale-Hollywood International Airport at the intersection of a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), to a point that intersects State Road 869/Sawgrass Expressway, thence moving south along State Road 869/Sawgrass Expressway, [continuing south across the intersection of State Road 869/Sawgrass Expressway, Interstate 595, and Interstate 75], and continuing south along Interstate 75 to a point that intersects a 15 nautical mile radius of Miami International Airport, thence moving clockwise along the 15 nautical mile radius to a point that intersects the 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 7 nautical mile radius to the point of beginning.

Area C. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the west by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the south by lat. 25°57′48″ N, on the southeast by a 15 nautical mile radius of Miami International Airport, and on the east by U.S. Route 27.

Area D. That airspace extending upward from 3,000 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), on the east by a 25 nautical mile radius of Fort Lauderdale-Hollywood International Airport, on the south by lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), and on the west by a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport.

Area E. That airspace extending upward from 1,500 feet MSL to and including 4,000 feet MSL within an area bounded on the north by lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), on the east by the north-south portion of Interstate 75 and State Road 869/Sawgrass Expressway, on the south by a 15 nautical mile radius of Miami International Airport, and on the west by U.S. Route 27.

Area F. That airspace extending upward from 2,500 feet MSL to and including 4,000 feet MSL beginning northwest of Fort Lauderdale-Hollywood International Airport at a point that intersects U.S. Route 27 and lat. 26°13′53″ N (aligned with the eastern portion of Atlantic Boulevard located in Pompano Beach), thence moving east along lat. 26°13′53″ N to a point that intersects a 20 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving clockwise along the 20 nautical mile radius to a point that intersects lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), thence moving west to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving west along lat. 26°10′03″ N to a point that intersects U.S. Route 27, thence moving north along U.S. Route 27 to the point of beginning.

Area G. That airspace extending upward from 1,200 feet MSL to and including 4,000 feet MSL beginning northeast of Fort Lauderdale-Hollywood International Airport at a point that intersects a 7 nautical mile radius of Fort Lauderdale-Hollywood International Airport and lat. 26°10′03″ N (the eastern most portion of Oakland Park Boulevard located in Lauderdale Beach), thence moving clockwise along the 7 nautical mile radius to a point that intersects lat. 26°00′39″ N (the eastern most portion of Hollywood Boulevard located in Hollywood), thence moving east along lat. 26°00′39″ N to a point that intersects a 15 nautical mile radius of Fort Lauderdale-Hollywood International Airport, thence moving counter-clockwise along the 15 nautical mile radius to a point that intersects lat. 26°10′03″ N, thence moving west along lat. 26°10′03″ N to the point of beginning.

* * * * *

Paragraph 6003 Subpart E—Class E Airspace Areas Designated as an Extension to a Class C Surface Area.

* * * * *

ASO FL E3 Fort Lauderdale, FL [Remove]

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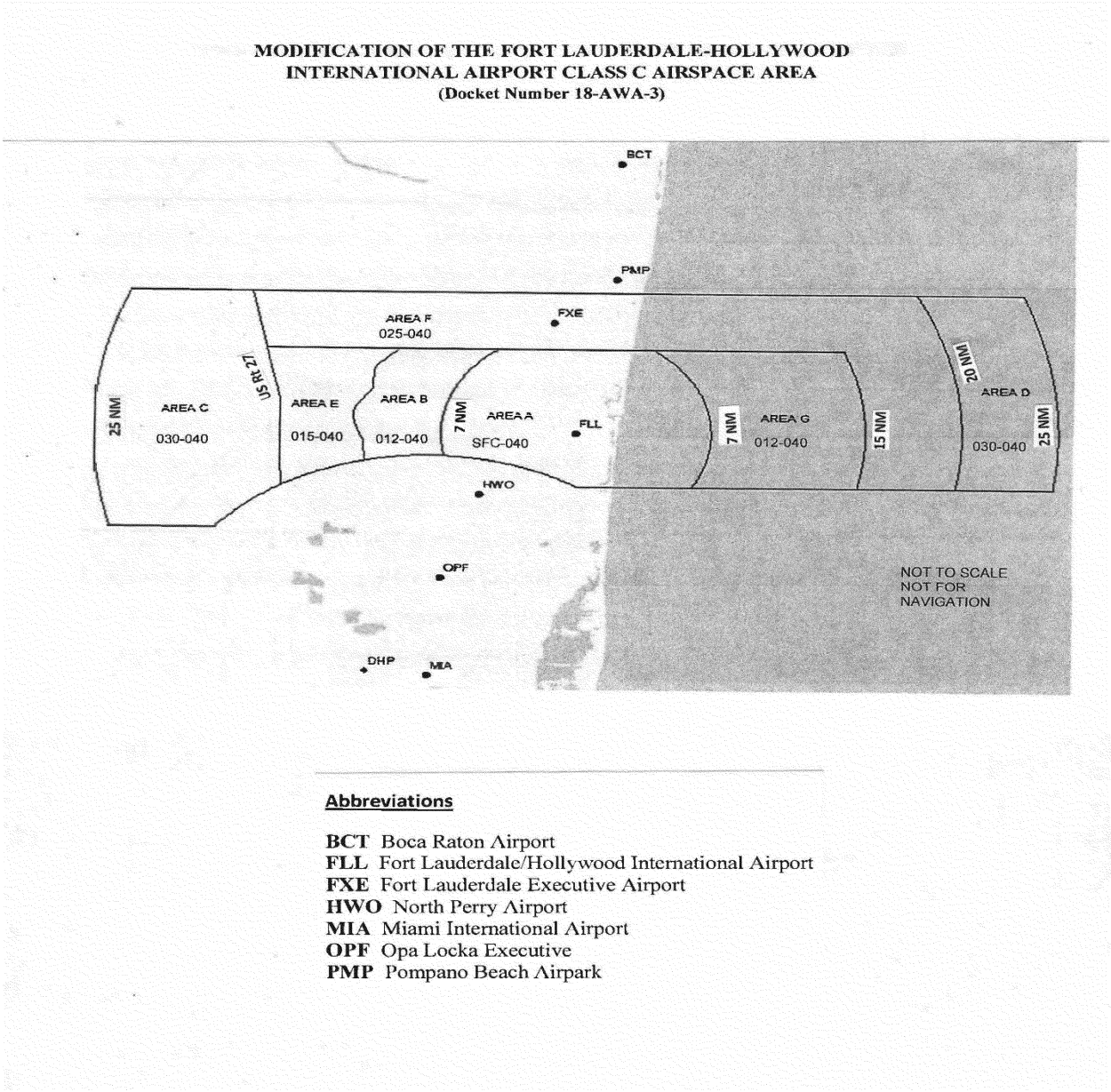

Issued in Washington, DC, on June 3, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–12301 Filed 6–9–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 232, 239, 240 and 249

[Release Nos. 33–11070; 34–95025; File Nos. S7–16–21 and S7–24–20]

RINs 3235–AM15 and 3235–AM78

Updating EDGAR Filing Requirements and Form 144 Filings

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are adopting rule and form amendments that mandate the electronic filing or submission of documents that are currently permitted electronic submissions, including the ''glossy'' annual report to security holders, notices of exempt solicitations and exempt preliminary roll-up communications, notices of sales of securities of certain issuers, filings of required reports by foreign private issuers and filings made by multilateral development banks on our Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system. We are also adopting rules that will mandate the electronic submission of the ''glossy'' annual report to security holders, the electronic filing of the certification made pursuant to the Exchange Act and its rules that a security has been approved by an exchange for listing and registration, the use of Inline eXtensible

Business Reporting Language (''Inline XBRL'') for the filing of the financial statements and accompanying notes to the financial statements required in the annual reports of employee stock purchase, savings and similar plans, and that will allow for the electronic submission of certain foreign language documents.

DATES:

Effective dates: The final rules are effective July 11, 2022.

Compliance dates: See Section II.F. for further information on transitioning to the final rules.

FOR FURTHER INFORMATION CONTACT: For questions concerning electronic filing requirements, please contact the Office of Rulemaking in the Division of Corporation Finance at (202) 551–3430. For technical questions concerning Inline XBRL, please contact the Office of Structured Disclosure in the Division of Economic and Risk Analysis at (202) 551–5494.

SUPPLEMENTARY INFORMATION: We are adopting amendments to:

Commission reference	CFR citation (17 CFR)
Regulation S–T:	§§ 232.11 through 232.903:
Rule 101	§ 232.101
Rule 306	§ 232.306
Rule 311	§ 232.311
Rule 405	§ 232.405
Securities Act of 1933 [1] (''Securities Act''):	
Rule 158	§ 230.158
Form SE	§ 239.64
Form 144	§ 239.144
Securities Exchange Act of 1934 [2] (''Exchange Act''):	
Rule 12d1–3	§ 240.12d1–3
Rule 14a–33(c)	§ 240.14a–3(c)
Rule 14c–33(b)	§ 240.14c–33(b)
Form 20–F	§ 249.220f
Form 40–F	§ 249.240f
Form 6–K	§ 249.306
Form 10–K	§ 249.310
Form 11–K	§ 249.311

In addition, we are adopting technical amendments to 17 CFR 239.40 (''Form F–10''), 17 CFR 239.42 (''Form F–X'') and 17 CFR 239.800 (''Form CB'') to remove certain outdated references in these forms. The rule text of these technical changes has been included with the adopted amendments.

Table of Contents

I. Introduction

Registrants and individuals submit most documents required to be filed or otherwise submitted to the Commission under the Federal securities laws in electronic format using the Commission's EDGAR system. EDGAR filings are available to the public on our website.[3] During the 2021 calendar year, electronic filers submitted approximately 916,000 filings on EDGAR. These electronic filings enable investors and other EDGAR users to access more quickly the information contained in registration statements, periodic reports, and other filings made with the Commission. In contrast, investors or other parties wishing to access and review paper filings must do so in person at the Commission's public reference room, or subscribe to a third-party information service that scans and distributes the information after a paper filing is made. As such, it can be time consuming and/or costly to obtain these filings in paper.[4]

In 1993, when the Commission began to mandate the electronic filing of documents on EDGAR, it adopted Regulation S–T and other rule and form amendments to implement the operational phase of EDGAR.[5] When the Commission adopted Regulation S–T it did not mandate electronic filing for all documents that are required to be filed under the Federal securities laws.[6] Currently, 17 CFR 232.101(a) (''Rule 101(a)'') mandates the electronic filing of over 400 different forms, schedules, reports, and applications. However, 17 CFR 232.101(b) (''Rule 101(b)'') identifies a number of documents that filers may choose (but are not required) to submit in electronic format via EDGAR and 17 CFR 232.101(c) (''Rule 101(c)'') identifies a number of documents that are not permitted to be filed in electronic format via EDGAR.

Since implementation of EDGAR, the Commission has increasingly sought to make the system more comprehensive by including more filings in the mandated electronic filing category. For example, in 2002, the Commission adopted amendments to require foreign private issuers and foreign governments to submit electronically via EDGAR many of the documents that they are required to file.[7] In 2003,[8] the Commission adopted rule and form amendments to mandate the electronic filing of Forms 3, 4, and 5.[9]

In furtherance of this objective, on November 4, 2021, we proposed amendments to update additional EDGAR filing requirements.[10] Specifically, we proposed rule and form amendments that would: (1) mandate the electronic filing or submission of most of the documents that are currently permitted electronic submissions under Rule 101(b) of Regulation S–T; (2) mandate the electronic submission of

[1] 15 U.S.C. 77a *et seq.*

[2] 15 U.S.C. 78a *et seq.*

[3] EDGAR filings are also available through some third-party information providers that obtain filings from EDGAR and disseminate them through their own websites.

[4] In this regard, the Commission's public reference room is currently closed in recognition of the health and safety concerns related to COVID–19. *See infra* note 14.

[5] *See Rulemaking for EDGAR System,* Release No. 33–6977 (Feb. 23, 1993) [58 FR 14628].

[6] As one example, the Commission recognized that, at that time, certain documents, due to the graphical content or the format of data contained in the document, and the limitations of information technology, could be difficult to convert into an electronic format.

[7] *See Mandated EDGAR Filing for Foreign Issuers,* Release No. 33–8099 (May 14, 2002) [67 FR 36678].

[8] *See Mandated Electronic Filing and website Posting for Forms 3, 4 and 5,* Release No. 33–8230 (May 7, 2003) [68 FR 25788].

[9] 17 CFR 249.103; 17 CFR 249.104; 17 CFR 232.105.

[10] See *Updating EDGAR Filing Requirements Release* No. 33–11005 (Nov. 4, 2021) [86 FR 66231] (''Updating EDGAR Proposing Release'').

the ''glossy'' annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to 15 U.S.C. 78l(d) (''Section 12(d) of the Exchange Act'') and 17 CFR 240.12d1–3 (''Exchange Act Rule 12d1–3'') that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial statements required by Form 11–K; and (5) allow for the electronic submission of certain foreign language documents.

In addition, on December 22, 2020, as part of a broader rule proposal relating to 17 CFR 230.144 (''Rule 144''), we proposed to mandate electronic filing of Form 144 with respect to securities issued by issuers subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act.[11]

We are now adopting amendments reflecting the above rule and form proposals, substantially as proposed. We believe that these changes will continue and further the Commission's ongoing efforts to make the EDGAR system more comprehensive by including more filings in the mandated electronic filing category.

II. Discussion of Final Amendments

A. Mandating the Electronic Filing or Submission of Permissible Electronic Submissions

Rule 101(b) of Regulation S–T currently permits filers to submit the following documents either electronically or in paper format:

- Annual reports to security holders (colloquially referred to as the ''glossy'' annual reports) furnished for the information of the Commission pursuant to 17 CFR 240.14a–3(c) (''Exchange Act Rule 14a–3(c)'') or 17 CFR 240.14c–3(b) (''Exchange Act Rule 14c–3(b)''), or under the requirements of Form 10–K for registrants reporting pursuant to 15 U.S.C. 78o(d) (''Section 15(d) of the Exchange Act''),[12] or by foreign private issuers on Form 6–K pursuant to Exchange Act Rules 17 CFR 240.13a–16 or 17 CFR 240.15d–16;
- Notices of exempt solicitation furnished for the information of the Commission pursuant to 17 CFR 240.14a–6(g), and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to 17 CFR 240.14a–6(n);
- Annual reports for employee benefit plans on 17 CFR 249.311 (''Form 11–K'');[13]
- Notice of proposed sale of securities on 17 CFR 239.144 (''Form 144'') where the issuer of the securities is subject to the reporting requirements under Section 13 or 15(d) of the Exchange Act;[14]
- Periodic reports and reports with respect to distributions of primary obligations filed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the European Bank for Reconstruction and Development (collectively, the ''Development Banks'');[15]
- Reports or other documents submitted by a foreign private issuer under cover of 17 CFR 249.306 (''Form 6–K'') that the foreign private issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's ''home country''), or under the rules of the home country exchange on which the foreign private issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has already been the subject of a Form 6–K or other Commission filing or submission on EDGAR; and
- Documents filed with the Commission pursuant to 15 U.S.C. 80a–32 (''Section 33 of the Investment Company Act'').[16]

1. Proposing Releases

In two separate rule proposals,[17] we proposed to amend Rule 101 of Regulation S–T to mandate the electronic filing of the documents listed above; all of which are currently permitted electronic filings under Rule 101(b).

In the Updating EDGAR Proposing Release, we proposed amendments that would remove the permitted electronic submissions listed in Rule 101(b)(1) through paragraph (b)(6), with the exception of current paragraph 101(b)(4) relating to Rule 144 filings, as well as paragraph (b)(9)[18] and add those items

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[11] *See* Rule 144 Holding Period and Form 144 Filings, Release No. 33–10991 (Dec. 22, 2020) [85 FR 79936] (''Rule 144 Proposing Release''). We are not taking any action concerning the remaining proposals in the Rule 144 Proposing Release at this time. In particular, we are not adopting the proposal to eliminate the Form 144 filing requirement for the sale of securities of companies that are not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. As such, affiliates relying on Rule 144 when the issuer of the securities is not subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act will still be required to file a notice of sale on Form 144 in paper form pursuant to Rule 101(c)(6) of Regulation S–T and Rule 144. Accordingly, we are adopting a conforming amendment to Rule 144 (new Rule 144(h)(2)) to reflect that non-reporting issuers will continue to file in paper.

[12] In 2016, the Division of Corporation Finance indicated that it would not object if a registrant posts an electronic version of its ''glossy'' annual report to security holders to its corporate website by the applicable date specified in Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b), or in Form 10–K, in lieu of mailing paper copies or submitting it on EDGAR if the report remains accessible for at least one year after posting. *See* Proxy Rules and Schedule 14A (Regarding Submission of Annual Reports to SEC Under Rules 14a–c(3) and 14c–3(b)), U.S. Sec. & Exch. Comm'n (Nov. 2, 2016), available under ''Compliance and Disclosure Interpretations—Proxy Rules and Schedule 14A'' at *https://www.sec.gov/divisions/corpfin/guidance/exchange-act-rule-14a3-14c3.htm* (''2016 Staff Guidance''). The 2016 Staff Guidance will be withdrawn upon the compliance date of amended Rule 101(a)(1)(xxiii) of Regulation S–T as it is superseded by the rule amendments. EDGAR will serve as a repository for electronic copies of the ''glossy'' annual reports to security holders, whether or not registrants post the reports on their corporate websites.

[13] Registrants who satisfy their Form 11–K filing obligations by filing an amendment to Form 10–K, as provided by 17 CFR 240.15d–21 (''Exchange Act Rule 15d–21'') Exchange Act Rule 15d–21, may also file these amendments in paper or electronic format.

[14] In April 2020, in recognition of several logistical difficulties related to the submission of Form 144 in paper pursuant to Rules 101(b)(4) or 101(c)(6) of Regulation S–T, as well as ongoing health and safety concerns related to COVID–19, the Division of Corporation Finance issued a statement announcing a temporary no-action position that it would not recommend enforcement action to the Commission if Forms 144 for the period from and including April 10, 2020 to June 30, 2020 were submitted as a complete PDF attachment and emailed to the Commission in lieu of filing the form in paper. Subsequently, on June 25, 2020, the Division of Corporation Finance indefinitely extended this statement from the period beginning on April 10, 2020. *See Division of Corporation Finance Statement Regarding Requirements for Form 144 Paper Filings in Light of COVID–19 Concerns,* U.S. Sec. & Exch. Comm'n (June 25, 2020), available at *https://www.sec.gov/corpfin/announcement/form-144-paper-filings-email-option-update.* The 2020 statement will be withdrawn upon the compliance date of amended Rules 144(h)(2) and 101(a)(1)(xxvi) of Regulation S–T as it is no longer necessary due to the rule amendments.

[15] Pursuant to rules adopted by the Commission, the Development Banks are required to file annual and quarterly reports with the Commission in connection with the distribution of primary obligations issued by the Development Banks. In addition, the Development Banks are required to file a distribution report with the Commission on or prior to the date on which any distribution of primary obligations are issued to the public in the United States. *See* 17 CFR 285–290.

[16] *See* Rule 101(b)(9) of Regulation S–T [17 CFR 232.101(b)(9)].

[17] *See* the Updating EDGAR Proposing Release, *supra* note 10 and the Rule 144 Proposing Release, *supra* note 11.

[18] *See in this regard* Electronic Submission of Applications for Orders under the Advisers Act and the Investment Company Act, Confidential Treatment Requests for Filings on Form 13F, and Form ADV–NR; Amendments to Form 13F Release No. 34–93518 (Nov. 4, 2021) [86 FR 64839] in which we proposed to update the filing requirements for certain Investment Company Act

Continued

to the list of mandated electronic submissions contained in Rule 101(a)(1) of Regulation S–T.[19]

In the Rule 144 Proposing Release,[20] we proposed to remove the permitted electronic submission of all Form 144 filings for the sale of securities of Exchange Act reporting companies in Rule 101(b)(4) of Regulation S–T and add that item to the list of mandated electronic submissions contained in Rule 101(a)(1) of Regulation S–T.[21] We also proposed to amend Rule 144(h)(1) to delete the requirement that an affiliate send one copy of the Form 144 notice to the principal exchange, if any, on which the restricted securities are admitted to trading, as this provision was designed for paper Form 144 filings. We proposed to provide a six-month transition period after the effective date of the amendments to Regulation S–T to give Form 144 paper filers who would be first-time electronic filers on EDGAR sufficient time to apply for access to file on EDGAR.

and Investment Advisor Act forms and applications.

[19] In addition to the proposed changes to Rules 101(a) and 101(b), in the Updating EDGAR Proposing Release we also proposed corresponding amendments to Rules 158, 306, 311, 405, 12d1–3, 14a–3 and 14c–3, as well as Forms 6–K, 10–K, 11–K, 20–F, and 40–F to implement these changes. We are also adopting the corresponding changes as proposed.

[20] Under Securities Act Rule 144(h), an affiliate who intends to resell restricted or control securities of the issuer in reliance upon Securities Act Rule 144 during any three-month period in a transaction that exceeds either 5,000 shares or has an aggregate sales price of more than $50,000 must file a Form 144 concurrently with either the placing of an order with a broker to execute the sale or the execution of a sale directly with a market maker. Rule 101(b) of Regulation S–T permits Form 144 to be filed electronically or in paper if the issuer of the securities is subject to Exchange Act reporting requirements. In calendar year 2021, approximately 30,000 Forms 144 were filed. Although the vast majority (approximately 99%, or 29,700) of these Form 144 filings can be made electronically on EDGAR (because the issuer of the securities is subject to Exchange Act reporting requirements), only 234 Form 144 filings were electronically filed on EDGAR. The remainder were filed in paper or as a PDF via email. If the issuer of the securities is not subject to Exchange Act reporting requirements, Rule 101(c)(6) of Regulation S–T requires Form 144 to be filed in paper. *See also supra* note 17.

[21] We also proposed minor changes to Form 144 to update the form to reflect these changes and to eliminate certain personally identifiable information (''PII'') and immaterial information fields that are unnecessary. Specifically, we proposed to delete the fields requiring the home address of the person for whose account the securities are to be sold and the IRS identification number of the issuer of the securities. For purposes of Form 144, we have determined that we can achieve our regulatory objectives without the PII. Furthermore, the IRS identification number of the issuer is redundant as this information is required to be disclosed on the cover page of registration statements and periodic reports and would be available through these forms. We are also adopting these changes as proposed.

Additionally, the Rule 144 Proposing Release noted that we would make Form 144 available online as a fillable document that could be used by filers.

1. Public Comments

We received eight comment letters on the Updating EDGAR Proposing Release. One was supportive of the mandate to make the glossy annual report a mandatory EDGAR filing; [22] two addressed the electronic filing of forms that were not part of the proposal; [23] one addressed substantive disclosure requirements not addressed in, and beyond the scope of, the proposal,[24] one addressed a filing process that was not proposed,[25] and one requested a longer comment period.[26] We did not receive any comments opposing this proposal.

We received twelve comment letters on the Rule 144 Proposing Release addressing the proposed amendment to mandate electronic filing of Form 144, most of which expressed support for mandating the electronic filing of Form 144. For example, several of these commenters stated that proposed amendments would allow for a more convenient and improved filing process.[27] A number of commenters noted that filing Form 144 in paper makes it difficult for investors and other users of the disclosures (such as researchers and other regulatory bodies) to access the information contained in these filings.[28]

[22] *See* letter dated Dec. 2, 2021 from Parker Smith.

[23] *See* letter dated Dec. 17, 2021 from Dorothy Donohue, Deputy General Counsel—Securities Regulation, Investment Company Institute and letter dated Dec. 17, 2021 from Martha Redding, Associate General Counsel, Assistant Secretary, NYSE Group, Inc.

[24] *See* letter dated Jan. 4, 2022 from Andrew MacInnes, BrilLiquid LLC.

[25] *See* letter dated Nov. 17, 2021 from Joseph Snyder.

[26] *See* letter dated Jan. 10, 2022 from Patrick McHenry, Ranking Member, House Committee on Financial Services, and Pat Toomey, Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs. Neither of the remaining two letters addressed mandating electronic filings. One noted that ''people everywhere deserve free and open markets,'' and another requested that the Commission ''shut down dark pools.''

[27] *See* letter dated Mar. 16, 2021 from the Basile Law Firm P.C., letter dated Feb. 15, 2021 from Hamilton & Associates Law Group, P.A. (''Hamilton''), letter dated Mar. 11, 2021 from Sydney Linnick (''Linnick''), letter dated Mar. 17, 2021 from Rachel Mullinax (''Mullinax''), and letter dated Mar. 17, 2021 from North American Securities Administrators Association, Inc. (''NASAA'').

[28] *See* letter dated Mar. 18, 2021 from the Council of Institutional Investors, letters from Hamilton, Linnick, Mullinax, NASAA, letter dated Mar. 10, 2021 from Alan D. Jagolinzer, Professor of Financial Accounting of the University of Cambridge's Judge Business School; Head of the Accounting Faculty Subject Group; and Co-Director of Cambridge Centre for Financial Reporting & Accountability, and letter dated Mar. 10, 2021 from David Larcker, Graduate School of Business, Stanford University, Director, Stanford Corporate Governance Research Initiative; Daniel Taylor, The Wharton School, University of Pennsylvania, Director, Wharton Forensic Analytics Lab; and Bradford Lynch, The Wharton School, University of Pennsylvania (''Prof. Larcker *et al.*'').

One commenter stated that the importance of the information contained in Form 144 is demonstrated by the activities of third party vendors that regularly visit the Commission's Reading Room to scan, digitize, and disseminate Forms 144 to clients that pay for the information.[29] This commenter stated the Commission's Form 144 paper filing regime has created a two-tiered disclosure system that makes public disclosure of Form 144 essentially only accessible to large institutional clients that have the resources pay for this information, but inaccessible to individual investors.[30]

Another commenter, although supportive of the goals of this proposal, expressed concern that the proposed amendments would present significant logistical challenges for broker-dealers that prepare and submit Form 144 filings on behalf of their clients and may result in firms deciding to cease providing such services.[31] This commenter stated that mandating the electronic filing of Form 144 will require firms to log-in and log-out of the SEC's system using a Form 144 filer's EDGAR credentials, ''which will be extremely time-consuming and labor-intensive'' given the number of Form 144 filings that this commenter indicated are filed by broker-dealers.[32] This commenter also stated that an electronic filing mandate would require a brokerage firm to develop and maintain processes to collect, securely store, and properly update all of the EDGAR access credentials for each of its clients that are required to file a Form 144. This commenter recommended, as an alternative, that the Commission adopt an approach that would allow brokerage firms to bulk file Forms 144 on a daily or every-other-business-day basis (or whatever time period the Commission considers appropriate) and that the Commission also provide a twelve-month transition period.[33]

2. Final Rules

After considering the public comments, we are adopting the

[29] *See* letter from Prof. Larcker *et al.*

[30] *Id.*

[31] *See* letter dated Mar. 22, 2021 from the Securities Industry and Financial Markets Association.

[32] *Id* (noting that, according to data from the Washington Service Bureau, dealers filed 20,864 Form 144 filings in 2020).

[33] *Id.*

amendments to mandate electronic filing as proposed, with the exception of the compliance date for the electronic filing of Form 144, which is discussed further in Section II.F, below. We believe that mandating the electronic filing of these documents will benefit investors and other users by making the information contained in these filings accessible to the public almost immediately after filing on EDGAR. It will thus enable investors, market participants, and other EDGAR users to retrieve and use the information in these documents promptly, as compared to a paper filing, facilitating their analysis of this information. The use of EDGAR will also facilitate efficient storage of this information, improve the Commission's ability to track and process filings, and modernize the Commission's records management process. Moreover, eliminating the permitted electronic submissions of documents that are filed or furnished pursuant to Rules 101(b)(1)–(3), (5), (6) and (9) will eliminate a paper option that as a practical matter is not used by the vast majority of registrants.[34]

In addition, Form 144 filers will benefit from the planned changes to make the form an online fillable document that would facilitate electronic filing. An online fillable form will enable the convenient input of information, and support the electronic assembly of such information and transmission to EDGAR, without requiring a Form 144 filer to purchase or maintain additional software or technology. The fillable form will be similar to other fillable forms that are currently available to file other Form-specific XML filings on EDGAR such as Forms D, 3, 4, and 5.[35] As such, the Form 144 data will be machine-readable and thus available for automated and efficient analysis.

We acknowledge the concerns voiced by one commenter about potential logistical challenges for brokers and dealers.[36] We note that EDGAR allows for bulk filing of forms, including forms for multiple different CIKs, simultaneously. As such, a single broker-dealer could bulk file Forms 144 simultaneously for multiple clients.[37] In addition, we are providing a longer transition period than what was proposed for Form 144 paper filers to file the forms electronically on EDGAR. Specifically, we are adopting a six-month transition period commencing from the date when the Commission adopts a version of the EDGAR Filer Manual that addresses the updates to Form 144.[38]

B. Mandating the Electronic Submission of the ''Glossy'' Annual Report to Security Holders

Exchange Act Rules 14a–3(c) and 14c–3(b) require registrants subject to these rules to furnish to the Commission, for its information, seven copies of their ''glossy'' annual report to security holders.[39] Form 10–K contains a similar provision that requires registrants that are required to file a Form 10–K pursuant to Section 15(d) of the Exchange Act to furnish to the Commission four copies of their ''glossy'' annual report to security holders.[40] In addition, foreign private issuers are often required to furnish to the Commission their ''glossy'' annual report to security holders in response to the requirements of Form 6–K.[41]

Rule 101(b)(1) of Regulation S–T permits all of these registrants to satisfy the above requirements by submitting to the Commission their ''glossy'' annual report to security holders in either paper or electronically on EDGAR. During the 2020 and 2021 calendar years, we received minimal paper submissions and very few electronic submissions of annual reports.[42]

We proposed to require registrants to submit to the Commission their ''glossy'' annual report to security holders via an electronic submission on EDGAR, in accordance with the EDGAR Filer Manual, by adding Rule 101(a)(1)(xxiii) of Regulation S–T and removing Rule 101(b)(1) of Regulation S–T.[43] Registrants would no longer be permitted to submit their ''glossy'' annual report to security holders to the Commission in paper.

We are now adopting the amendments as proposed. We believe the requirements to furnish these reports to the Commission in paper format under Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b) and Form 10–K are unnecessary. We also believe that, in addition to helping inform the Commission, investors will benefit from the ability to access electronic copies of the ''glossy'' annual reports to security holders on EDGAR.

Going forward, EDGAR will serve as a repository for electronic copies of the ''glossy'' annual reports to security holders, whether or not registrants decide to post the reports on their corporate websites.[44] An archive of electronic copies of the ''glossy'' annual reports to security holders will ensure long-term access to these reports in a centralized database available to the public and will avoid the burden for investors of having to search individual corporate websites and other resources for this information. In addition, electronic submission of the ''glossy'' annual report to security holders should capture the graphics, styles of presentation, and prominence of disclosures (including text size, placement, color, and offset, as applicable) contained in the reports.[45]

[34] For example, in calendar years 2020 and 2021 combined, there were more than 48,000 Forms 6-Ks filed electronically and only two filed in paper. Similarly, for the same two-year period, there were approximately 20,000 Forms 11–K filed electronically and only 22 filed in paper. *See also infra* note 42.

[35] We are also adopting the proposed amendment to Rule 144(h)(1) to delete the requirement that an affiliate send one copy of the Form 144 notice to the principal exchange, if any, on which the restricted securities are admitted to trading. This requirement was designed for paper Form 144 filings and will no longer be necessary now that we are mandating the electronic filing of Form 144.

[36] *See supra* note 31.

[37] In addition, the Commission recently issued a request for comment regarding potential technical changes to EDGAR filer access and filer account management processes. The request for comment may be relevant to the commenter's concerns about managing the EDGAR accounts of multiple Form 144 filers, for which broker-dealers would provide filing services. *See* Request for Comment on Potential Technical Changes to EDGAR Filer Access and Filer Account Management Processes, Release No. 34–93204 (Sept. 30, 2021) [86 FR 55029]; *see also https://www.sec.gov/edgar/filer-information/edgar-next.*

[38] *See infra* Section II.F.

[39] In 1967, the Commission amended Exchange Act Rules 14a–3(c) and 14c–3(b) to require registrants to furnish to the Commission, solely for its information, seven copies of their ''glossy'' annual report to security holders. *See* Proxy and Stockholder Information Rules, Release No. 34–8029 (Jan. 24, 1967) [32 FR 1035]. Prior to these amendments, registrants were required to furnish to the Commission four copies of their ''glossy'' annual report to security holders.

[40] *See* Form 10–K, Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act. Form 10–K also currently requires registrants required to file a Form 10–K pursuant to Section 15(d) of the Exchange Act to furnish to the Commission every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant's security holders with respect to any annual or other meeting of security holders.

[41] *See supra* Section II.A.

[42] We received 23 and 18 electronic submissions of glossy annual reports in calendar years 2020 and 2021, respectively. The staff no longer tallies the number of these reports submitted in paper format. We believe, however, that the number is minimal as issuers typically avail themselves of the 2016 Staff Guidance. *See supra* note 12 (discussing the 2016 Staff Guidance regarding a registrant posting an electronic version of its ''glossy'' annual report to security holders to its corporate website in lieu of mailing paper copies or submitting it on EDGAR).

[43] We also proposed corresponding amendments to Rules 14a–3(c), 14c–3(b), and 158(b)(2), as well as Forms 20–F, 6–K and 10–K to implement these changes and are adopting these changes as proposed.

[44] *See supra* note 12 (these amendments will supersede the 2016 Staff Guidance, which will be withdrawn).

[45] Under the amendments, the ''glossy'' annual report to security holders should not be re-

Continued

In addition to deleting Rule 101(b)(1) of Regulation S–T, we are also amending Exchange Act Rule 14a–3(c), Exchange Act Rule 14c–3(b), and Form 10–K to eliminate the option for registrants to furnish to the Commission paper copies of their ''glossy'' annual report to security holders. Instead, we are requiring the electronic submission of these reports in accordance with the EDGAR Filer Manual. We are also amending Securities Act Rule 158(b)(2) to replace the reference to the furnishing of copies of the ''glossy'' annual report to security holders to the Commission with a reference to furnishing the report to the Commission in accordance with the EDGAR Filer Manual.[46]

Notwithstanding these amendments, our proxy rules will continue to require certain registrants subject to the proxy rules to publish their ''glossy'' annual report to security holders on a website other than the Commission's website.[47]

With respect to foreign private issuers, we are similarly amending Form 6–K to remove references to the paper submission to the Commission of a ''glossy'' annual report to security holders and instead will require foreign private issuers to satisfy their Form 6–K requirement to furnish such a report by submitting the report electronically on EDGAR, in accordance with the EDGAR Filer Manual.

C. Requiring the Electronic Filing of Certifications of Approval of Exchange Listing

For securities to be listed on an exchange, Exchange Act Rule 12d1–3 requires the national securities exchange to file a certification with the Commission that the security has been approved by the exchange for listing and registration pursuant to Section 12(d) of the Exchange Act.[48] The certification must specify (1) the approval of the exchange for listing and registration; (2) the title of the security so approved; (3) the date of filing with the exchange of the application for registration and of any amendments thereto; and (4) any conditions imposed on such certification.

This certification is not included in any of the EDGAR filing requirements or exceptions in Rule 101 of Regulation S–T. In December 2017, the Commission modified EDGAR to permit the voluntary electronic submission of the certifications on EDGAR.[49] During the 2020 calendar year, the Commission received 1,184 certifications from national securities exchanges. All of the certifications were submitted electronically, except one. In light of the overwhelming use of this option, we proposed to amend Exchange Act Rule 12d1–3 and Rule 101(a) of Regulation S–T to mandate the electronic filing of these certifications. We received no comments on this aspect of the proposed amendments. We are adopting the amendments as proposed.[50]

D. Mandating the Use of Inline XBRL for the Filing of Financial Statements and Accompanying Notes to the Financial Statements Required by Form 11–K

In 2009, the Commission adopted rules requiring operating companies to submit the information from the financial statements included in certain registration statements and periodic and current reports in a structured, machine-readable data language using XBRL.[51] In 2018, the Commission adopted modifications to these requirements by requiring issuers to use Inline XBRL, which is both machine-readable and human-readable, to reduce the time and effort associated with preparing XBRL filings and improve the quality and usability of XBRL data for investors.[52] Since then, the Commission has completed phasing-in the adopted Inline XBRL requirements and has expanded the scope of disclosures that must be tagged using Inline XBRL.[53]

Form 11–K is the form used for annual reports of employee stock purchase, savings and similar plans that are filed with the Commission pursuant to Section 15(d) of the Exchange Act. Currently, annual reports on Form 11–K are not subject to structured data reporting requirements. Accordingly, the financial statements required by Form 11–K are not machine-readable. These financial statements, which must be prepared in accordance with the applicable provisions of Article 6A of Regulation S–X (17 CFR 210.6A–01–.6A–05), include:

- An audited statement of financial condition as of the end of the latest two fiscal years of the plan (or such lesser period as the plan has been in existence); and
- An audited statement of comprehensive income (either in a single continuous financial statement or in two separate but consecutive financial statements; or a statement of net income if there was no other comprehensive income) and changes in plan equity for each of the latest three fiscal years of the plan (or such lesser period as the plan has been in existence.

Form 11–K also provides filers with the option to file plan financial statements and schedules prepared in accordance with the financial reporting requirements of 29 U.S.C. 18 *et seq.* (the ''Employee Retirement Income Security Act of 1974'' or ''ERISA'').[54] When filers elect this option, plan financial statements are embedded within the filing or filed as exhibits in a non-structured format.[55]

We proposed to require registrants to present the financial information required by Form 11–K, whether prepared in accordance with Regulation S–X or the financial reporting requirements of ERISA, in Inline XBRL.[56] Under the proposed amendments the tagging requirement for

formatted, re-sized, or otherwise re-designed for purposes of the submission on EDGAR. Currently, the only format that EDGAR supports is portable data format (''PDF''). If EDGAR is upgraded to accommodate other formats appropriate for electronic filing of the ''glossy'' annual report, the Commission will communicate the upgrade by adopting an updated EDGAR Filer Manual that supports such formats.

[46] *See* 17 CFR 230.158(b)(2) (''Securities Act Rule 158(b)(2)'').

[47] *See* Exchange Act Rule 14a–16(b) [17 CFR 240.14a–16]; *see also* Shareholder Choice Regarding Proxy Materials, Exchange Act Release No. 34–56135 (July 26, 2007) [72 FR 42222].

[48] Exchange Act Rule 12d1–3(c) specifies that the certification may be made by telegram but in such case must be confirmed in writing, and all certifications in writing and all amendments thereto must be filed with the Commission in duplicate.

[49] Among other things, EDGAR Release 17.4 updated EDGAR to allow, but not require, national securities exchanges to submit a new certification form type on EDGAR to evidence the approval of securities for listing on an exchange. *See* Adoption of Updated EDGAR Filer Manual, Release No. 33–10444 (Dec. 8, 2017) [83 FR 2369]. Prior to the 2017 modification, we received only paper certifications that a security has been approved for listing and registration.

[50] Amended Rule 101(a) of Regulation S–T will require the filing of the certification electronically as is currently permitted.

[51] *See* Interactive Data to Improve Financial Reporting, Securities Act Release No. 9002 (Jan. 30, 2009) [74 FR 6776 2009)] (requiring submission of an Interactive Data File to the Commission in exhibits to such reports); see also Securities Act Release No. 9002A (Apr. 1, 2009) [74 FR 15666)].

[52] See Inline XBRL Filing of Tagged Data, Securities Act Release No. 10514 (June 28, 2018) [83 FR 40846, 40847] (''Inline XBRL Adopting Release''). Inline XBRL allows filers to embed XBRL data directly into an HTML document, eliminating the need to tag a copy of the information in a separate XBRL exhibit. Inline XBRL is both human-readable and machine-readable for purposes of validation, aggregation, and analysis. *Id* at 40851.

[53] *See, e.g.,* Filing Fee Disclosure and Payment Methods Modernization, Release No. 33–10997 (Oct. 13, 2021) [86 FR 770166].

[54] 29 U.S.C. 18 *et seq.* Plan financial statements required under ERISA are prepared on Form 5500. *See* Form 5500, Annual Return/Report of Employee Benefit Plan, available at *https://www.dol.gov/sites/dolgov/files/EBSA/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500/2020-form-5500.pdf.*

[55] Under paragraph 4 of Required Information of Form 11–K, plans may include all or a portion of Form 5500 into the Form 11–K filing with the Commission.

[56] *See supra* Note 13. The proposed amendments would also apply to financial statements required by Form 11–K that are filed in accordance with Exchange Act Rule 15d–21.

annual reports on Form 11–K would mirror the Inline XBRL requirements for financial information contained in annual reports on Forms 10–K, 20–F, and 40–F. As such, every data point in the financial statements required by Form 11–K would be tagged in Inline XBRL. Further, where there are narrative disclosures (*e.g.,* notes to the financial statements), registrants would be required, like filers of Forms 10–K, 20–F, and 40–F, to apply block tags to the narrative disclosures and detailed tags to any numeric amounts presented in the narrative text.

We received no comments on this aspect of the proposal and are adopting these amendments as proposed.[57] Structuring this data will enable analytical tools to extract tagged information in an efficient, automated manner. As a result, plan participants, analysts, and the Commission will be better able to access, organize, and evaluate the information presented by filers. As amended, the tagging requirement will be specified in the Instructions to Form 11–K and in Rule 405 of Regulation S–T.[58]

E. Electronic Submission of Certain Foreign Language Documents

Generally, all filings and submissions to the Commission must be in English.[59] Rule 306(a) of Regulation S–T prohibits the electronic filing or submission of a document that is in a foreign language.[60] If an electronic filing or submission requires the inclusion of a foreign language document, the document must either be translated into, or (if it is an exhibit or attachment to a filing or submission) summarized in English and submitted in electronic format.[61]

Currently, Rules 306(b) and (c) of Regulation S–T govern the submission of a foreign language document by an electronic filer.[62] Rule 306(b) permits the paper submission of an unabridged foreign language document if an English translation or summary of that document has already been provided in an electronic filing or submission. Rule 306(c) requires the paper submission of a foreign language version of a foreign government or its political subdivision's latest annual budget if an English translation of the budget is unavailable and such an exhibit is required by Form 18 or Form 18–K. We proposed to amend Rule 306 to eliminate paper submission of the above two types of foreign language documents.[63] Instead, these documents would be required to be submitted electronically in an appropriate format that EDGAR supports, currently as PDFs.[64]

We did not receive any comments on these amendments and are now adopting these amendments as proposed. We believe that these changes will reduce the number of paper submissions we receive and increase the public's access to these foreign language documents.

F. Transition Periods

We are adopting the proposed six-month transition period after the effective date of the amendments for when filers will be required to file or submit electronically ''glossy'' annual reports to security holders (in PDF), notices of exempt solicitations and exempt preliminary roll-up communications, annual reports for employee benefit plans on Form 11–K, periodic reports and reports with respect to distributions of primary obligations filed by the Development Banks, reports or other documents submitted by a foreign private issuer under cover of Form 6–K, certain foreign language documents (in PDF), and certifications made pursuant to the Exchange Act and its rules that a security has been approved by an exchange for listing and registration. We believe that this transition period will provide registrants with sufficient time to prepare to submit these documents electronically in accordance with the EDGAR Filer Manual, including providing paper filers who would be first-time EDGAR filers adequate time to apply for access to file on EDGAR on behalf of their clients and/or apply for a filing agent CIK in order to make electronic filings.

In response to the comment requesting a longer transition period to allow a firm to collect EDGAR filing credentials from its Form 144 filing clients and to establish adequate new processes governing the filing of the forms and the maintenance of EDGAR credentials,[65] we are adopting a longer transition period than what we proposed for when filers will be required to file Forms 144 on EDGAR for sales of securities of issuers subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act. Specifically, the requirement to file Form 144 electronically on EDGAR will commence six months from the date of publication in the **Federal Register** of the Commission release that adopts the version of the EDGAR Filer Manual addressing updates to Form 144. We currently expect that the Commission would consider adoption of the relevant version of the EDGAR Filer Manual addressing updates to Form 144 in September 2022, and publication in the **Federal Register** would occur thereafter. We believe this extended transition period will provide sufficient time for broker-dealers to transition clients for whom they prepare and submit Form 144 filings, including time for those clients who do not currently have access to EDGAR to apply for EDGAR access.

We are providing Form 11–K filers a three-year transition period after the effective date of the amendments in which to comply with the requirement to submit the financial statements and accompanying notes to the financial statements required by Form 11–K in Inline XBRL. We believe that a three-year transition period will provide employee stock purchase, savings and similar plans with sufficient time to prepare for Inline XBRL submissions taking into account that such registrants are not currently obligated to submit any information in XBRL or Inline XBRL.[66]

III. Other Matters

If any of the provisions of these rules, or the application thereof to any person

[57] As discussed in Section II.A., *supra,* we are also mandating the electronic submission of Form 11–K.

[58] We are not adopting the proposed changes to the definition of Related Official Filing in Rule 11 of Regulation S–T. We have determined that it is not necessary to change that definition, as the amendments to Rule 405 of Regulation S–T that we are adopting are sufficient to reflect this new requirement.

[59] *See* 17 CFR 230.403; 17 CFR 240.12b–12; and Rule 306 of Regulation S–T.

[60] Rule 306(d) of Regulation S–T provides for one exception to Rule 306(a) and allows for the electronic filing of certain documents that contain both French and English by Canadian issuers [17 CFR 232.306(d)].

[61] *See* 17 CFR 230.403(c); 17 CFR 240.12b–12(d); and 17 CFR 232.306(a).

[62] Currently, electronic filers may not submit these untranslated foreign language documents in electronic format. 17 CFR 232.101(c)(8) (''Rule 101(c)(8) of Regulation S–T'') states that documents and symbols in a foreign language shall not be submitted in electronic format and, thus, may only be submitted in paper.

[63] We also proposed to amend Rule 311 of Regulation S-T and Form SE to clarify that these two types of foreign language documents may no longer be submitted in paper under the cover of Form SE. We are adopting these amendments as proposed.

[64] We similarly proposed to remove and reserve Rule 101(c)(8) of Regulation S–T. As noted above, Rule 101(c)(8) prohibits the electronic submission of documents and symbols in a foreign language. We are also adopting this amendment as proposed. We note in this regard that even with the removal of this prohibition, Rule 306(a) of Regulation S–T will still generally require all electronic filings and submissions to be in English.

[65] *See supra* note 31.

[66] In this regard, the three-year transition period is consistent with the transition times provided in other rules where registrants would be newly obligated to tag financial information in Inline XBRL. *See, e.g.,* Inline XBRL Filing of Tagged Data, Securities Act Release No. 10514 (June 28, 2018) [83 FR 40846, 40847].

or circumstance, is held to be invalid, such invalidity shall not affect other provisions or application of such provisions to other persons or circumstances that can be given effect without the invalid provision or application.

Pursuant to the Congressional Review Act, the Office of Information and Regulatory Affairs has designated these rules not a ''major rule,'' as defined by 5 U.S.C. 804(2).

IV. Economic Analysis

A. Introduction

The Commission is adopting rule and form amendments to update filing requirements under the EDGAR system. We are mindful of the costs imposed by, and the benefits obtained from, our rules and the amendments.[67] The discussion below addresses the potential economic effects of the amendments. These effects include the likely benefits and costs of the amendments and reasonable alternatives thereto, as well as any potential effects on efficiency, competition, and capital formation. We attempt to quantify these economic effects whenever possible; however, due to data limitations, we are unable to do so in many cases. For example, we are unable to quantify the value to the public of being able to more quickly access a document on EDGAR compared to accessing it on paper. When we cannot provide a quantitative assessment, we provide a qualitative discussion of the economic effects instead.

The Commission is adopting these rule and form amendments to facilitate the efficient submission of documents to the Commission; to reduce burdens and inefficiencies associated with the filing, dissemination, storage, and retrieval of non-electronic and paper submissions; to allow for quicker public access to information; to improve the Commission's ability to track and process such filings; and to modernize the Commission's records management processes.

The rule and form amendments would:

- Mandate the electronic filing of several documents that are currently permitted electronic submissions under Regulation S–T, including all filings on Form 6–K and filings made by Development Banks;
- Mandate that certain registrants electronically file their ''glossy'' annual report to security holders;
- Mandate the electronic filing of the certification made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration;
- Mandate the electronic filing of Form 144 and remove the requirement that an affiliate send one copy of the Form 144 notice to the principal exchange, if any, on which the restricted securities are admitted to trading.
- Mandate the use of the Inline XBRL structured data language for annual financial statements and schedules for employee benefit plans required by Form 11–K; and
- Allow for the electronic submission format of certain foreign language documents and remove the option to submit these documents in paper.

B. Economic Baseline

The economic baseline, from which we measure the likely economic effects of the amendments, reflects current regulatory practice as it pertains to the method of submission to the Commission of certain forms and documents that currently may be, but are not required to be, submitted to the Commission via EDGAR.

Filers currently have the option to submit the following documents electronically via EDGAR: Annual reports to security holders furnished for the information of the Commission;[68] notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(g) and notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(n); annual reports for employee benefit plans on Form 11–K; Form 144 for sales of securities of issuers subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act; certain reports from Development Banks; reports or other documents submitted by a foreign private issuer under cover of Form 6–K; documents filed with the Commission pursuant to Section 33 of the Investment Company Act; and certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration. In addition, annual reports for employee benefit plans on Form 11–K currently are not required to be submitted using the Inline XBRL structured data language.

For certain forms with an electronic filing option via EDGAR, a large percentage of filers use that option. Indeed, in Calendar Year (CY) 2021, the Commission received over 25,000 submissions combined of the following documents: Form 6–K, notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a–6(g), and annual reports on Form 11–K. For forms 6–K and 11–K, more than 99 percent of submissions were filed electronically on EDGAR, even though filers had the option to submit these documents in non-electronic format. Likewise, in CY 2021 nearly all of the certifications filed by an exchange pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3, and all documents filed pursuant to Section 33 of the Investment Company Act were submitted electronically on EDGAR, even though these documents could have been submitted in non-electronic format.

In contrast, for two of the types of forms, a much smaller percentage of filers currently submit electronically via EDGAR. In CY 2021, Development Banks electronically filed on EDGAR just 46 reports (34 percent).[69] In CY 2021 Form 144 filers electronically submitted 234 filings (0.8 percent) on EDGAR. Similarly, only a minimal number of ''glossy'' annual reports to security holders were submitted to the Commission in 2021; of those, very few were submitted electronically to the Commission, and even fewer were filed in paper format.[70]

Existing Commission rules permit Form 144 to be submitted either electronically via EDGAR or in paper form only for forms reporting proposed sales of reporting issuers. In 2020, in response to COVID–19 conditions, Commission staff announced a no-action position that temporarily affords Form 144 filers a third option to submit paper Form 144s via email.[71] In CY 2021, using a full year of data following the announcement, the Commission received 30,021 Form 144 submissions: 52.9 percent in paper form, 46.3 percent electronically via email, and 0.8 percent electronically on EDGAR. Thus, while when given the option, many paper

[67] Section 2(b) of the Securities Act [15 U.S.C. 77b(b)] and Section 3(f) of the Exchange Act [15 U.S.C. 78c(f)] require us, when engaging in rulemaking that requires us to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation. In addition, Section 23(a)(2) of the Exchange Act [15 U.S.C. 78w(a)(2)] requires us to consider the effects on competition of any rules that the Commission adopts under the Exchange Act and prohibits the Commission from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

[68] *See supra* note 12.

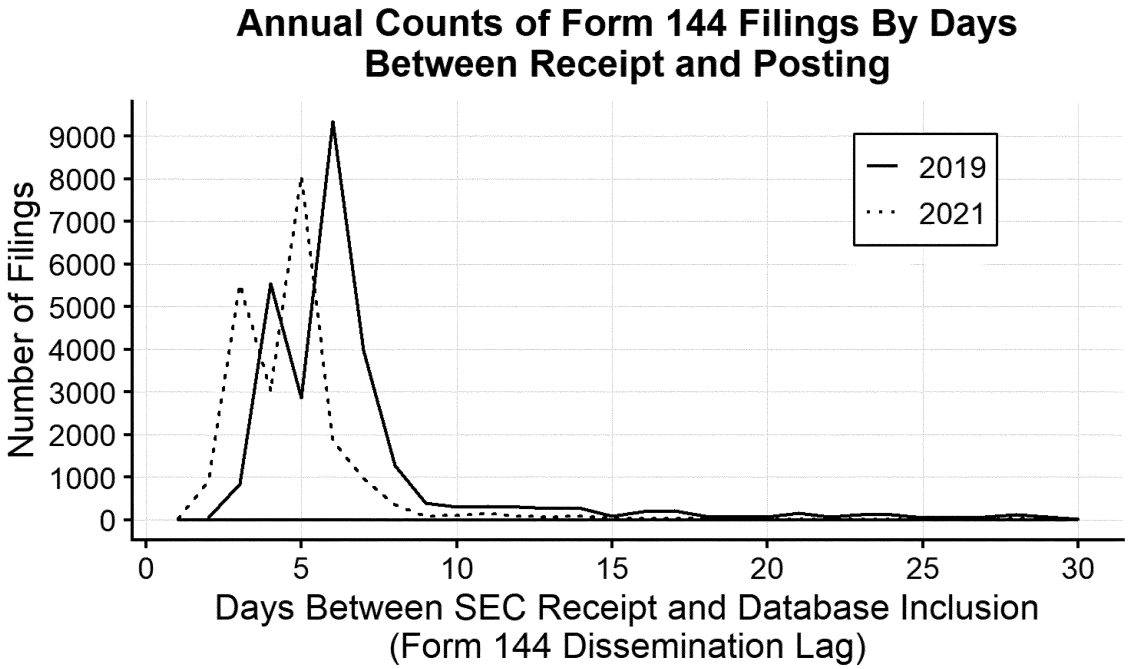
[69] Among the Development Banks, there were six unique filers.

[70] *See supra* note 42.

[71] *See supra* note 14.

filers have elected to submit their forms via email, very few filers have opted to file Form 144 electronically on EDGAR. Figure 1 examines the lag between when the Commission received a Form 144 filing and when it appeared in a commercial database, a proxy for the speed of dissemination to the public, for 2019 and 2021.[72] More specifically, the figure displays frequency counts of this dissemination lag (in days) for 2019 and 2021, before and after the announcement that filers could submit Form 144 via email. After the Commission allowed Form 144 to be submitted by email, the dissemination lag shortened (a leftward shift in the count distribution) by 1 day (16 percent) for the median submission, suggesting shifting away from the submission of paper Form 144 submissions improves the speed of dissemination. Electronic filings on EDGAR would likely further reduce the dissemination lag in Form 144 filings as they would be made public more quickly relative to the processing of electronic PDFs by third-party data providers.[73]

Figure 1.



For Form 144 filers, it is our understanding that the majority of affected filers currently prepare and file these forms individually or with the assistance of a broker or personal counsel.[74] As the majority of Form 144 filings are currently paper or email filings, most filers would have to modify their processes for submitting their Form 144 filings under the amendments. Based on past filings, we estimate that approximately 12,250 filers would be required to switch to electronic filings on EDGAR.[75]

Finally, for Commission staff, receiving and processing paper or email submissions is often more time intensive than processing electronic submissions on EDGAR. When the Commission receives a paper or email submission, the document usually requires several manual steps, involving staff in various offices and divisions to process and retain the documents for recordkeeping purposes. As less than one percent of all Form 144 submissions per year are filed electronically on EDGAR, the amended rules will likely increase significantly the volume of Form 144 filings made electronically on EDGAR and thus will reduce staff processing time.[76]

C. Economic Effects

This section discusses the benefits and costs of the rule and form amendments, as well as their potential effects on efficiency, competition, and capital formation. Some of the amendments reflect current practice,[77] so they will likely not have significant economic effects. In addition, where certain benefits or costs of electronic filing apply to multiple amendments,

[72] The chart does not include 2020 as financial market conditions and broader logistical difficulties surrounding COVID–19 pandemic may be a confounding factor for 2020 data. Furthermore, comparing a full year of data for 2021 relative to 2019 means that seasonality effects do not affect our estimates. In contrast, estimates that compare data before and after the April 2020 Commission announcement that filers could submit Form 144 via email may be correlated with seasonality effects.

[73] Based on Form 144 filings accessed via Thomson Reuters Insiders Data with the field ''SEC Receipt'' dated in 2019 or 2021.

[74] *See* letter from Jesse Brill (dated Dec. 18, 2013), available at *https://www.sec.gov/rules/petitions/2013/petn4-671.pdf; see also* letter dated Mar. 22, 2021 from the Securities Industry and Financial Markets Association.

[75] These estimates assume that filers of Form 144 submissions in our data are not also affiliates of other issuers. Because we lack data on the holdings of filers in securities of issuers other than those disclosed in the Form 144, we are unable to identify any filers that are such affiliates.

[76] A rate of change based on the current one percent EDGAR submission rate may slightly overestimate the changes in volume. Further, based on the observed EDGAR filing behavior of affiliates who use an issuer's existing access to EDGAR, the number of new Form IDs required to be processed could be reduced, but would not otherwise affect the increase in submission volume.

[77] For example, certain amendments that would mandate electronic filings for specific documents, like listing certifications, that are currently largely submitted electronically.

we discuss those benefits or costs together instead of repeating such discussion for each amendment.

We recognize that the potential costs and benefits of electronic filing are sensitive to various assumptions, including the number of affected filers; the time burden of filing using EDGAR, including the type and cost of staff used, if any; and printing and mailing costs incurred under current rules. The economic effects on individual filers may vary across all filers depending on variables such as filer size, number of filings submitted, existing filing practices (*e.g.,* current reliance on electronic document preparation; current experience with using EDGAR; use of in-house staff, brokers, or outside counsel for filing; number, types, and cost of in-house staff involved in paper filing; actual hours and printing and mailing costs required for paper filings). They may also vary depending on the amount of time required for filers to be trained in the use of EDGAR and any required related processes, and the amount of time to resolve any technical issues related to electronic filing on EDGAR.

1. Benefits

a. Electronic Submission of Form 6–K, Notices of Exempt Solicitation, Notices of Exempt Preliminary Roll-Up, Annual Reports on Form 11–K, Form 144, Development Bank Reports, Certifications of Approval of Exchange Listing, and Certain Foreign Language Documents

Currently, filers have the option to electronically submit in EDGAR, among other things, documents under cover of Form 6–K, notices of exempt solicitation furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(g), notices of exempt preliminary roll-up communications furnished for the information of the Commission pursuant to Exchange Act Rule 14a–6(n), annual reports for employee benefit plans on Form 11–K, Form 144 for securities of reporting issuers, periodic reports and reports with respect to distributions of primary obligations from Development Banks, certifications made pursuant to Section 12(d) of the Exchange Act and Exchange Act Rule 12d1–3 that a security has been approved by an exchange for listing and registration, and documents filed with the Commission pursuant to Section 33 of the Investment Company Act. The amendments would mandate the electronic submission in EDGAR of all of these documents to the Commission. In addition, certain foreign language documents currently are filed in paper format, but would be filed electronically under the amendments. There are several benefits to investors, filers, and the Commission of electronic submissions in EDGAR, relative to current submission methods.

Electronic submissions on EDGAR will benefit the users of the information because the submissions, whether on the Commission's website or through third-party websites, are posted faster compared to non-EDGAR submissions. Thus, the public may be able to find and review a filing more quickly, as a result of the amendments, than they are able to access paper filings. In addition, the costs associated with obtaining documents filed electronically on EDGAR will likely be reduced for those investors who currently access paper documents via third-party entities.

To the extent that these documents inform investors' decisions, this reduction in search costs may allow investors to incorporate more information or make quicker decisions.[78] Further, the use of an online fillable form for Form 144 will benefit investors and other data users by standardizing the inputted data into a structured, machine-readable custom XML format, making it easier to extract and process that data.

Electronic filings on EDGAR also increase the likelihood that the Commission receives documents promptly by limiting the possibility and risk of delay (*e.g.,* a document getting lost in the mail). An increase in the certainty and timeliness of submissions ensures that the EDGAR system accurately reflects the status of submissions to the Commission.

In addition, after initial transition costs, if any, filers are expected to broadly benefit from the amendments. Specifically, filers are expected to realize direct benefits in the form of reduced time required to file forms electronically on EDGAR, compared to a paper filing, and avoid copying and mailing expenses. For example, the use of a fillable Form 144 on EDGAR will enable the convenient input of information and support the electronic assembly of such information and transmission to EDGAR, without requiring a Form 144 filer to purchase or maintain additional software or technology, thus minimizing compliance costs. This modification of the data format language of Form 144 would also benefit data users by standardizing the inputted data into a structured, machine-readable custom XML-based format data language specific to Form 144, thus making it easier to extract and process that data.

Filers who make multiple submissions are likely to benefit the most. Electronic filing using EDGAR will make the filing process more efficient and less costly for filers because it will assure timely receipt of the filing (*e.g.,* filers would have no reason to pay for premium services such as delivery confirmation).[79] Furthermore, electronic submissions allow filers to produce and submit documents more easily during disruptive events—such as the COVID–19 pandemic—if their physical work facilities are inaccessible.

Electronic submissions likewise increase efficiencies in record management and maintenance as well as compliance with the Commission's record keeping requirements as electronic submissions are easier to store, access, search, and track. A reduction in search costs related to electronic submissions may improve regulatory oversight.

Overall, for the documents currently submitted primarily electronically on EDGAR, the amendments would likely only yield incremental benefits for investors, filers, and Commission staff and would likely result in small aggregate economic effects. The aggregate economic effects would likely be greater with respect to forms filed by Development Banks and Form 144, as fewer of those are currently filed on EDGAR.

b. ''Glossy'' Annual Reports to Security Holders

The amendments also mandate that certain registrants electronically file their ''glossy'' annual reports to security holders. This could result in several benefits for investors, filers, and the Commission.

[78] The format requirement for electronic filings on EDGAR under the amendments would be dictated by the EDGAR Filer Manual, which allows for HTML or ASCII submissions subject to certain exceptions. *See* EDGAR Filer Manual (Volume II) version 61 (Mar. 2022), at 2.1 and 5.2. For select submissions, the EDGAR Filer Manual accepts PDF format. *See* EDGAR Filer Manual (Volume II) version 61 (Mar. 2022), at 5.2.3. The revised EDGAR Filer Manual will include foreign language documents and certifications that a security has been approved by an exchange for listing and registration among the list of PDF submissions. The benefits and costs discussed in this section with respect to electronic filings instead of the current paper or email submissions are those that we would expect to be realized from HTML, ASCII, or PDF submissions on EDGAR. These benefits and costs substantially arise to the same extent regardless of whether the filer uses the ASCII, HTML, or PDF format. All three formats are widely used, and none of them requires significant special expertise for their preparation, submission, or intake.

[79] The amendments also benefit filers by avoiding uncertainty about how to comply with paper filing obligations in events similar to the current COVID–19 pandemic.

First, the amendments would ensure that investors have long-term access to ''glossy'' annual reports to security holders in a centralized location. Current rules do not require the preservation of these reports in a centralized location. To the extent that registrants are currently posting these reports on their websites consistent with the 2016 Staff Guidance, these registrants could remove these reports from their firm websites after one year (*e.g.,* at the registrant's discretion or due to registrant failures, mergers, etc.). If a registrant were to take its ''glossy'' annual report to security holders off its website, it could be difficult and/or costly to obtain a copy (*e.g.,* via a third-party entity) or impossible if no third-party has a saved copy. Under the amendments, documents would be freely available and centrally located on EDGAR, and investors would incur only minimal search costs for these reports.

A glossy annual report repository on EDGAR will also benefit investors who may want to review and analyze ''glossy'' annual reports to security holders in bulk. For these investors, a unified file format for ''glossy'' annual reports to security holders in a centralized location (*i.e.,* EDGAR) would create opportunities for data processing relative to the baseline.

Further, we expect that this amendment would yield benefits to filers similar to those discussed above with respect to electronic submissions on EDGAR. For example, some registrants will save on print and delivery costs. Such cost savings are likely small, but any such benefits may accrue to investors to the extent that these registrants allocate the savings to increase firm efficiency or return capital to investors. In addition, the amended rules will ensure that investors and Commission staff are able to access the ''glossy'' annual reports to security holders easily, including when navigating disruptive events, such as COVID–19, when physical offices may be inaccessible.

c. Inline XBRL Requirement for Form 11–K

The amendments require filers to tag the financial statements and schedules required in annual reports for employee benefit plans pursuant to Form 11–K using the Inline XBRL structured data language. Currently, reports on Form 11–K that are filed electronically must be filed in HTML or ASCII.[80]

Requiring Form 11–K disclosures to be submitted in Inline XBRL could benefit those participating in employee benefit plans by facilitating analysis of the plan's annual financial disclosures over time and relative to other plans.[81] Investors in the plans' sponsoring companies may also benefit from structured Form 11–Ks, as structured data may reduce processing and search costs incurred by investors assessing the employee benefit plans' underlying assets and liabilities. In addition, requiring Form 11–K financial disclosures to be submitted in Inline XBRL could enable the development of additional structured data sets and tools to facilitate market analysis and better inform future policy decisions.[82]

2. Costs

Requiring electronic submissions may result in costs to filers, including those associated with filing a Form ID for the first time to obtain the access codes needed to submit an application on the Commission's EDGAR system.[83]

With respect to documents that are mostly submitted electronically on EDGAR under current rules (*e.g.,* Form 6–K, Notices of Exempt Solicitation, Certifications of Approval of Exchange Listing), these costs will likely be minimal. For documents that are not generally submitted electronically on EDGAR under current rules but would be required to be electronically submitted on EDGAR under the amended rules (*e.g.,* Form 144 and ''glossy'' annual reports to security holders), registrants would incur additional costs to upload such documents to EDGAR.[84]

For Form 144, we estimate that approximately 25 percent of Form 144 filers have already prepared a Form ID and obtained a CIK number through other EDGAR filing obligations.[85] Therefore, we estimate that at most 75 percent of Form 144 filers would need to file a Form ID as a result of the amendments.[86] We believe that such direct costs for these filers would be justified by the anticipated benefits from eliminating paper filing of Form 144. Given that current EDGAR filers represent such a small proportion of those who submit Form 144, our ability to generalize electronic filing behavior from this group to the full population of filers may be of limited reliability. To the extent that such filers' behavior may be similar, however, we estimate that up to one-third of affiliates submitting a Form 144 who do not currently access EDGAR may be able to use an issuer's existing connection to EDGAR or rely upon other support by issuers in meeting their Form 144 electronic filing obligations. These filers likely will incur lower costs as a result of the amendments than filers who cannot or will not use an issuer's existing connection to EDGAR. We lack the data to quantify the difference in costs.

We do not expect that the requirement to file Form 144 in a structured, XML-based data language specific to Form 144 (''custom XML,'' here ''Form 144-specific XML'') will impose any incremental compliance costs on Form 144 filers, as these filers will have the option of entering their disclosures directly into a fillable web form. The fillable web form will render into Form 144-specific XML in EDGAR, rather than filing directly in Form 144-specific XML using the technical specifications published on the Commission's website. We expect that completing this XML-based fillable form will not require any more time than completing the paper

[80] *See* Rules 101(b)(3) and 301 of Regulation S–T and the EDGAR Filer Manual (Volume II) version 61 (Mar. 2022), at 2.1 and 5.2.

[81] Currently, operating company financial disclosures in certain periodic reports and registration statements are required to be structured in XBRL or Inline XBRL, depending on the filing date. Research analyzing XBRL and Inline XBRL disclosures have found informational benefits relative to unstructured disclosures. *See, e.g.,* Steven F. Cahan, Seokjoo Chang, Wei Z. Siqueira, & Kinsun Tam, *The roles of XBRL and processed XBRL in 10–K readability.* 49 J. Bus. Fin. & Acct. 33 (2021); Nerissa C. Brown, Brian Gale, and Stephanie M. Grant, *How Do Disclosure Repetition and Interactivity Influence Investors' Judgments?* (working paper Dec. 15, 2021), *available at https://ssrn.com/abstract=3557891* (retrieved from SSRN Elsevier database); Jacqueline L. Birt, Kala Muthusamy, and Poonam Bir, *XBRL and the qualitative characteristics of useful financial information,* 30 Acct. Research J. 107 (2017), *available at https://www.emerald.com/insight/publication/issn/1030-9616.*

[82] The Commission currently makes XBRL datasets for operating company financial statements and footnotes and mutual fund risk/return summaries available on its website. *See* DERA Data Library, *https://www.sec.gov/dera/data.*

[83] Filers can set up a Form ID by following the processes detailed in Volume I of the EDGAR Filer Manual. Once a Form ID has been successfully completed and processed, EDGAR establishes a Central Index Key (''CIK'') number, which permits each authorized user to create an EDGAR access code, enabling the filer to use EDGAR.

[84] For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden to submit an electronic copy of the ''glossy'' annual report would be 2 internal burden hours per year. *See* Section V, *infra.*

[85] Specifically, we observe that approximately 23 percent of calendar year 2019 Form 144 filers also submitted Form 4 filings in EDGAR, while a remaining two percent without Form 4 filings in EDGAR submitted a miscellany of other forms related to beneficial ownership.

[86] This estimate represents an extreme upper bound because it assumes that each named individual who filed at least one Form 144 in calendar year 2019 who is not currently associated with a unique CIK would need to file a Form ID. To the extent that some Form 144 filers are affiliates of issuers who may use the issuer's CIK to file via EDGAR, the estimate likely overstates the required number of new Form IDs required and the burden hours associated with such applications.

form or filing an HTML or ASCII document (as is required for most other EDGAR forms).[87]

One commenter[88] indicated that entities filing Form 144 on behalf of many clients may experience an increase in costs as a result of the amendments. We believe such costs would be justified by the benefits of mandated electronic Form 144 filing, including the reduction in costs for investors and other market participants to retrieve these documents.

As noted above, there are over 7,400 registrants who would be required to file their ''glossy'' annual reports to security holders electronically on EDGAR under the amendments. We expect that their costs will be mitigated since these registrants are already electronically filing documents on EDGAR, such as Form 10–K, 20–F, or 40–F. For filers submitting documents electronically to EDGAR for the first time, any initial setup costs would likely be offset by lower ongoing, marginal costs over time.

Requiring Inline XBRL structuring of annual financial statements and schedules required by Form 11–K will result in additional compliance costs for filers relative to the current baseline, as filers will be required to tag and review the required Form 11–K financial disclosures before filing them with the Commission.[89] Various XBRL and Inline XBRL preparation solutions have been developed and used by operating companies and open-end fund filers to fulfill their existing structuring requirements. In addition, some evidence suggests that, for operating companies, XBRL compliance costs have decreased over time.[90]

Further, while Form 11–Ks are filed by employee benefit plans, which are not currently subject to other Inline XBRL filing requirements, the plans' sponsoring companies (*i.e.,* the employers) are subject to Inline XBRL requirements for publicly filed annual and interim financial statements, among other disclosures.[91] To the extent that a plan shares compliance systems with the sponsoring company, the Inline XBRL compliance costs incurred may be somewhat mitigated.

The amendments could reduce revenue for market information aggregators who currently aggregate Form 144 information from non-electronic fillings into databases and provide access to such databases to various users of this data for a fee. The reduction in revenue could be mitigated by the lower cost of retrieving information that is filed in an electronic format. Data aggregators could sell fewer subscriptions to make the same profit or lower the fee that they charge which might make their services continue to be attractive even with the electronic availability of the filings.

3. Efficiency, Competition, and Capital Formation

For forms largely already submitted on EDGAR, we expect the amendments to lead to minimal changes in costs and have only incremental benefits. Therefore, the mandatory electronic filing on EDGAR of these forms will likely only marginally affect efficiency, competition, or capital formation. For other documents, such as Form 144, the amendments are expected to make the filing process more efficient by making it easier and less costly for filers to assure timely receipt of the filing.

As previously noted, electronic filings on EDGAR will increase the timeliness or ease with which the public can access the documents. Insofar as investors incorporate these documents into their information sets, easier or quicker access could result in lower search costs or more efficient decision-making. To the extent that there is value-relevant information in these filings, prices may become more efficient, which should help to facilitate capital formation (*e.g.,* by enhancing valuation quality). These benefits are potentially magnified during disruptive events, such as COVID–19, which can make it difficult for registrants to make submissions in non-electronic form and thus impede timely access to information. Moreover, as electronic filings often lead to lower ongoing, marginal costs for filers, compared to, for example, paper filings, the filing process may become more efficient, especially over the medium and longer term.

The amendments may, however, reduce some investors' or market information aggregators' competitive advantages. Particularly, market information aggregators whose present role includes converting paper filings of Form 144 to an electronic information source may find that this service is less attractive to data users due to those users' ability to access these filings directly due to the rule changes. These information aggregators' loss of competitive advantage in converting paper filings of Form 144 to an electronic information source may reduce their revenue and thus may affect their ability to offer other ancillary services that are valuable to data users.

D. Reasonable Alternatives

In formulating the amendments, we considered requiring some, but not all, of the affected documents to be filed electronically on EDGAR. This alternative would reduce the benefits, compared to the amendments, but also would reduce the initial transition burden for filers that do not have other electronic disclosure obligations on EDGAR. As discussed above, however, many of the filers of affected documents already file these or other documents electronically on EDGAR. For Form 144, for which most of the current filings are not made on EDGAR, the benefits of electronic filing on EDGAR for both filers and investors, such as the speed of public dissemination, justify the costs. Further, any setup costs for first time filers are at least partially offset by lower marginal costs.

Given the significant number of submissions via email in response to the temporary Form 144 staff no-action position, we could have made this manner of filing a permanent option for Form 144 filers. Such an alternative would allow filers to avoid the direct costs of transitioning to filing electronically using EDGAR. Such an alternative, however, would result in filers incurring expenses in scanning the forms and emailing them to the Commission. Additionally, filers would forgo potential direct benefits in the

[87] The Commission's EDGAR electronic filing system generally requires filers to use ASCII or HTML for their document submissions, subject to certain exceptions. *See* EDGAR Filer Manual (Volume II) version 61 (Mar. 2022), at 5.1; 17 CFR 232.301 (incorporating EDGAR Filer Manual into Regulation S–T). *See also* 17 CFR 232.101 (setting forth the obligation to file electronically on EDGAR).

[88] *See supra* note 31.

[89] An AICPA survey of 1,032 reporting companies with $75 million or less in market capitalization in 2018 found an average cost of $5,850 per year, a median cost of $2,500 per year, and a maximum cost of $51,500 per year for fully outsourced XBRL creation and filing, representing a 45% decline in average cost and a 69% decline in median cost since 2014. *See* Michael Cohn, *AICPA sees 45% drop in XBRL costs for small companies,* Acct. Today, August 15, 2018, *available at https://www.accountingtoday.com/news/aicpa-sees-45-drop-in-xbrl-costs-for-small-reporting-companies* (retrieved from Factiva database). A NASDAQ survey of 151 listed issuers in 2018 found an average XBRL compliance cost of $20,000 per quarter, a median XBRL compliance cost of $7,500 per quarter, and a maximum XBRL compliance cost of $350,000 per quarter. *See* letter from Nasdaq, Inc. dated March 21, 2019 to the Request for Comment on Earnings Releases and Quarterly Reports, Release No. 33–10588 (Dec. 18, 2018) [83 FR 65601]. For purposes of the Paperwork Reduction Act (PRA), we estimate that the additional burden on 11–K filers to submit statements and schedules in Inline XBRL would be approximately 65 hours of internal time and $7,500 for outside professional costs per year. *See* Section V, *infra.*

[90] *See id.*

[91] *See* Rules 405 and 406 of Regulation S–T and Items 601(b)(101) and 601(b)(104) of Regulation S–K.

form of reduced time required to file forms electronically. Such costs could be higher for filers who make multiple submissions per year and for filings with multiple pages.

Data users might also incur higher costs under this alternative since the site used to access Form 144 email submissions, for example, is distinct from EDGAR. Specifically, under this alternative, a data user interested in obtaining the information from all Form 144 filings pertaining to a given filer would be required to search both EDGAR and the daily folders posted to the Form 144 website.[92] Furthermore, Form 144 data submitted via email submissions is not structured, therefore analysis that would require aggregating data from multiple submissions would be more difficult or most costly to perform.

As an alternative, we could have required Form 144 to be filed in Inline XBRL, which is designed for business reporting and is both machine-readable and human-readable. Compared to the amendments, the Inline XBRL alternative for Form 144 would have provided more sophisticated validation, presentation, and reference features for filers and data users. However, the Inline XBRL alternative would also have imposed initial implementation costs (*e.g.,* learning how to prepare filings in Inline XBRL, licensing Inline XBRL filing preparation software) upon filers that do not have prior experience in structuring data in Inline XBRL. In contrast, because the amendments will allow filers to submit Form 144 using an online fillable form, filers that lack experience structuring data in a custom XML-based data language will not incur such implementation costs.

We also considered permitting registrants to post their ''glossy'' annual reports to security holders on their websites in lieu of electronic submission consistent with the 2016 Staff Guidance. While this alternative might reduce costs for registrants who currently post ''glossy'' annual reports to security holders on their websites, we do not anticipate that the costs of submitting these reports on EDGAR would be unduly burdensome for most filers. Further, this alternative would also reduce the benefits compared to the amendment, because it would not offer market participants access to ''glossy'' annual reports to security holders in a centralized location.

[92] Paper filings submitted via email based on the staff's no-action position are available at *https://www.sec.gov/corpfin/form-144-email.*

V. Paperwork Reduction Act

A. Background

Certain provisions of our rules, schedules, and forms that will be affected by the amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[93] The Commission is submitting the final amendments to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[94] The titles for the collections of information are:

- Schedule 14A (OMB Control Number 3235–0059) [95]
- Schedule 14C (OMB Control Number 3235–0057) [96]
- Form 20–F (OMB Control Number 3232–0288) [97]
- Form 40–F (OMB Control Number 3235–0381)
- Form 11–K (OMB Control Number 3235–0082)
- Form ID (OMB Control Number 3235–0328) [98]

An agency may not conduct or sponsor, and a person is not required to comply with, a collection of information unless it displays a currently valid OMB control number. Compliance with the information collections is mandatory. Responses to the information collections are not kept confidential and there is no mandatory retention period for the information disclosed. Schedule 14A, Schedule 14C, Form 20–F, Form 40–F, and Form 11–K were adopted under the Securities Act and the Exchange Act. The schedules and forms set forth the disclosure requirements for periodic and current reports, proxy statements, and information statements filed to help investors make informed investment and voting decisions. Form ID, adopted under the Securities Act, the Exchange Act, the Trust Indenture Act of 1939,[99] and the Investment Company Act of 1940,[100] is used by registrants, individuals, third party filers or their agents to request access codes that permit the filing of documents on EDGAR in accordance with Rule 10 of Regulation S–T.[101] The hours and costs associated with preparing, filing, and sending the schedules and forms constitute reporting and cost burdens imposed by each collection of information.

A description of the final amendments, including the need for the information and its intended use, as well as a description of the likely respondents, can be found in Section II above. A discussion of the economic effects of the amendments can be found in Section IV above.

B. Summary of the Comment Letters and the Effect of the Final Amendments on Existing Collections of Information

As described in more detail above, we are adopting final amendments to update filing requirements under our EDGAR system. The amendments would (1) mandate the electronic filing or submission of the documents that are currently permitted electronic submissions under Regulation S–T; [102] (2) mandate the electronic submission of the ''glossy'' annual report to security holders; (3) mandate the electronic filing of the certification made pursuant to the Exchange Act and its rules that a security has been approved by an exchange for listing and registration; (4) mandate the use of Inline XBRL for the filing of the financial statements and accompanying notes to the financial statements required by Form 11–K; and (5) provide for the electronic submission of certain foreign language documents.

The amendments do not change the nature or extent of any of the information that is currently collected under Rule 101(b), the foreign language documents submitted under Rule 306 of Regulation S–T, or the certifications filed under Exchange Act Rule 12d1–3. However, as discussed below, we expect that the change to require an electronic format will result in certain changes in the information collection burden of associated forms, schedules, reports, and applications. We did not receive any comment letters regarding our PRA estimates related to these amendments from either the Updating EDGAR Proposing Release or the Rule 144 Proposing Release.

[93] 44 U.S.C. 3501 *et seq.*

[94] 44 U.S.C. 3507(d); 5 CFR 1320.11.

[95] As described below, our estimates for Schedule 14A and Schedule 14C take into account the burden that would be incurred under the amendments to require electronic submission of the ''glossy'' annual report to security holders. Schedules 14A and 14C require disclosure under Subpart 400 of Regulation S–K. This disclosure is often incorporated, in relevant part, into Part III of a registrant's Form 10–K and is provided as part of the ''glossy'' annual report to security holders. Therefore, we have not separately calculated burden requirements for Form 10–K.

[96] *See* id.

[97] Forms 20–F and 40–F provide the disclosure requirements for the annual reports of foreign private issuers, which are included in the ''glossy'' annual reports to security holders. Therefore, we have not separately calculated burden requirements for Form 6–K.

[98] The paperwork implications of the changes to mandate electronic filing of Form 144 would be reflected in Form ID.

[99] 15 U.S.C. 77aaa *et seq.*

[100] 15 U.S.C. 80a *et seq.*

[101] 17 CFR 232.10(b).

[102] *See supra* Section II.A.

C. Burden and Cost Estimates Related to the Amendments

Below we estimate the incremental change in internal burden and outside professional cost as a result of the amendments. These estimates represent the average burden for all registrants, both large and small. In deriving our estimates, we recognize that the burdens will likely vary among individual registrants based on a number of factors, including the nature of their business. Except for Form ID, we do not believe that the amendments will change the frequency of responses to the existing collections of information; rather, we estimate that the amendments will change only the burden per response.

The burden estimates were calculated by multiplying the estimated number of responses by the estimated average amount of time it would take a registrant to prepare and review the disclosures required under the amendments. For purposes of the PRA, the burden is allocated between internal burden hours and outside professional costs. The table below sets forth the percentage estimates the Commission typically uses for the burden allocation for each form. We also estimate that the average cost of retaining an outside professional is $400 per hour.[103]

PRA TABLE 1—STANDARD ESTIMATED BURDEN ALLOCATION FOR SPECIFIED FORMS AND SCHEDULES

Form/schedule/other	Internal (%)	Outside professionals (%)
Schedules 14A and 14C	75	25
Forms 20–F and 40–F	25	75
Form 11–K	[104] 100	
Form ID	100	

With respect to the electronic submission of the ''glossy'' annual report to security holders, we estimate the amendments will impose a new burden that will be borne by all registrants required to submit ''glossy'' annual reports to security holders to the Commission. We estimate that the amendments will cause a registrant to incur an increase of 2 hours in the reporting burden for the annual report to security holders. We anticipate that this time would be required to prepare, convert into the required electronic format (currently PDF) if PDF is not already used for the report to security holders, and review the ''glossy'' annual reports to security holders to be submitted electronically in accordance with the EDGAR Filer Manual. This burden would be reflected in Schedules 14A and 14C and Forms 20–F and 40–F as follows:

PRA TABLE 2—ESTIMATED PRA BURDENS FOR THE ELECTRONIC SUBMISSION OF THE ''GLOSSY'' ANNUAL REPORT

Schedule/form	Estimated number of affected responses (A)	Estimated incremental burden hours/form (B)	Total incremental burden hours (C) = (A) × (B)	Estimated internal burden hours (D) = (C) × (Allocation %)	Estimated outside professional hours (E) = (C) × (Allocation %)	Estimated outside professional costs/affected responses (F) = (E) × $400
Schedule 14A	6,369	2	12,738	9,553	3,185	$1,274,000
Schedule 14C	569	2	1,138	853	284	113,600
Form 20–F	729	2	1,458	364	1093	437,200
Form 40–F	132	2	264	66	198	79,200

With respect to the amendment to require the submission of the financial statements in the Form 11–K in Inline XBRL, we do not expect a change in the number of Forms 11–K submitted to the Commission but we do expect an increase in the burden per form. The Commission previously estimated that, per response, operating companies submitting financial information in Inline XBRL required 54 burden hours of internal time to prepare the tagged data and incurred a cost $6,175 for outside services.[105] The amendments would subject employee purchase plans, savings plans, and similar plans to the same Inline XBRL reporting requirements. Therefore, we assume that these plans would experience similar burden hours and costs as do operating companies. We have however increased that burden estimate to account for the particular circumstances applicable to Form 11–K filers.

As new XBRL filers, we anticipate that Form 11–K filers would experience additional burdens related to the one-time costs associated with becoming familiar with Inline XBRL reporting. These costs would include, for example, the acquisition of new software or the services of consultants, and/or the training of staff.[106] We also assume that

[103] We recognize that the costs of retaining outside professionals may vary depending on the nature of the professional services, but for purposes of this PRA analysis, we estimate that such costs would be an average of $400 per hour. This estimate is based on consultations with several registrants, law firms, and other entities that regularly assist registrants in preparing and filing documents with the Commission.

[104] While the current standard burden for Form 11–K is 100% internal, as noted below, in light of the nature of these amendments, we estimate that the Form 11–K burden of the amendments will be allocated 75% to internal hours and 25% to outside professional costs.

[105] *See* Inline XBRL Adopting Release, *supra* note 52.

[106] Until now, the burden associated with the preparation of Form 11–K has been borne entirely by filers. In other words, registrants have not needed to retain outside professional services to prepare the submission. With the Inline XBRL tagging requirements under the amendments, we anticipate that registrants may retain outside professional services in order to tag the financial statements and accompanying notes to the financial statements properly. Accordingly, we are estimating increases for both burden hours and outside professional costs.

these one-time costs would decline in the second and third year of compliance with the amendments, as Form 11–K filers become more efficient at preparing submissions using Inline XBRL.[107] We assume that the one-time cost would result in a 50% incremental increase in the internal burdens and external costs of structuring the data in the financial statements and accompanying footnotes of the financial statements to Form 11–K.[108] These additional incremental costs would decline in the second and third years by 75% from the immediately preceding year.[109] Accordingly, we estimate that the amendment to require Form 11–K filers to submit the financial information in Inline XBRL would, for each filer, result in incremental PRA burdens of 11.81 hours of internal time and $1,350.78 in costs for outside professional services, in addition to the 54 hours and $6,175 in costs noted above. In aggregate, we estimate these burdens to be 70,153 [110] and $8,021,650,[111] respectively.

We anticipate that the mandated electronic filing of Form 144 with respect to securities issued by issuers subject to Exchange Act reporting requirements will result in a number of filers using EDGAR to file their Form 144 electronically who do not currently do so. Filers who have not previously filed electronically on EDGAR must apply for access to file on EDGAR on Form ID. As the majority of Form 144 filings currently are paper or email filings, most filers would have to modify their processes for submitting their Form 144 filings. Based on past filings, we estimate that approximately 12,250 filers will be required to switch from paper filings to electronic filing of their Form 144.[112]

Of those 12,250 filers, however, we estimate that 25 percent have already filed a Form ID through other EDGAR filing obligations.[113] A filer must apply for access to file on EDGAR on Form ID. Accordingly, approximately 75 percent of Form 144 filers (9,188 filers [114]) would need to file a Form ID for the first time as a result of the amendment to mandate the electronic filing of Form 144. In addition, there are currently two Development Banks that have not previously made an electronic filing on EDGAR that would also be required as a result of the amendments to file a Form ID to obtain the access codes that are required to file or submit a document on EDGAR.

We estimate that respondents require 0.15 hours to complete the Form ID and, for purposes of the PRA, that 100 percent of the burden of preparation for Form ID is carried by the respondent internally. Therefore, we estimate that this amendment will result in an incremental increase of 1,378.50 annual burden hours for Form ID.[115]

The tables below illustrate the estimated incremental change to the total annual compliance burden of the affected forms, in hours and in costs, as a result of the amendments.

PRA TABLE 3—INCREMENTAL PAPERWORK BURDEN UNDER THE AMENDMENT

	Current annual responses	Current burden hours	Current cost burden	Proposed change in annual responses	Proposed change in burden hours	Proposed change in professional costs	Proposed annual affected responses	Proposed burden hours for affected response	Proposed cost burden for affected responses
	(A)	(B)	(C)	(D)	(E)	(F)	(G) = (A) + (D)	(H) = (B) + (E)	(I) = (C) + (F)
Schedule 14A	6,369	777,590	103,678,712	0	9,574	$1,276,592	6,369	787,164	$104,465,376
Schedule 14C	569	56,356	7,514,944	0	832	111,008	569	57,188	7,625,952
Form 20–F	729	479,261	576,824,025	0	364	437,400	729	479,625	577,261,425
Form 40–F	132	14,237	17,084,560	0	66	79,200	132	14,303	17,163,760
Form 11–K	1,302	39,060	0	(236)	70,153	8,021,650	1,066	109,213	8,021,650
Form ID	57,681	8,652	0	9,190	1,379	0	66,871	10,030	0

[1] We note that the decrease in responses on Form 11–K reflects the actual number of Forms received in 2020. This decrease is not the result of the amendments which we do not expect to affect the number of responses submitted on Form 11–K.

VI. Final Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act (''RFA'') [116] requires the Commission, in promulgating rules under Section 553 of the Administrative Procedure Act,[117] to consider the impact of those rules on small entities. We have prepared this Final Regulatory Flexibility Act Analysis (''FRFA'') in accordance with Section 604 of the RFA.[118] An initial Regulatory Flexibility Analysis (''IRFA'') was prepared in accordance with the RFA and was included in the Proposing Release. This FRFA relates to the amendments to the rules and forms described in Section II above.

[107] We also expect filers to benefit from access to an established vendor community experienced in applying Inline XBRL tagging to Commission filings.

[108] We estimate, for the Form 11–K financial information Inline XBRL requirement, that in the first year the one-time cost would be an additional 27 hours (54 × 0.5) and $3,087.5 in external costs ($6,175 × 0.5).

[109] We estimate that for the second year the additional one-time hour burden and cost of the Form 11–K financial information XBRL requirement would be 6.75 hours (27 hours − (27 × 0.75 = 20.25 hours)) and $771.87 ($3,087.5 − ($3,087.5 × 0.75 = $2,315.63)). For the third year, we estimate that these hour burdens and costs would be 1.69 hours (6.75 hours − (6.75 × 0.75 = 5.06 hours)) and $192.97 ($771.87 − ($771.87 × 0.75 = $578.90)). Thus the three year average of the additional incremental burden of the Form 11–K financial information XBRL requirement would be (27 + 6.75 + 1.69)/3 = 11.81 hours of internal in-house time, and ($3,087.5 + $771.87 + $192.97)/3 = $1,350.78 in external costs.

[110] This estimate was calculated by adding the estimated XBRL hour burden for operating companies (54 hrs) plus the average additional incremental hour burden for Form 11–K filers (11.81), then multiplying the sum by the estimated number of Form 11–K filers (1,066), or (54 + 11.81) × 1,066 = 70,153.

[111] This estimate was calculated by adding the estimated XBRL cost burden for operating companies ($6,175) plus the average additional incremental cost burden for Form 11–K filers ($1,350), then multiplying the sum by the estimated number of Form 11–K filers (1,066), or ($6,175 + $1,350) × 1,066 = $8,021,650.

[112] These estimates assume that filers of Form 144 submissions in our data are not also affiliates of other issuers. Because we lack data on the holdings of filers in securities of issuers other than those disclosed in the Form 144, we are unable to identify any filers that are such affiliates.

[113] Specifically, we observe that approximately 23 percent of calendar year 2019 Form 144 filers also submitted Form 4 filings in EDGAR, while a remaining two percent without Form 4 filings in EDGAR submitted a miscellany of other forms in EDGAR related to beneficial ownership.

[114] 12,250 × 0.75 = 9,187.5. This estimate represents an extreme upper bound because it assumes that each named individual who filed at least one Form 144 in calendar year 2019 who is not currently associated with a unique CIK would need to file a Form ID. To the extent that some Form 144 filers are affiliates of issuers who may use the issuer's CIK to file via EDGAR, the estimate likely overstates the required number of new Form IDs required and the burden hours associated with such applications.

[115] 9,190 × 0.15 = 1,378.5.

[116] 5 U.S.C. 601 *et seq.*

[117] 5 U.S.C. 553.

[118] 5 U.S.C. 604.

A. Need for, and Objectives of, the Final Amendments

The main purpose of the amendments is to facilitate more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper. In addition, the amendments are intended to improve investors' and other EDGAR users' access to the information in these documents.

The need for, and objectives of, the amendments are discussed in more detail in Section II above. We discuss the economic impact, including the estimated compliance costs and burdens, of the amendments in Sections IV and V above.

B. Small Entities Subject to the Final Amendments

The final amendments will affect some registrants that are small entities. The Regulatory Flexibility Act defines ''small entity'' to mean ''small business,'' ''small organization,'' or ''small governmental jurisdiction.'' [119] For purposes of the Regulatory Flexibility Act, under our rules, a registrant, other than an investment company, is a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year and is engaged or proposing to engage in an offering of securities that does not exceed $5 million.[120] An investment company, including a business development company,[121] is considered to be a ''small business'' if it, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.[122]

We estimate that there are 979 issuers that file with the Commission, other than investment companies, that may be considered small entities.[123] In addition, we estimate that, as of April, 2022, there are approximately 80 investment companies, including 12 business development companies, which would be subject to the proposed amendments that may be considered small entities.[124]

C. Significant Issues Raised by Public Comments

In the Proposing Release, we requested comment on all aspects of the IRFA, including the number of small entities that would be affected by the Proposed Rules, the existence or nature of the potential impact of the proposals on small entities discussed in the analysis, and how to quantify the impact of the Proposed Rules. We did not receive any comments specifically addressing the IRFA. We received a number of comments on other aspects of the Proposed Rules [125] and considered those comments in developing the FRFA.

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

As noted in Section IV.C., the amendments will not substantively affect the filings currently made under Rules 101(b)(2), (5), (6), or (9) or the foreign language documents submitted under Rule 306. Therefore, the reporting or compliance burdens associated with associated forms, schedules, reports, and applications for small entities will remain unchanged under these amendments.

The amendments will however impose new submission obligations on certain registrants. In particular, the amendments mandate the electronic submission of the ''glossy'' annual report to security holders and the electronic submission in Inline XBRL format of the financial statements and accompanying notes required by Form 11–K. In addition, to the extent that a filer has not previously filed documents on EDGAR electronically, registrants who previously filed or submitted in paper format under Rule 101(b) would need to apply for access to file on EDGAR on Form ID.

Additionally, the amendments would mandate electronic filing of Form 144 with respect to securities issued by companies subject to Exchange Act reporting requirements. We anticipate that this amendment would cause a number of filers, including small entities, using EDGAR to file their Form 144 electronically who do not currently do so, thereby modestly increasing their compliance obligations.

Section II discusses the amendments in detail. Sections IV and V discuss the economic impact, including the estimated costs and benefits, of the amendments to all affected entities. Compliance with certain provisions of the amendments may require the use of professional skills, including legal and technical skills.

E. Agency Action To Minimize Effect on Small Entities

The RFA directs us to consider alternatives that would accomplish our stated objectives, while minimizing any significant adverse effect on small entities. Accordingly, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements for small entities under our rules as revised by the amendments;
- Using performance rather than design standards; and
- Exempting small entities from coverage of all or part of the amendments.

Partially or completely exempting small entities from the electronic filing requirements would undermine our stated objective of facilitating more efficient transmission, dissemination, analysis, storage and retrieval of documents that are currently filed in paper, and we expect any increased burden associated with most of the proposed amendments to be small. With respect to the amendments to mandate the electronic submission of ''glossy'' annual reports to security holders and the proposed amendments to mandate the use of Inline XBRL for the filing of financial statements and accompanying notes to the financial statements required by Form 11–K, we are providing six-month and three-year transition periods, respectively, for all registrants, including small entities.

We believe these transition periods will provide adequate time for all filers to prepare for and manage the burdens associated with these new obligations. Moreover, to the extent that the amendments increase the ease and efficiency with which certain documents can be submitted to the Commission, they should benefit all filers, including small entities. In this regard, it appears that few filers currently take advantage of paper filing options under our current rules. For these reasons, we do not believe that it

[119] 5 U.S.C. 601(6).

[120] *See* 17 CFR 240.0–10(a).

[121] Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

[122] *See* 17 CFR 240.0–10(a).

[123] This estimate is based on staff analysis of issuers, excluding co-registrants, subsidiaries, or asset-backed issuers, with EDGAR filings of Forms 10–K, 20–F, and 40–F, or amendments to these forms, filed during the calendar year of January 1, 2020, to December 31, 2020 or filed by September 1, 2020 that, if timely filed by the applicable deadline, would have been filed between January 1 and December 31, 2021. Analysis is based on data from XBRL filings, Compustat, and Ives Group Audit Analytics and manual review of filings submitted to the Commission.

[124] *See* 15 U.S.C. 80a *et seq.* The estimate is based upon staff analysis of issuers as of December 2021 that have aggregate net assets under $50 million and whose adviser/sponsor is not affiliated with a larger organization (as defined by Rule 0–10 of the Investment Company Act). It includes registrants that are delinquent or have begun the deregistration process and may include new funds that have not filed their first statement with financials.

[125] *See supra* Section II.

is necessary to establish different compliance timetables or reporting requirements for small entities or to clarify, consolidate or simplify the requirements.

The amendments use design rather than performance standards in order to promote uniform filing requirements for all registrants.

VII. Statutory Authority

The amendments contained in this document are being adopted under the authority set forth in Sections 6, 7, 8, 10 and 19(a) of the Securities Act, Sections 3, 12, 13, 14, 15(d), 16, 23(a) and 35A of the Exchange Act, and Sections 10 and 38 of the Investment Company Act.

List of Subjects in 17 CFR Parts 230, 232, 239, 240 and 249

Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Commission proposes to amend title 17, chapter II of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 1. The general authority citation for part 230 continues to read as follows:

Authority: 15 U.S.C. 77b, 77b note, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78l, 78m, 78n, 78o, 78o–7 note, 78t, 78w, 78ll(d), 78mm, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, and Pub. L. 112–106, sec. 201(a), sec. 401, 126 Stat. 313 (2012), unless otherwise noted.

* * * * *

■ 2. Amend § 230.144 by:
■ a. Revising paragraph (h)(1);
■ b. Redesignating paragraph (h)(2) as (h)(3); and
■ c. Adding a new paragraph (h)(2).

The revisions and additions to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(h) *Notice of proposed sale.* (1) *Reporting issuers.* If the issuer is, and has been for a period of at least 90 days immediately before the sale, subject to the reporting requirements of section 13 or 15(d) of the Exchange Act and the amount of securities to be sold in reliance upon this rule during any period of three months exceeds 5,000 shares or other units or has an aggregate sale price in excess of $50,000, a notice on Form 144 (§ 239.144 of this chapter) shall be filed electronically with the Commission.

(2) *Non-reporting issuers.* If the issuer is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, and the amount of securities to be sold in reliance upon this rule during any period of three months exceeds 5,000 shares or other units or has an aggregate sale price in excess of $50,000, three copies of a notice on Form 144 (§ 239.144 of this chapter) shall be filed with the Commission.

* * * * *

■ 3. Amend § 230.158 by revising paragraph (b)(2) to read as follows:

§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).

* * * * *

(b) * * *

(2) Has filed its report or reports on Form 10–K, Form 10–Q, Form 8–K, Form 20–F, Form 40–F, or Form 6–K, or has submitted to the Commission in electronic format, in accordance with the EDGAR Filer Manual, its annual report sent to security holders pursuant to Rule 14a–3(c) (§ 240.14a–3(c) of this chapter) containing such information. A registrant may use other methods to make an earning statement ''generally available to its security holders'' for purposes of the last paragraph of section 11(a).

* * * * *

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 4. The general authority citation for part 232 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z–3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a–6(c), 80a–8, 80a–29, 80a–30, 80a–37, 7201 *et seq.;* and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 5. Amend § 232.101 by:
■ a. Revising paragraphs (a)(1)(i) and (iii);
■ b. Removing the word ''and'' at the end of paragraph (a)(1)(xix);
■ c. Adding and reserving paragraphs (a)(1)(xxii) through (xxx);
■ d. Removing and reserving paragraphs (b)(1) through (6), and (9);
■ e. Revising the paragraph (c) heading and introductory text; and
■ f. Removing and reserving paragraphs (c)(6) and (8).

The revisions and additions to read as follows:

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(i) Registration statements and prospectuses filed pursuant to the Securities Act (15 U.S.C. 77a, *et seq.*) or registration statements filed pursuant to Section 12(b) or 12(g) of the Exchange Act (15 U.S.C. 78l(b) or (g)), and certifications that a security has been approved by an exchange for listing and registration filed pursuant to Section 12(d) of the Exchange Act (15 U.S.C. 78l(d)) and § 240.12d1–3 of this chapter (Rule 12d1–3) under the Exchange Act. The certification that a security has been approved by an exchange for listing and registration must be made on EDGAR in the electronic format required by the EDGAR Filer Manual, as defined in § 232.11 of this chapter (Rule 11 of Regulation S–T). Notwithstanding § 232.104 of this chapter (Rule 104 of Regulation S–T), the certification filed under this paragraph will be considered as officially filed with the Commission;

* * * * *

(iii) Statements, reports and schedules filed with the Commission pursuant to sections 13, 14, 15(d) or 16(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d), 78p(a)), and proxy materials required to be furnished for the information of the Commission pursuant to Rules 14a–3 and 14c–3 or in connection with annual reports on Form 10–K (§ 249.310 of this chapter) filed pursuant to section 15(d) of the Exchange Act;

Note 1 to paragraph (a)(1)(iii). Electronic filers filing Schedules 13D and 13G with respect to foreign private issuers should include in the submission header all zeroes (*i.e.,* 00–0000000) for the IRS tax identification number because the EDGAR system requires an IRS number tag to be inserted for the subject company as a prerequisite to acceptance of the filing.

Note 2 to paragraph (a)(1)(iii). Foreign private issuers must file or submit their Form 6–K reports (§ 249.306 of this chapter) in electronic format.

* * * * *

(xxii) [Reserved]

(xxiii) [Reserved]

(xxiv) Annual reports to security holders furnished for the information of the Commission under § 240.14a–3(c) of this chapter or § 240.14c–3(b) of this chapter, under the requirements of Form 10–K (§ 249.310 of this chapter) filed by registrants under Exchange Act Section 15(d) (15 U.S.C. 78o(d)), or by foreign private issuers filed on Form 6–K (§ 249.306 of this chapter) under § 240.13a–16 of this chapter or § 240.15d–16 of this chapter;

(xxv) Notices of exempt solicitation furnished for the information of the Commission pursuant to Rule 14a–6(g) (§ 240.14a–6(g) of this chapter) and notices of exempt preliminary roll-up

communications furnished for the information of the Commission pursuant to § 240.14a–6(n) of this chapter (Rule 14a–6(n));

(xxvi) Form 11–K (§ 249.311 of this chapter);

(xxvii) Form 144 (§ 239.144 of this chapter), where the issuer of the securities is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d), respectively);

(xxviii) Periodic reports and reports with respect to distributions of primary obligations filed by:

(A) The International Bank for Reconstruction and Development under Section 15(a) of the Bretton Woods Agreements Act (22 U.S.C. 286k–1(a)) and part 285 of this chapter;

(B) The Inter-American Development Bank under Section 11(a) of the Inter-American Development Bank Act (22 U.S.C. 283h(a)) and part 286 of this chapter;

(C) The Asian Development Bank under Section 11(a) of the Asian Development Bank Act (22 U.S.C. 285h(a)) and part 287 of this chapter;

(D) The African Development Bank under Section 9(a) of the African Development Bank Act (22 U.S.C. 290i–9(a)) and part 288 of this chapter;

(E) The International Finance Corporation under Section 13(a) of the International Finance Corporation Act (22 U.S.C. 282k(a)) and part 289 of this chapter; and

(F) The European Bank for Reconstruction and Development under Section 9(a) of the European Bank for Reconstruction and Development Act (22 U.S.C. 290l–7(a)) and part 290 of this chapter;

(xxix) A report or other document submitted by a foreign private issuer under cover of Form 6–K (§ 249.306 of this chapter) that the issuer must furnish and make public under the laws of the jurisdiction in which the issuer is incorporated, domiciled or legally organized (the foreign private issuer's ''home country''), or under the rules of the home country exchange on which the issuer's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the issuer's security holders, and, if discussing a material event, has already been the subject of a Form 6–K or other Commission filing or submission on EDGAR; and

(xxx) Documents filed with the Commission pursuant to section 33 of the Investment Company Act (15 U.S.C. 80a–32).

* * * * *

(c) *Documents that shall not be submitted in electronic format on EDGAR.* Except as otherwise specified in paragraph (d) of this section, the following shall not be submitted in electronic format on EDGAR:

* * * * *

■ 6. Amend § 232.306 by revising the first sentence of paragraph (a) and paragraphs (b) and (c) to read as follows:

§ 232.306 Foreign language documents and symbols.

(a) All electronic filings and submissions must be in the English language, except as otherwise provided by paragraphs (b) through (d) of this section. * * *

(b) When including an English summary or English translation of a foreign language document in an electronic filing or submission, a party may also submit a copy of the unabridged foreign language document with the filing in the electronic format required by the EDGAR Filer Manual. A filer must provide a copy of any foreign language document upon the request of Commission staff.

(c) A foreign government or its political subdivision must electronically file a fair and accurate English translation, if available, of its latest annual budget as presented to its legislative body, as Exhibit B to Form 18 (§ 249.218 of this chapter) or Exhibit (c) to Form 18–K (§ 249.318 of this chapter). If no English translation is available, a foreign government or political subdivision must submit a copy of the foreign language version of its latest annual budget with the filing in the electronic format required by the EDGAR Filer Manual.

* * * * *

■ 7. Amend § 232.311 by:

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

■ b. Removing and reserving paragraphs (d) through (f).

The revisions to read as follows:

§ 232.311 Documents submitted in paper under cover of Form SE.

* * * * *

(b) The Form SE shall be submitted in the following manner:

(1) If the subject of a temporary hardship exemption is an exhibit only, the filer must file the exhibit and a Form TH (§§ 239.65, 249.447, 269.1, and 274.404 of this chapter) under cover of Form SE (§§ 239.64, 249.444, 269.8, and 274.403 of this chapter) no later than one business day after the date the exhibit was to be filed electronically.

(2) An exhibit filed pursuant to a continuing hardship exemption may be filed up to six business days prior to, or on the date of filing of, the electronic format document to which it relates but shall not be filed after such filing date. If a paper document is submitted in this manner, requirements that the document be filed with, provided with or accompany the electronic filing shall be satisfied.

(c) Any requirements as to delivery or furnishing the information to persons other than the Commission shall not be affected by this section.

* * * * *

■ 8. Amend § 232.405 by:

■ a. Revising the introductory text and paragraphs (a)(2) and (4);

■ b. Revising paragraph (b)(1)(ii);

■ c. Revising paragraph (c) introductory text and paragraph (e) introductory text; and

■ d. Revising Note 1 to § 232.405.

The revisions read as follows:

§ 232.405 Interactive Data File submissions.

This section applies to electronic filers that submit Interactive Data Files. Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K), General Instruction F of Form 11–K (§ 249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), and General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter) specify when electronic filers are required or permitted to submit an Interactive Data File (§ 232.11), as further described in note 1 to this section. This section imposes content, format and submission requirements for an Interactive Data File, but does not change the substantive content requirements for the financial and other disclosures in the Related Official Filing (§ 232.11).

(a) * * *

(2) Be submitted only by an electronic filer either required or permitted to submit an Interactive Data File as specified by § 229.601(b)(101) of this

chapter (Item 601(b)(101) of Regulation S–K), General Instruction F of Form 11–K (§ 249.311), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable;

* * * * *

(4) Be submitted in accordance with the EDGAR Filer Manual and, as applicable, Item 601(b)(101) of Regulation S–K (§ 229.601(b)(101) of this chapter), General Instruction F of Form 11–K (§ 249.311 of this chapter), paragraph (101) of Part II—Information Not Required to be Delivered to Offerees or Purchasers of Form F–10 (§ 239.40 of this chapter), paragraph 101 of the Instructions as to Exhibits of Form 20–F (§ 249.220f of this chapter), paragraph B.(15) of the General Instructions to Form 40–F (§ 249.240f of this chapter), paragraph C.(6) of the General Instructions to Form 6–K (§ 249.306 of this chapter), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter); or General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter).

* * * * *

(b) * * *

(1) * * *

(ii) As applicable, all schedules set forth in Article 6A of Regulation S–X (§§ 210.6A–01–210.6A–05) and Article 12 of Regulation S–X (§§ 210.12–01–210.12–29), and all schedules prepared by plans in accordance with the financial reporting requirements of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.*) and filed with the Commission on Form 11–K (§ 249.311).

* * * * *

(c) *Format—Generally.* An Interactive Data File must comply with the following requirements, except as modified by paragraph (d) or (e) of this section, as applicable, with respect to the corresponding data in the Related Official Filing consisting of footnotes to financial statements or financial statement schedules as set forth in Article 6A of Regulation S–X, Article 12 of Regulation S–X or the financial reporting requirements of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.*), as applicable:

* * * * *

(e) Format—Schedules—Generally. The part of the Interactive Data File for which the corresponding data in the Related Official Filing consists of financial statement schedules as set forth in 17 CFR 210.6A–01 through 210.6A–05) (Article 6A of Regulation S–X), §§ 210.12–01 through 210.12–29 of this chapter (Article 12 of Regulation S–X), or the financial reporting requirements of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 *et seq.*), as applicable, must comply with the requirements of paragraphs (c)(1) and (2) of this section, as modified by this paragraph (e). Such financial statement schedules must be tagged as follows:

* * * * *

Note 1 to § 232.405: Section 229.601(b)(101) of this chapter (Item 601(b)(101) of Regulation S–K) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 239.11 of this chapter (Form S–1), § 239.13 of this chapter (Form S–3), § 239.25 of this chapter (Form S–4), § 239.18 of this chapter (Form S–11), § 239.31 of this chapter (Form F–1), § 239.33 of this chapter (Form F–3), § 239.34 of this chapter (Form F–4), § 249.310 of this chapter (Form 10–K), § 249.308a of this chapter (Form 10–Q), and § 249.308 of this chapter (Form 8–K). General Instruction F of § 249.311 of this chapter (Form 11–K) specifies the circumstances under which an Interactive Data File must be submitted, and the circumstances under which it is permitted to be submitted, with respect to Form 11–K. Paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of § 239.40 of this chapter (Form F–10) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form F–10. Paragraph 101 of the Instructions as to Exhibits of § 249.220f of this chapter (Form 20–F) specifies the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to Form 20–F. Paragraph B.(15) of the General Instructions to § 249.240f of this chapter (Form 40–F) and Paragraph C.(6) of the General Instructions to § 249.306 of this chapter (Form 6–K) specify the circumstances under which an Interactive Data File must be submitted and the circumstances under which it is permitted to be submitted, with respect to § 249.240f of this chapter (Form 40–F) and § 249.306 of this chapter (Form 6–K). Section 229.601(b)(101) (Item 601(b)(101) of Regulation S–K), paragraph (101) of Part II—Information not Required to be Delivered to Offerees or Purchasers of Form F–10, paragraph 101 of the Instructions as to Exhibits of Form 20–F, paragraph B.(15) of the General Instructions to Form 40–F, and paragraph C.(6) of the General Instructions to Form 6–K all prohibit submission of an Interactive Data File by an issuer that prepares its financial statements in accordance with 17 CFR 210.6–01 through 210.6–10 (Article 6 of Regulation S–X). For an issuer that is a management investment company or separate account registered under the Investment Company Act of 1940 (15 U.S.C. 80a *et seq.*) or a business development company as defined in Section 2(a)(48) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(48)), General Instruction C.3.(g) of Form N–1A (§§ 239.15A and 274.11A of this chapter), General Instruction I of Form N–2 (§§ 239.14 and 274.11a–1 of this chapter), General Instruction C.3.(h) of Form N–3 (§§ 239.17a and 274.11b of this chapter), General Instruction C.3.(h) of Form N–4 (§§ 239.17b and 274.11c of this chapter), General Instruction C.3.(h) of Form N–6 (§§ 239.17c and 274.11d of this chapter), and General Instruction C.4 of Form N–CSR (§§ 249.331 and 274.128 of this chapter), as applicable, specifies the circumstances under which an Interactive Data File must be submitted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 9. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78o–7 note, 78u–5, 78w(a), 78ll, 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30,

and 80a–37; and sec. 107, Pub. L. 112–106, 126 Stat. 312, unless otherwise noted.

* * * * *

Sections 239.63 and 239.64 are also issued under 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 80a–8, 80a–24, 80a–29, and 80a–37.

■ 10. Amend Form F–10 (referenced in § 239.40) by revising General Instruction II.L to read as follows:

Note: The text of Form F–10 does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM F–10

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

* * * * *

GENERAL INSTRUCTIONS

* * * * *

II. * * *

L. Where the offering registered on this Form is being made pursuant to the home jurisdiction's shelf prospectus offering procedures or procedures for pricing offerings after the final receipt has been issued, each supplement to, or supplemented version of, the home jurisdiction disclosure document(s) prepared under such procedures shall be filed with the Commission in electronic format via the EDGAR system within one business day after such supplement or supplemented version is filed with the principal jurisdiction. Such filings shall be deemed not to constitute amendments to this registration statement. Each such filing shall contain in the upper right hand corner of the cover page the following legend, which may be set forth in longhand if legible: ''Filed pursuant to General Instruction II.L. of Form F–10; File No. 33—[insert number of the registration statement].''

Note: Offerings registered on this Form, whether or not made contemporaneously in Canada, may be made pursuant to National Policy Statement No. 44 shelf prospectus offering procedures and procedures for pricing offerings after the final receipt has been issued. Rules 415 and 430A under the Securities Act are not available for offerings registered on this Form.

* * * * *

■ 11. Amend Form F–X (referenced in § 239.42) by:

■ a. Revising the introductory text to General Instruction II;

■ b. Removing General Instruction II.B.(2) and the corresponding Note on the cover page; and

■ c. Redesignating General Instruction II.B.(3) as General Instruction II.B.(2).

The revisions to read as follows:

Note: The text of Form F–X does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM F–X

APPOINTMENT OF AGENT FOR SERVICE OF PROCESS AND UNDERTAKING

* * * * *

GENERAL INSTRUCTIONS

* * * * *

II. A filer must file the Form F–X in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232). For assistance with EDGAR issues, please consult the EDGAR—Information for Filers web page on *SEC.gov.*

* * * * *

■ 12. Amend Form SE (referenced in §§ 239.64, 249.444, 269.8, and 274.403) by:

■ a. On the cover page removing the text ''____ Rule 311 (Permitted Paper Exhibit)'';

■ b. Revising paragraph 1.A of the General Instructions; and

■ c. Revising the first sentence of paragraph 3.B of the General Instructions.

The revisions to read as follows:

Note: The text of Form SE does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM SE

FORM FOR SUBMISSION OF PAPER FORMAT EXHIBITS BY EDGAR ELECTRONIC FILERS

* * * * *

FORM SE GENERAL INSTRUCTIONS

1. * * *

A. Electronic filers must use this form to submit any paper format exhibit under the Securities Act of 1933, the Securities Exchange Act of 1934, the Trust Indenture Act of 1939, or the Investment Company Act of 1940, provided that the submission of such exhibit in paper is permitted under Rule 201 or 202 of Regulation S–T (§§ 232.201 or 232.202 of this chapter).

* * * * *

3. * * *

B. If you are filing the exhibit under a continuing hardship exemption under Rule 202 of Regulation S–T (§ 232.202 of this chapter), you may file the exhibit in paper under cover of Form SE up to six business days before or on the date of filing of the electronic format document to which it relates; you may not file the exhibit after the filing date of the electronic document to which it relates.

* * *

* * * * *

■ 13. Amend § 239.144 by revising paragraph (a) to read as follows:

(a) Except as indicated in paragraph (b) of this section, each person who intends to sell securities in reliance upon § 230.144 of this chapter shall file this form in electronic format by means of the Commission's Electronic Data, Gathering, Analysis, and Retrieval system (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232 of this chapter).

* * * * *

■ 14. Amend Form 144 (referenced in § 239.144) by:

■ a. Removing the text ''ATTENTION: Transmit for filing 3 copies of this form concurrently with either placing an order with a broker to execute sale or executing a sale directly with a market maker.'' and add in its place ''ATTENTION: This form must be filed in electronic format by means of the Commission's Electronic Data Gathering, Analysis, and Retrieval system (EDGAR) in accordance with the EDGAR rules set forth in Regulation S–T (17 CFR part 232), except that where the issuer of the securities is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act, this form must be filed in accordance with Securities Act Rule 144(h)(2). For assistance with EDGAR issues, please consult the EDGAR—Information for Filers web page on *SEC.gov*;

■ b. Removing the text ''INSTRUCTION: The person filing this notice should contact the issuer to obtain the I.R.S. Identification Number and the SEC. File Number.'' and add in its place ''INSTRUCTION: The filer should contact the issuer to obtain the SEC. File Number.'';

■ c. Removing the data field box ''1(b)'';

■ d. Redesignating the data field boxes 1(c) through 1(e) as 1(b) through 1(d);

■ e. Removing the data field box ''2(c)'';

■ f. Removing Instructions 1(b) and 2(c);

■ g. Redesignating Instructions 1(c) through 1(e) as 1(b) through 1(d); and

Note: The text of Form 144 does not and this amendment will not appear in the Code of Federal Regulations.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 15. The authority citation for part 240 continues to read, in part, as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78c–3, 78c–5, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78n–1, 78o, 78o–4, 78o–10, 78p, 78q, 78q–1, 78s, 78u–5, 78w, 78x, 78dd, 78ll, 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.,* and 8302; 7 U.S.C. 2(c)(2)(E); 12 U.S.C. 5221(e)(3); 18 U.S.C. 1350; Pub. L. 111–203, 939A, 124 Stat. 1376 (2010); and Pub. L. 112–106, sec. 503 and 602, 126 Stat. 326 (2012), unless otherwise noted.

* * * * *

Sections 240.14a–3, 240.14a–13, 240.14b–1 and 240.14c–7 also issued under secs. 12, 14 and 17, 15 U.S.C. 781, 78n and 78g;

Sections 240.14c–1 to 240.14c–101 also issued under sec. 14, 48 Stat. 895; 15 U.S.C. 78n;

* * * * *

■ 16. Amend § 240.12d1–3 by revising paragraph (c) to read as follows:

§ 240.12d1–3 Requirements as to certification.

* * * * *

(c) The certification must be filed in electronic format via the Commission's Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system in accordance with the EDGAR rules set forth in § 232 of this chapter (Regulation S–T).

■ 17. Amend § 240.14a–3 by revising paragraph (c) to read as follows:

§ 240.14a–3 Information to be furnished to security holders.

* * * * *

(c) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of solicitation material are filed with the Commission pursuant to § 240.14a–6, whichever date is later. The report is not deemed to be ''soliciting material'' or to be ''filed'' with the Commission or subject to this regulation otherwise than as provided in this Rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the proxy soliciting material or incorporates it in the proxy statement or other filed report by reference.

* * * * *

■ 18. Amend § 240.14c–3 by revising paragraph (b) to read as follows:

§ 240.14c–3 Annual report to be furnished security holders.

* * * * *

(b) The report sent to security holders pursuant to this rule shall be submitted in electronic format, in accordance with the EDGAR Filer Manual, to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies, or definitive copies, if preliminary filing was not required, of the information statement are filed with the Commission pursuant to § 240.14c–5, whichever date is later. The report is not deemed to be ''filed'' with the Commission or subject to this regulation otherwise than as provided in this rule, or to the liabilities of section 18 of the Act, except to the extent that the registrant specifically requests that it be treated as a part of the information statement or incorporates it in the information statement or other filed report by reference.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 19. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.;* 12 U.S.C. 5461 *et seq.;* 18 U.S.C. 1350; Sec. 953(b) Pub. L. 111–203, 124 Stat. 1904; Sec. 102(a)(3) Pub. L. 112–106, 126 Stat. 309 (2012), Sec. 107 Pub. L. 112–106, 126 Stat. 313 (2012), and Sec. 72001 Pub. L. 114–94, 129 Stat. 1312 (2015), and secs. 2 and 3 Pub. L. 116–222, 134 Stat. 1063 (2020), unless otherwise noted.

Section 249.220f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 401(b), 406 and 407, Public Law 107–204, 116 Stat. 745, and secs. 2 and 3, Public Law 116–222, 134 Stat. 1063.

Section 249.240f is also issued under secs. 3(a), 202, 208, 302, 306(a), 401(a), 406 and 407, Public Law 107–204, 116 Stat. 745.

* * * * *

Section 249.310 is also issued under secs. 3(a), 202, 208, 302, 406 and 407, Public Law 107–204, 116 Stat. 745.

* * * * *

■ 20. Amend Form 20–F (referenced in § 249.220f) by adding Item 10.J to read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 20–F

* * * * *

PART I

* * * * *

Item 10. * * *

J. Annual Report to Security Holders. If a registrant is required to provide an annual report to security holders in response to the requirements of Form 6–K (§ 249.306 of this chapter), the registrant must submit the annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 21. Amend Form 40–F (referenced in § 249.240f) by revising General Instruction B.(3) to read as follows:

Note: The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 40–F

* * * * *

GENERAL INSTRUCTIONS

* * * * *

B. * * *

(3) Registrants reporting pursuant to Section 13(a) or 15(d) of the Exchange Act should file under cover of this form the annual information form required under Canadian law and the Registrant's audited annual financial statements and accompanying management's discussion and analysis. Registrants shall furnish under the cover of Form 6–K all other information material to an investment decision that a Registrant:

(i) makes or is required to make public pursuant to the law of the jurisdiction of its domicile,

(ii) filed or is required to file with a stock exchange on which its securities are traded, or

(iii) distributes or is required to distribute to its security holders.

Note to paragraphs (1) and (3) of General Instruction B: If General Instructions B.(1) or (3) of this Form require a registrant to furnish an annual report to security holders, the registrant shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 22. Amend Form 6–K (referenced in § 249.306) by:
■ a. On the cover page removing the text ''Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(1): ____

Note: Regulation S–T Rule 101(b)(1) only permits the submission in paper of a Form 6–K if submitted solely to provide an attached annual report to security holders.

Indicate by check mark if the registrant is submitting the Form 6–K in paper as permitted by Regulation S–T Rule 101(b)(7): ____

Note: Regulation S–T Rule 101(b)(7) only permits the submission in paper of a Form 6–K if submitted to furnish a report or other document that the registrant foreign private issuer must furnish and make public under the laws of the jurisdiction in which the registrant is incorporated, domiciled or legally organized (the registrant's ''home country''), or under the rules of the home country exchange on which the registrant's securities are traded, as long as the report or other document is not a press release, is not required to be and has not been distributed to the registrant's security holders, and, if discussing a material event, has already been the subject of a Form 6–K submission or other Commission filing on EDGAR.''; and
■ b. Revising paragraph C(2) of the General Instructions;
■ c. Revising paragraph C(3) of the General Instructions; and
■ d. Adding paragraph C(7) of the General Instructions.

The revisions and additions to read as follows:

Note: The text of Form 6–K does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 6–K

REPORT OF FOREIGN PRIVATE ISSUER PURSUANT TO RULES 13a–16 OR 15d–16 UNDER THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

GENERAL INSTRUCTIONS

* * * * *

C. * * *

(2) An issuer may submit a Form 6–K in paper under a hardship exemption provided by Rules 201 or 202 of Regulation S–T (17 CFR 232.201 or 232.202).

Note to paragraph (2): An issuer that is or will be incorporating by reference all or part of an annual or other report to security holders, or of any part of a paper Form 6–K, into an electronic filing must file the incorporated portion in electronic format as an exhibit to the filing in accordance with Rule 303(b) of Regulation S–T (17 CFR 232.303(b)).

(3) When submitting a Form 6–K in paper under a hardship exemption, an issuer must provide the appropriate legend required by either Rule 201(a)(2) or Rule 202(c) of Regulation S–T (17 CFR 232.201(a)(2) or 232.202(c)) on the cover page of the Form 6–K.

* * * * *

(7) *Annual Report to Security Holders.* If General Instruction B of this form requires an issuer to furnish an annual report to security holders, the issuer shall satisfy this requirement by promptly submitting an English version of its annual report to security holders in electronic format in accordance with the EDGAR Filer Manual.

* * * * *

■ 23. Amend Form 10–K (referenced in § 249.310) by revising paragraph (a) that follows the text ''Supplemental Information to be Furnished With Reports Filed Pursuant to Section 15(d) of the Act by Registrants Which Have Not Registered Securities Pursuant to Section 12 of the Act''.

The revision reads as follows:

Note: The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

(a) Except to the extent that the materials enumerated in (1) and/or (2) below are specifically incorporated into this Form by reference, every registrant which files an annual report on this Form pursuant to Section 15(d) of the Act must furnish to the Commission for its information at the time of filing its report on this form, an electronic submission in accordance with the EDGAR Filer Manual, of the following:

* * * * *

■ 24. Amend Form 11–K (referenced in § 249.311) by:

■ a. Revising General Instruction E; and

■ b. Adding paragraph 5 of Required Information.

The revisions and additions to read as follows:

Note: The text of Form 11–K does not, and this amendment will not, appear in the Code of Federal Regulations.

UNITED STATES SECURITIES AND EXCHANGE COMMISSION

Washington, DC 20549

FORM 11–K

FOR ANNUAL REPORTS OF EMPLOYEE STOCK PURCHASE, SAVINGS AND SIMILAR PLANS PURSUANT TO SECTION 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

* * * * *

GENERAL INSTRUCTIONS

* * * * *

E. Electronic Filers

Reports on this Form must be filed in electronic format. See Rule 101(a)(xxvi) of Regulation S–T (§ 232.101(a)(xxvi) of this chapter).

F. Interactive Data

All financial statements and schedules required to be included on this report on Form 11–K, including any financial statements and schedules included as an exhibit to this report pursuant to General Instruction D, must be provided as an Interactive Data File in accordance with Rule 405 of Regulation S–T (§ 232.405 of this chapter).

* * * * *

* * * * *

■ 25. Amend Form CB (referenced in § 239.800 and § 249.480) by:
■ a. Removing the line ''Filed or submitted in paper if permitted by Regulation S–T Rule 101(b)(8) [ ]'' and the corresponding Note on the cover page; and
■ b. Removing General Instruction II.A.(2) and redesignating General Instruction II.A.(3) and (4) as General Instruction II.A.(2) and (3).

By the Commission.

Dated: June 2, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–12253 Filed 6–9–22; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

22 CFR Part 42

[Public Notice: 11730]

RIN 1400–AE74

Visas: Diversity Immigrants

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Department of State (''Department'') is removing from the Code of Federal Regulations amendments that were published in an interim final rule (''IFR'') on June 5, 2019, requiring principal entrants submitting an electronic diversity visa entry form to provide certain information, including the entrant's unique serial or issuance number associated with the principal entrant's valid, unexpired passport or claim an exemption to the passport requirement. This document responds to a ruling of the U.S. District Court for the District of Columbia, which vacated the rule.

DATES: The final rule is effective June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Andrea Lage, Acting Senior Regulatory Coordinator, Office of Visa Services, Bureau of Consular Affairs, Department of State, 600 19th St. NW, Washington, DC 20006, (202) 485–7586.

SUPPLEMENTARY INFORMATION: On June 5, 2019, the Department issued an IFR titled ''Visas: Diversity Immigrants'' in the **Federal Register** (84 FR 25989). The IFR amended Department regulations at 22 CFR 42.33(b)(1) to require a Diversity Visa (''DV'') program entrant to provide on the electronic DV entry form the unique serial or issuance number associated with that entrant's valid, unexpired passport, as well as the passport's country or authority of issuance, and its expiration date, unless the entrant claimed a valid passport exemption pursuant to 22 CFR 42.2(d), (e), or (g)(2). The IFR also clarified and amended its regulation at 22 CFR 42.33(b)(1) to notify entrants that failure to accurately include any information required by the regulation would result in mandatory disqualification for that selection year.

On February 4, 2022, the District Court vacated the IFR. *E.B.* v. *U.S. Department of State,* No. 19–2856 (D.D.C. Feb. 4, 2022). To comply with the District Court's ruling, the Department is removing the regulatory changes promulgated by the IFR. This rule also makes a technical correction to a punctuation mark in 22 CFR 42.33(b)(1)(vii).

Regulatory Analyses

The regulatory analyses contained in the IFR are adopted herein by reference, as supplemented by the following.

Administrative Procedure Act

This rule is not subject to the requirement under the Administrative Procedure Act (APA) to provide notice-and-comment, because it falls under the good cause exception, 5 U.S.C. 553(b)(B). The good cause exception is satisfied when notice and comment is ''impracticable, unnecessary, or contrary to the public interest.'' *Id.* This rule is a necessary administrative step to implement the District Court's order vacating the IFR. Additionally, because this rule implements a court order already in effect, the Department has good cause to publish the rule effective immediately and without a notice and comment period under 5 U.S.C. 553(d)(3).

Congressional Review Act

This is not a major rule as defined by 5 U.S.C. 804.

Executive Orders 12866

The Office of Information and Regulatory Affairs has determined that this is a significant, though not economically significant, regulatory action under Section 3(f) of Executive Order 12866.

List of Subjects in 22 CFR Part 42

Immigration, Passports and visas.

Accordingly, for the reasons stated in the preamble, the Department amends 22 CFR part 42 as follows:

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

■ 1. The authority citation for part 42 continues to read as follows:

Authority: 8 U.S.C. 1104 and 1182; Pub. L. 105–277, 112 Stat. 2681; Pub. L. 108–449, 118 Stat. 3469; The Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (done at the Hague, May 29, 1993), S. Treaty Doc. 105–51 (1998), 1870 U.N.T.S. 167 (Reg. No. 31922 (1993)); 42 U.S.C. 14901–14954 (Pub. L. 106–279, 114 Stat. 825); 8 U.S.C. 1101 (Pub. L. 111–287, 124 Stat. 3058); 8 U.S.C. 1154 (Pub. L. 109–162, 119 Stat. 2960); 8 U.S.C. 1201 (Pub. L. 114–70, 129 Stat. 561).

■ 2. Amend § 42.33 by:

■ a. Revising paragraph (b)(1)(vii); and

■ b. Removing paragraphs (b)(1)(viii) and (ix).

The revision reads as follows:

§ 42.33 Diversity immigrants.

* * * * *

(b) * * *

(1) * * *

(vii) The location of the consular office nearest to the petitioner's current residence or, if in the United States, nearest to the petitioner's last foreign residence prior to entry into the United States.

* * * * *

Rena Bitter,

Assistant Secretary, Consular Affairs, Department of State.

[FR Doc. 2022–12514 Filed 6–9–22; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED–2021–OSERS–0018]

Final priority—State Personnel Development Grants

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education.

ACTION: Final priority.

SUMMARY: The Department of Education (Department) announces a priority under the State Personnel Development Grants (SPDG), Assistance Listing Number 84.323A. The Department may use the priority for competitions in fiscal year (FY) 2022 and later years. We take this action to focus attention on the need to improve results for children with disabilities and their families by supporting a comprehensive system of personnel development (CSPD) for the Individuals with Disabilities Education Act (IDEA) Part C Grants for Infants and Families program.

DATES: Effective July 11, 2022.

FOR FURTHER INFORMATION CONTACT: Jennifer Coffey, U.S. Department of Education, 400 Maryland Avenue SW, Room 5134, Potomac Center Plaza, Washington, DC 20202–5134. Telephone: (202) 245–6673. Email: *jennifer.coffey@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:

Purpose of Program: The purpose of the SPDG program is to assist State educational agencies (SEAs) in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services to improve results for children with disabilities.

Program Authority: 20 U.S.C. 1451–1455.

We published a notice of proposed priority (NPP) for this program in the **Federal Register** on February 1, 2022 (87 FR 5432). That document contained background information and our reasons for proposing the priority.

There are some differences between the NPP and this notice of final priority (NFP) as discussed in the *Analysis of Comments and Changes* section of this document.

Public Comment: In response to our invitation in the NPP, 17 parties submitted comments on the proposed priority. Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address general comments that raised concerns not directly related to the proposed priority.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priority since publication of the NPP follows.

Comment: One commenter asked whether the Department determined where funds should be used in a State. Other commenters recommended making these funds available for recruitment of highly qualified early intervention staff.

Discussion: While the Department agrees that the recruitment of highly qualified early intervention staff is an appropriate use of funds, we want to provide flexibility to SEAs (working in partnership with State lead agencies (LAs)) (''applicants'' or ''SEA applicant'') to determine how funds are used within the constraints of a notice inviting applications (NIA). This flexibility allows these applicants to choose the programming and sites they would like to support via professional development and the CSPD.

Changes: None.

Comment: One commenter requested that the Department stipulate the amount and percentage of SPDG funding to be used for activities or personnel development for those working with infants, toddlers, and their families.

Discussion: The Department does not want to stipulate the amount of funding, because the Department wants to provide flexibility to SEA applicants (working in partnership with State LAs) to determine the amount of funding based on the proposed activities. Typically, an NIA under the SPDG program provides a number of areas a State can choose from to focus their efforts so that they best meet the needs of their State.

However, as noted by the commenter, to achieve this priority, it will be essential for the State to at least specify the percentage of funding. As a result, we are clarifying in the priority language that a State must indicate the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. Additionally, we are clarifying a State must describe the extent to which funds will be used on activities to increase and train personnel working with infants and toddlers and their families that have historically been underserved by Part C.

Changes: We have replaced ''should'' with ''must,'' in the first paragraph of the priority, ''Supporting an IDEA Part C Comprehensive System of Personnel Development'' in the NIA to make clear that an applicant must provide the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. We also replaced ''should'' with ''must,'' in the description of the priority, ''Supporting an IDEA Part C Comprehensive System of Personnel Development'' prior to the grant's ''Program Requirements'' section to make clear that an applicant must also describe the extent to which funds will be used on activities to increase and train personnel working with infants and toddlers and their families that have historically been underserved by Part C.

Comment: One commenter described how their State's CSPD has brought together a diverse group of stakeholders and has provided a focus for important workforce issues critical to the education of their youngest learners.

Discussion: We agree that the CSPD can support collaborative, ongoing efforts to develop a knowledgeable and skilled early childhood workforce.

Changes: None.

Comment: Three commenters described how necessary this priority is because there are insufficient resources and funding to support the use of evidence-based early intervention services that improve outcomes for children with disabilities. And three commenters supported the use of the SPDG in supporting effective practices in early childhood services.

Discussion: The Department agrees that supporting evidence-based practices for the youngest children can result in substantial impact.

Changes: None.

Comment: One commenter suggested that it could be more time efficient to have a national technical assistance (TA) provider work with staff within States.

Discussion: While the Department agrees and notes that it does fund a national TA center that supports the development of CSPDs in States—the Early Childhood Personnel Center (*https://ecpcta.org/*)—additional resources are needed under the SPDG program to build sustainable systems within a State. Furthermore, the purpose of this priority is to ensure that SEAs work collaboratively with LAs by developing a partnership, and this funding would support such a partnership.

Changes: None.

Comment: Eleven commenters stated that this priority will assist with the extreme shortage of early childhood personnel.

Discussion: We agree that there are early childhood personnel shortages and this grant program can be used to support statewide strategies to recruit and retain personnel.

Changes: None.

Comment: One commenter shared that early intervention personnel need more support in implementing recommended early childhood practices.

Discussion: We agree that early intervention personnel need support in implementing recommended early childhood practices. This support can be a focus of the SPDG activities.

Changes: None.

Comment: Four commenters shared that the CSPD is integral to an effective system for Part C of the IDEA and that a comprehensive system facilitates communication, collaboration, and implementation of coordinated components of personnel standards; recruitment and retention; pre-service and in-service training; and sustainability of a qualified workforce, which includes a statewide workforce tracking system.

Discussion: We agree with the commenters that a CSPD is integral to an effective Part C system and that a comprehensive system includes these elements.

Changes: None.

Comment: Three commenters asked that the Department require each of the elements of the CSPD.

Discussion: This priority lists the components from the CSPD that are required by section 635(a)(8) of the IDEA (34 CFR 303.118(a)). The Department is cognizant that not all Part C programs under IDEA have the infrastructure in place to carry out all aspects of the CSPD and that SPDG funds are administered by SEAs under section 652 of the IDEA, which is why

the priority requires SEAs (that are not LAs) to apply for SPDG funds in partnership with LAs to support further development of these components.

Changes: None.

Comment: Three commenters shared the opinion that this funding would be the most helpful if used to provide updated mental health training in local educational agencies (LEAs) and schools.

Discussion: Since this priority focuses on the Part C CSPD, it cannot support training for LEAs and schools.

Changes: None.

Comment: One commenter was concerned that practices supported in a CSPD be evidence-based, a good fit for the context, and evaluated properly with data.

Discussion: We agree that practices supported in a CSPD must be evidence-based, a good fit for the context, and evaluated properly with data. The SPDG supports the use of evidence-based practices.

We also agree that the context in which the evidence-based practices are implemented is a critical consideration and that data must be used to evaluate the fidelity and effects of the practice.

Changes: None.

Comment: Two commenters shared that the needs of children vary dramatically across rural and inner-city communities, and one commenter recommended that the Department require States to provide what they understand their specific, community-based needs are and how the grant funding will directly support students who are most vulnerable.

Discussion: We agree that the context where children with disabilities are being served should be considered when planning services. Sections 651 through 655 of the IDEA, as amended by the Every Student Succeeds Act (ESSA), requires projects to review the needs in the State, including areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including different geographical needs within the State. Each applicant is required to include a plan that aligns with sections of the IDEA as specified earlier in this paragraph.

Changes: None.

Comment: One commenter recommended setting clear standards for the qualifications of service providers.

Discussion: The Department agrees as this is consistent with the law. Under section 632(4)(F) of the IDEA, the CSPD requires the State to establish and maintain a system that results in qualified personnel. Under 34 CFR 303.31, qualified personnel is defined as qualifications that are consistent with State-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the areas in which personnel are conducting evaluations or assessments or providing early intervention services.

Changes: None.

Comment: One commenter recommended that the Department support apprenticeship programs for improved retention of disability service providers and educators. According to this commenter, these apprenticeships offer the opportunity for dedicated, passionate individuals to pursue careers in paraprofessional services without the financial burden of attending a traditional, full-time university. Additionally, this commenter noted that these programs address the paraprofessional staff shortages experienced by schools across the Nation.

Discussion: The Department considers an apprenticeship program that addresses the needs that the State has identified under its CSPD an allowable use of funds.

Changes: None.

Comment: One commenter recommended the Department clearly define transition services and provide clearer standards as to what constitutes effective services for infants and toddlers with disabilities who are moving from an early intervention program to the general education curriculum.

Discussion: Defining transition services is unnecessary because Part C of the IDEA identifies the transition service requirements in IDEA section 637(a)(9) and 34 CFR 303.209 [1] and including personnel training activities focused on transition services is an option for a SPDG developing their CSPD.

Changes: None.

Comment: One commenter noted that more funding needs to be provided to support early childhood programming. The commenter shared that many States must use an in-service model to train providers, but that this model can put substantial strain on the State's system if the costs of training are not offset by other funding sources.

Discussion: This priority is intended to provide funding to SEAs working with LAs to support the LA's Part C CSPD which the Department believes will have a positive effect on early intervention services for infants and toddlers.

Change: None.

Comment: One commenter voiced opposition to the proposed priority stating that it would have the unintended consequence of giving a competitive advantage to SEAs that are State LAs responsible for administering Part C. The commenter was also concerned that the priority might reduce the competitiveness of States whose SPDG focus is not related to Part C.

Discussion: The Department is confident that State LAs interested in this priority will successfully pursue a collaborative partnership with the SEA applicant and that SEAs will see the benefits of the collaborative partnership.

Change: None.

Comment: The same commenter shared concerns that this priority would be a burden for SEAs by requiring them to partner with LAs, oversee grant activities, and evaluate the LA's efforts. This commenter was also concerned that the priority might cause an SEA to change its focus to a Part C activity and disrupt an effort already underway that could be funded by the SPDG.

Discussion: We thank the commenter for raising this concern. We agree that some additional administrative responsibilities could fall on an SEA that is not an LA to address this priority. The Department, however, is confident that establishing a working partnership across the SEA and LA for Part C will ultimately benefit infants and toddlers with disabilities.

Change: None.

Comment: Two commenters supported a competitive preference priority.

Discussion: The Department thanks these commenters and will consider their suggestions. The specification of the type of priority, however, belongs in the NIA, not the NFP, to enable the Department to determine on a competition-by-competition basis, whether to make the priority an absolute or competitive preference priority.

Change: None.

Comment: Two commenters supported the priority as a means to encourage partnerships between the SEA and the State LA for Part C and to integrate early intervention personnel preparation and professional

[1] 34 CFR 303.209 identifies the transition requirements for all toddlers with disabilities receiving services under Part C of the IDEA before those toddlers turn three-years old. Transition services are those services that assist toddlers with disabilities and their families to experience a smooth and effective transition from the early intervention program under Part C to the child's next program or other appropriate services, including services that may be identified for a child who is no longer eligible to receive Part C or Part B services.

development needs into statewide planning.

Discussion: The Department appreciates the support for this priority, which requires partnerships between the SEA and LA.

Changes: None.

FINAL PRIORITY:

Supporting an IDEA Part C Comprehensive System of Personnel Development (CSPD).

The purpose of this priority is to fund projects designed to enable the State to meet the CSPD requirements of section 635(a)(8) and (9) of the IDEA. In order to be considered for a grant under this priority, if the SEA is not the State LA for IDEA Part C, an SEA must establish a partnership, consistent with IDEA section 652(b)(1)(B), with the State LA responsible for administering IDEA Part C.

Consistent with IDEA section 635(a)(8) this priority will help improve the capacity of States' IDEA Part C personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. The CSPD must include, consistent with 34 CFR 303.118(a): (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of early education service providers; (2) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program. The IDEA Part C CSPD may also include, consistent with 34 CFR 303.118(b): (1) Training personnel to work in rural and urban areas; (2) Training personnel in the social and emotional development of young children; (3) Training personnel to support families in participating fully in the development and implementation of the child's Individualized Family Service Plan; and (4) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable. The SEA must include in its State plan how it will partner with the State LA, if the SEA is not the State LA for IDEA Part C, to implement these aspects of the CSPD. The description of the partnership must indicate the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. The description must also describe the extent to which funds will be used on activities to increase and train personnel working with infants and toddlers and their families that have historically been underserved by Part C.

Types of Priorities: When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does *not* solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the **Federal Register**.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is ''significant'' and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a ''significant regulatory action'' as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of $100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an ''economically significant'' rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866. We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select 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 the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency ''to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.'' The Office of Information and Regulatory Affairs of

OMB has emphasized that these techniques may include ''identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.''

We are issuing this final priority only on a reasoned determination that its benefits justify the costs. In choosing among alternative regulatory approaches, we selected the approach that maximizes net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Summary of potential costs and benefits: The Department believes that the costs associated with the final priority will be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action will be limited to paperwork burden related to preparing an application. The benefits of implementing the program will outweigh the costs incurred by applicants, and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be burdensome for eligible applicants, including small entities.

Regulatory Alternatives Considered

The Department believes that the priority is needed to administer the program effectively.

Paperwork Reduction Act of 1995

The final priority contains information collection requirements that are approved by OMB under OMB control number 1820–0028; the final priority does not affect the currently approved data collection.

Regulatory Flexibility Act Certification: The Secretary certifies that this final regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define ''small entities'' as for-profit or nonprofit institutions with total annual revenue below $7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

Participation in the SPDG program is voluntary. In addition, the only eligible entities for this program are SEAs, which do not meet the definition of a small entity. For these reasons, the final priority will not impose any additional burden on small entities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–12712 Filed 6–8–22; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900–AR29

National Service Life Insurance Premium Payment and Loan Amendment

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its National Service Life Insurance (NSLI) regulations to offer Service-Disabled Veterans' Insurance (S–DVI) policyholders the option of remitting premiums for government life insurance coverage only on a monthly or annual basis. VA is also increasing the amount that Veteran policyholders are eligible to borrow against the value of their life insurance policies and to adjust the interest rates charged for fixed-rate loans in certain circumstances.

DATES: This rule is effective July 11, 2022.

FOR FURTHER INFORMATION CONTACT: Paul Weaver, Insurance Specialist, Department of Veterans Affairs Insurance Service (310/290B), 5000 Wissahickon Avenue, Philadelphia, PA 19144, (215) 842–2000, ext. 4263. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On October 13, 2021, VA published in the **Federal Register** (86 FR 56846) a proposed rule to amend its regulations governing the NSLI programs. Interested persons were invited to submit written comments on or before December 13, 2021. VA received two comments concerning the proposed changes to the modes of payment for NSLI premiums.

The first commenter stated that VA makes the ''confusing argument that allowing veterans to pay their life insurance bills quarterly or semi-annually adds administrative complexity and program costs,'' and that the commenter cannot understand how providing additional payment options ''should add any administrative complexity.'' A second commenter

stated that calculating quarterly and semi-annual premiums ''should not have a higher program cost than calculating the annual premiums.''

We explained in our proposed rulemaking that very few Veteran policyholders choose to pay premiums on a semi-annual or quarterly basis. As part of recent VA efforts to modernize the information technology systems of its life insurance programs, VA purchased commercial-off-the-shelf (COTS) policy maintenance software used by other private insurance companies. This purchase enabled VA to minimize information technology transformation costs to policyholders compared to a custom-designed system built from the ground-up for VA use. This COTS system does not offer quarterly and semi-annual premium modes, and VA would have to incur additional costs to have the contracted vendor add these modes for VA use. VA's analysis indicated that the costs for this customization were disproportionate to the value of the associated benefit, given the relatively few policyholders who choose these payment modes. If VA were to continue these payment options, it would add administrative complexity and program costs because VA would either have to purchase a customized enhancement for these modes or develop a manual solution to override the functionality of the COTS system when policyholders choose to pay premiums on a semi-annual or quarterly basis. We note that, while the COTS system will be used for current and new policies, current policies will retain the options they have by hardcoding the prior option into the new system at conversion. A policyholder who elects a monthly or annual payment mode after conversion will not have the option to return to a quarterly or semi-annual payment. Again, to allow the quarterly and semi-annual payment options for new policies under the COTS system would require a more costly customized enhancement. Further, VA is required to manage its life insurance programs in a cost-effective and actuarially sound manner (*see, e.g.,* 38 U.S.C. 1920(b); 1925(d)(2)), and continuing to offer premium modes that would increase costs for all policyholders while benefitting a relative few, while also potentially increasing lapse rates for vulnerable disabled veterans, is not actuarially sound because it is not cost-effective.

The first commenter also stated that an article that we cited to in our proposed rulemaking concerning lapse rates (Cathy Ho & Nancy Muise, *U.S. Individual Life Persistency: Guaranteed & Simplified Issue—A Joint Study Sponsored by Soc'y of Actuaries & LIMRA* 16 (2013), *https://www.soa.org/globalassets/assets/Files/Research/Exp-Study/research-2013-gisi-study.pdf* (last visited Jan. 13, 2022)) ''is not compelling'' and that there must be ''better ways for the VA to allocate its resources than reducing the number of payment options available to veterans.'' The second commenter suggested that, because the data in the article is ''two decades old,'' VA should use a more recent study.

In the proposed rule we stated that ''research shows that lapse rates tend to increase with the number of premium payments made each year, with the notable exception of monthly payment modes.'' *Id.* We cited to this research because the results of the study support our effort to minimize lapsed life insurance coverage by offering fewer, simpler payment options. We also cited to this research because some of the commercial insurers that we reviewed relied upon this research as well as a prior 2005 study when limiting premium payment options to reduce costs and minimize lapse of coverage for their policyholders. *See* Marianne Purushotham, *U.S. Individual Life Persistency Update—A Joint Study Sponsored by LIMRA International and the Society of Actuaries, https://www.soa.org/globalassets/assets/Files/Research/Exp-Study/US-Indiv-Life-Persistency-Report-Final.pdf* (2005) (last visited Jan. 13, 2022). Because the 2013 study is consistent with the 2005 study that was conducted by the same insurance trade group, we have no reason to believe this pattern would change with more recent data. Also, VA has historically observed more inconsistent premiums from veterans paying under semi-annual and quarterly payment modes. For the reasons stated above, VA will adopt the proposed rule as final, without change.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at *www.regulations.gov.*

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect any small entities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Congressional Review Act

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

Assistance Listing

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.030, Life Insurance for Veterans—Face Amount of New Life Insurance Policies Issued, and 64.031, Life Insurance for Veterans—Direct Payments for Insurance.

List of Subjects in 38 CFR Part 8

Disability benefits, Life insurance, Loan programs—veterans, Military personnel, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 6, 2022, and authorized the undersigned to sign and

submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 38 CFR part 8 as set forth below:

PART 8—NATIONAL SERVICE LIFE INSURANCE

■ 1. The authority citation for part 8 continues to read as follows:

Authority: 38 U.S.C. 501, 1901–1929, 1981–1988, unless otherwise noted.

■ 2. Amend § 8.2 by revising paragraph (c)(2) and adding paragraph (c)(3) to read as follows:

§ 8.2 Payment of premiums.

* * * * *

(c) * * *

(2) Policyholders may pay premiums in advance on an annual basis.

(3) Policyholders insured as of July 11, 2022 may pay premiums in advance on an annual, semi-annual, or quarterly basis.

* * * * *

■ 3. Amend § 8.13:

■ a. In paragraph (a), by removing ''which will not exceed 94 percent'' and adding ''policy'' before ''reserve'' in the first sentence.

■ b. By revising paragraph (d).

The revision reads as follows:

§ 8.13 Policy loans.

* * * * *

(d) Notwithstanding any other provisions of this section, the variable loan rate shall not exceed 12 percent or be lower than 5 percent per annum. For policyholders with an existing fixed-rate loan who subsequently apply for an additional loan on the same policy, the existing fixed-rate loan shall be refinanced into the new variable-rate loan at the prevailing variable rate at the time of the new loan application.

* * * * *

[FR Doc. 2022–12561 Filed 6–9–22; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2021–0662; FRL–9465–02–R3]

Air Plan Approval; Maryland; Nonattainment New Source Review Requirements for 2015 8-Hour Ozone National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. The revision certifies that Maryland's existing nonattainment new source review (NNSR) program, covering the Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC nonattainment area for the 2015 8-hour ozone national ambient air quality standards (NAAQS), is at least as stringent as applicable Federal requirements. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on July 11, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2021–0662. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Yongtian He, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2339. Mr. He can also be reached via electronic mail at *He.Yongtian@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On March 7, 2022 (87 FR 12631), EPA published a notice of proposed rulemaking (NPRM) for the State of Maryland. In the NPRM, EPA proposed approval of Maryland's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Baltimore, MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE, and Washington, DC-MD-VA nonattainment areas. The formal SIP revision (#20–05) was submitted by Maryland on June 3, 2020.

In the SIP revision, MDE is certifying that its existing NNSR program, covering the Baltimore nonattainment area (which includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Maryland portion of Philadelphia-Wilmington-Atlantic City nonattainment area (which includes Cecil County in Maryland), and the Maryland portion of the Washington, DC nonattainment area (which includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland) for the 2015 8-hour ozone NAAQS, is at least as stringent as the requirements at 40 CFR 51.165 for ozone and its precursors.

On October 1, 2015 (effective December 28, 2015), EPA promulgated a revised 8-hour ozone NAAQS of 0.070 parts per million (ppm). See 80 FR 65292 (October 26, 2015). Upon promulgation of a new or revised NAAQS, the CAA requires EPA to 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 Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC-MD-VA area were classified as marginal nonattainment for the 2015 8-hour ozone NAAQS on June 4, 2018 (effective August 3, 2018) using 2014–2016 ambient air quality data. See 83 FR 25776 (June 4, 2018).

On December 6, 2018, EPA issued the final SIP Requirements Rule, which establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2015 8-hour ozone NAAQS. Areas that were designated as marginal ozone nonattainment areas are required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021. See 83 FR 10376 (March 9, 2018) and 83 FR 62998 (December 6, 2018). On April 13, 2022, EPA proposed to determine that the

Baltimore and Philadelphia nonattainment areas had not timely attained the 2015 ozone NAAQS. See 87 FR 21842. EPA has not yet taken final action on that proposal.

II. Summary of SIP Revision and EPA Analysis

This rule is specific to Maryland's NNSR requirements for the Baltimore nonattainment area, the Philadelphia-Wilmington-Atlantic City nonattainment area, and the Washington, DC-MD-VA nonattainment area. 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 ozone NAAQS are located in 40 CFR 51.160 through 51.165. The SIP Requirements Rule explained that, for each nonattainment area, a NNSR plan or plan revision was due no later than 36 months after the effective date of area designations for the 2015 8-hour ozone standard (*i.e.,* August 3, 2021).

The minimum SIP requirements for NNSR permitting programs for the 2015 8-hour ozone NAAQS are set forth in 40 CFR 51.165. See 40 CFR 51.1114. For the 2015 8-hour ozone NAAQS, the SIP for each ozone nonattainment area designated nonattainment for the 2008 8-hour ozone NAAQS and designated nonattainment for the 1997 ozone NAAQS must also contain NNSR provisions that include the anti-backsliding requirements at 40 CFR 51.1105. See 40 CFR 51.165(a)(12).

Maryland's longstanding SIP approved NNSR program, established in Code of Maryland Regulations (COMAR) Air Quality Rule COMAR 26.11.17—Nonattainment Provisions for Major New Sources and Major Modifications, applies to the construction and modification of major stationary sources in nonattainment areas. COMAR 26.11.17 currently includes provisions allowing ozone interprecursor trading. On January 31, 2020, MDE submitted a SIP revision (#20–02) to incorporate the interprecursor trading provisions of COMAR 26.11.17 into the Maryland SIP. On October 27, 2020, EPA published a notice of proposed rulemaking (NPRM) in which EPA proposed to approve Maryland SIP revision #20–02). See 85 FR 68029 (October 27, 2020). MDE's SIP Revision #20–05 submission to EPA referenced those interprecursor trading provisions of COMAR 26.11.17 in its certification that Maryland's NNSR program was consistent with Federal requirements. Subsequently, on January 29, 2021, the United States Court of Appeals for the D.C. Circuit concluded that ozone interprecursor trading is not permissible under the CAA and vacated ozone interprecursor trading, *i.e.,* the interprecursor trading provision in the Federal NNSR regulations. See *Sierra Club* v. *EPA,* 985 F.3d 1055 (D.C. Cir. 2021). EPA subsequently removed the language allowing interprecursor trading for ozone from our NNSR regulations. See 86 FR 37918 (July 19, 2021). After the court decision and EPA's withdrawal of the interprecursor trading provisions, by letter dated October 26, 2021, Maryland withdrew SIP revision #20–02 with the interprecursor trading provisions in its entirety. Additionally, in a separate clarification letter dated October 26, 2021, MDE requested that EPA withdraw from EPA's consideration those portions of SIP revision #20–05 which related to ozone interprecursor trading. Consequently, the proposed rule on interprecursor trading that was published on October 27, 2020 (85 FR 68029) was withdrawn on March 7, 2022. See 87 FR 12631.

Other specific requirements of 40 CFR 51.1114, the requirements of CAA sections 110 and 172, the minimum SIP requirements of 40 CFR 51.165, and the rationale for EPA's proposed action are explained in the NPRM, and will not be restated here. No public comments were received on the NPRM.

III. Final Action

EPA is approving Maryland's June 3, 2020's SIP revision addressing the NNSR requirements for the 2015 8-hour ozone NAAQS for the Baltimore, MD, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE, and Washington, DC-MD-VA nonattainment areas as a revision to the Maryland SIP. EPA has concluded that the State'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.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, 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, 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).

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 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 approving Maryland's 2015 8-hour Ozone NAAQS Certification SIP revision for NNSR 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding an entry for ''2015 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements'' at the end of the table to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
2015 8-Hour Ozone NAAQS Nonattainment New Source Review Requirements.	The Baltimore Area (includes Anne Arundel, Baltimore, Carroll, Harford, and Howard Counties and the city of Baltimore), the Philadelphia-Wilmington-Atlantic City Area (includes Cecil County in Maryland), and the Washington, DC Area (includes Calvert, Charles, Frederick, Montgomery, and Prince Georges Counties in Maryland).	6/3/2020	6/10/2022, [Insert **Federal Register** citation].	.....

[FR Doc. 2022–12255 Filed 6–9–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2022–0196; FRL–9701–02–R3]

Approval and Promulgation of Air Quality Implementation Plans; Delaware; Removal of Stage II Gasoline Vapor Recovery Program Requirements and Revision of Stage I Gasoline Vapor Recovery Program Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision, made in two separate submittals, by the State of Delaware. This revision removes requirements for gasoline vapor recovery systems installed on gasoline dispensers, the purpose of which are to capture emissions from vehicle refueling operations, otherwise known as Stage II vapor recovery. This revision also strengthens Delaware's requirements for gasoline vapor recovery systems that capture emissions from storage tank refueling operations, otherwise known as Stage I vapor recovery. Specifically, this action removes from the approved SIP prior-approved Stage II requirements applicable to new and existing gasoline dispensing facilities (GDFs). All GDFs will be required to decommission their Stage II vapor recovery systems (VRS) and to install, maintain, and periodically test Stage I enhanced vapor recovery systems (EVRS). Delaware's SIP revision establishes a compliance schedule for these changes and includes a demonstration that removal of Stage II requirements is consistent with the Clean Air Act (CAA) and meets all relevant EPA guidance.

DATES: This final rule is effective July 11, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R03–OAR–2022–0196 at *https://www.regulations.gov.* All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2103. Mr. Yarina can also be reached via electronic mail at *Yarina.Adam@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we refer

to EPA. The following outline is provided to aid in locating information in this preamble.

I. Background and Purpose

On April 6, 2022 (87 FR 19828), EPA published a notice of proposed rulemaking (NPRM) for the State of Delaware. In the NPRM, EPA proposed approval of Delaware's request to revise its requirements for Stage II and Stage I vapor recovery for new and existing GDFs in the State of Delaware. The formal SIP revisions being approved were submitted by the Delaware Department of Natural Resources and Environmental Control (DNREC) on November 17, 2020, and July 14, 2021.[1] The details of Delaware's November 17, 2020, and July 14, 2021 SIP submittals and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. See 87 FR 19828 (April 6, 2022). The NPRM also contained a detailed analysis showing that Delaware's removal of the Stage II requirements would not interfere with any Delaware area's ability to attain or maintain any national ambient air quality standard (NAAQS), or any other applicable requirement of the CAA. The public comment period for the NPRM closed on May 6, 2022. EPA received no public comments on the NPRM.

II. Final Action

As proposed in the NPRM,[2] EPA is approving Delaware's November 17, 2020, and July 14, 2021 SIP revisions for statewide removal of Stage II vapor recovery requirements, statewide prohibition of Stage II VRS installation at new GDFs, the statewide mandatory decommissioning of Stage II VRS at existing GDFs by December 31, 2021, and the statewide mandatory installation of Stage I EVRS at all GDFs by December 31, 2025. Specifically, EPA is approving Delaware's revised 7 DE Admin. Code 1124, *Control of Volatile Organic Compound Emissions,* and incorporating it into the Delaware SIP. EPA is approving this SIP revision because it meets all applicable requirements of the CAA and relevant EPA guidance and because approval of this SIP revision will not interfere with attainment or maintenance of the ozone NAAQS.

[1] Both SIP submittals can be found in Docket ID No. EPA–R03–OAR–2022–0196 at *https://www.regulations.gov,* attached to their respective transmittal letters from DNREC.

[2] See 87 FR 19828 (April 6, 2022).

III. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the State of Delaware's revised 7 DE Admin Code 1124 Section 26.0 *Gasoline Dispensing Facility Stage I Vapor Recovery* and Section 36.0 *Vapor Emission Control at Gasoline Dispensing Facilities,* which will include the revisions issued on August 17, 2015 via 19 DE Reg. 199 (state effective date September 11, 2015), the revisions issued on June 11, 2020 via 24 DE Reg. 61 (state effective date July 11, 2020), and the revisions issued on March 11, 2021 via 24 DE Reg. 944 (state effective date April 11, 2021), as described in Sections I and II of this preamble and set forth below in the amendments to part 52.

EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

A. General Requirements

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, this rule to remove Delaware's Stage II vapor recovery requirements 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.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 9, 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 to remove Stage II requirements and revise Stage I requirements for Delaware may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Adam Ortiz,

Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 I—Delaware

■ 2. In § 52.420, the table in paragraph (c) under the heading ''1124 Control of Volatile Organic Compound Emissions'' is amended by revising the entries for ''Section 26.0'' and ''Section 36.0'' to read as follows:

§ 52.420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS AND STATUTES IN THE DELAWARE SIP

State regulation (7 DNREC 1100)	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
1124 Control of Volatile Organic Compound Emissions				
*	*	*	*	*
Section 26.0	Gasoline Dispensing Facility Stage I Vapor Recovery.	04/11/2021	06/10/2022, [Insert **Federal Register** citation].	Includes revisions issued on August 17, 2015 via 19 DE Reg. 199 (state effective date September 11, 2015), revisions issued on June 11, 2020 via 24 DE Reg. 61 (state effective date July 11, 2020), and revisions issued on March 11, 2021 via 24 DE Reg. 944 (state effective date April 11, 2021). Includes mandate to install, maintain, and periodically test Stage I enhanced vapor recovery systems (EVRS) at Gasoline Dispensing Facilities (GDFs) in Delaware; associated compliance schedules; and updates related incorporations by reference.
*	*	*	*	*
Section 36.0	Vapor Emission Control at Gasoline Dispensing Facilities.	04/11/2021	06/10/2022, [Insert **Federal Register** citation].	Includes revisions issued on August 17, 2015 via 19 DE Reg. 199 (state effective date September 11, 2015), revisions issued on June 11, 2020 via 24 DE Reg. 61 (state effective date July 11, 2020), and revisions issued on March 11, 2021 via 24 DE Reg. 944 (state effective date April 11, 2021). Includes mandate to decommission Stage II vapor recovery systems (VRS) at Gasoline Dispensing Facilities (GDFs) in Delaware; associated compliance schedules; and updates related incorporations by reference.
*	*	*	*	*

* * * * *

[FR Doc. 2022–12236 Filed 6–9–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 21–422; FCC 22–38; FR ID 89066]

FM Broadcast Radio Service Directional Antenna Performance Verification

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document the Federal Communications Commission (Commission or FCC) adopts changes to its rules and procedures for FM and Low Power FM (LPFM) broadcast license applicants to allow for verification of FM directional antenna patterns through computer models prepared by the directional antenna's manufacturer. The changes are designed to reduce the cost of designing and building an FM or LPFM directional antenna and, thus, of station construction. The changes are further designed to bring the Commission's rules for the FM and LPFM services into regulatory conformity with its rules governing AM and DTV directional antennas.

DATES: Effective July 11, 2022, except for amendments to 47 CFR 73.316 and 73.1690, which are delayed indefinitely. The Commission will publish a separate document in the **Federal Register** announcing the effective date of these amendments.

FOR FURTHER INFORMATION CONTACT: Albert Shuldiner, Chief, Media Bureau, Audio Division, (202) 418–2721; Lisa Scanlan, Deputy Division Chief, Media Bureau, Audio Division, (202) 418–2704; Thomas Nessinger, Senior Counsel, Media Bureau, Audio Division, (202) 418–2709. For additional information concerning the Paperwork Reduction Act (PRA) information collection requirements contained in this document, contact Cathy Williams at 202–418–2918, or via the internet at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (R&O), MB Docket No. 21–422; FCC 22–38, adopted on May 19, 2022, and released on May 19, 2022. The full text of this document will be available via the FCC's Electronic Comment Filing System (ECFS), *https://www.fcc.gov/cgb/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. Alternative formats are available for people with disabilities (braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The Commission published the notice of proposed rulemaking (NPRM) at 86 FR 67886 on November 30, 2021.

Paperwork Reduction Act of 1995 Analysis

This document contains new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13, see 44 U.S.C. 3507. The Commission, as part of its continuing effort to reduce paperwork burdens, will invite the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in the amendments to §§ 73.316 and 73.1690, in a separate **Federal Register** document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13, see 44 U.S.C. 3507. These new or modified information collections will become effective after the Commission publishes a document in the **Federal Register** announcing such approval and the relevant effective date.

In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Congressional Review Act

The Commission will send a copy of this R&O to Congress and the Government Accountability Office (GAO) pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).

Synopsis

1. *Introduction.* In the R&O, the Commission amended its rules to allow FM and LPFM broadcasters using directional antennas to employ computer modeling to verify the antennas' directional patterns. This represents a change from the current requirement, set forth in 47 CFR 73.316(c)(2)(iii), that an FM or LPFM directional antenna's performance be verified by the ''measured relative field pattern,'' and brings the rules for those services into regulatory conformity with the rules governing AM and DTV directional antennas.

2. Four manufacturers of FM broadcast radio antennas and one licensee of FM broadcast stations (Joint Petitioners) filed a Petition for Rulemaking seeking to amend the Commission's rules to allow FM directional pattern verification by computer modeling. Currently, a permittee seeking to license a facility with a directional FM antenna system must provide verification that the directional pattern of the antenna conforms to what the Commission authorized in the construction permit. The applicant must submit, among other things, a plot of the composite pattern of the directional antenna, and a tabulation of the measured relative field pattern. The required tabulation and plot of the measured relative field pattern must be obtained either by building a full-size mockup of the antenna and supporting structures or by constructing a scale model of the antenna and structures on a test range or in an anechoic chamber. Joint Petitioners pointed out that FM radio is the only broadcast service that specifically requires stations using directional antennas to provide such physical measurements. Both the full- and scale-model measurement approaches, said Joint Petitioners, increase costs and are time-consuming. Joint Petitioners also pointed out a number of difficulties with physical measurement, such as problems in accurately replicating the installed antenna environment, including nearby structures that could affect the radiated pattern. A properly implemented computer model, according to Joint Petitioners, could take these factors into account, leading to a more accurate and less expensive pattern verification.

3. The Commission released the NPRM on November 15, 2021, FCC 21–117, in which it proposed to amend its rules to provide the option for verifying FM directional patterns through computer modeling, and sought comment on the proposal, which would apply not only to license applications for new FM facilities, but to FM broadcast station licensees applying to license facility modifications. The Commission proposed, among other things, that the license applicant must provide the Commission with details of the software tools used in modeling the antenna's directional pattern and the process by which the computer modeling was carried out, as well as the qualifications of the engineer(s) who designed, modeled, and provided installation instructions for the directional antenna. The NPRM also posed several questions designed to determine whether and how best to implement a computer modeling standard. It asked whether there are easily obtainable physical

measurements that can be used to verify the computer model's accuracy; whether there is a voluntary consensus standard or common computer model that antenna manufacturers and/or broadcast engineers agree provides the greatest accuracy; whether the most widely used directional FM antenna modeling software has a common theoretical basis that would allow Commission staff to evaluate the results generated by other software programs sharing the same theoretical basis; and how the staff should proceed in cases where there are interference complaints or other disputes as to the performance of a directional FM antenna that has been verified through a computer model (noting that such complaints are currently uncommon). Finally the NPRM sought general input regarding commenters' experiences with directional FM computer modeling software and its accuracy vis-à-vis real world performance.

4. *Discussion.* Several commenters that shared their experiences with computer modeling provided positive reports on the accuracy of computer models in depicting an antenna's directional pattern. The majority of the comments favored the proposal to amend the rules to allow computer modeling to verify FM directional antenna patterns as a means to provide license applicants with greater flexibility and to reduce overall costs for antenna manufacturers and broadcasters.

5. As discussed in more detail below, the Commission amended its rules to allow license applicants for directional FM facilities to verify the directional antenna patterns by submitting results from computer models depicting the antenna's performance, as long as they are generated by the antenna's manufacturer. This modest rule change allows for similar treatment of FM and LPFM directional antenna performance verification and AM and DTV licensing, which do not preclude the use of computer modeling to verify directional antenna performance. This rule change will reduce the cost of designing and building an FM or LPFM directional antenna, savings that should be passed on to the broadcast applicant and thus reduce the cost of station construction. Additionally, a less expensive directional antenna should provide an FM or LPFM applicant with greater flexibility in antenna siting. As is explained below, the Commission also declined to adopt several of the proposals in the NPRM.

6. Based on strong record support that antenna manufacturers should be allowed to perform computer modeling of their products' directional patterns, the Commission updated 47 CFR 73.316, to provide license applicants with the option to submit either computer results generated by the antenna's manufacturer, or physical proof of antenna directionality pursuant to current practice. As one commenter stated, antenna manufacturers are in the best position to perform computer modeling of their own products because they have the historic data to know how a specific radiator performs in a particular environment. After reviewing the comments, as well as its rules and application procedures, the Commission was convinced that it can provide the intended regulatory relief for broadcasters and manufacturers with only this minimal change to its verification requirements. It further found that this change would achieve its goal of conforming the FM directional rules with similar rules governing AM and DTV stations (*see, e.g.,* 47 CFR 73.151 (AM directional antenna systems), 73.685(f) (DTV directional antennas)), while maintaining the integrity of its licensing requirements. It concluded that because antenna manufacturers are best positioned to provide license applicants with accurate and sufficient proofs of performance using computer models, it should amend its rules to provide license applicants with the option to submit a computer-modeled proof of performance on the condition that such proof is provided to the licensee by the antenna manufacturer.

7. Under current Commission rules, when license applicants submit the showings required by 47 CFR 73.316(c)(2)(iii), they almost always rely on antenna manufacturer-supplied tabulations of the measured relative field pattern, performed either on a full-scale test range or with a scale model of the antenna. The Commission wished to continue to rely on the antenna manufacturer to validate directionality as it introduced the option for computer modeling. It agreed with commenters that the manufacturers are in the best position to ensure the validity of the computer model and the accuracy of the results. It also found that manufacturers have an incentive to represent accurately their products' performance, both to protect their own reputations and to avoid negative consequences for their customers who face interference complaints and regulatory action if their antenna patterns do not match what is authorized in their license. Because there was general agreement among commenters that antenna manufacturers have the expertise and knowledge of their products to be able to model the directional patterns effectively, and because the manufacturers already provide measured field patterns to their broadcast applicant/customers for submission to the Commission, it found that license applicants may submit computer-generated pattern verification from the antenna's manufacturer in lieu of measured relative field patterns, under the conditions set forth below. The Commission acknowledged commenter concern that manufacturer data should not be automatically accepted without a demonstration that the modeler has a background in physics or electromagnetic theory, and expected that any manufacturer would have an interest in providing models prepared by engineers possessing such expertise. However, given the varying backgrounds of broadcast engineers, the Commission did not wish to codify what constitutes qualifications to perform computer modeling. Should a challenge arise to a computer model, the Commission can and would seek further information regarding that model, including the qualifications of those preparing and performing the modeling.

8. The Commission declined to expand the range of entities authorized to perform computer modeling of directional FM antenna patterns beyond manufacturers at this time. Although commenters largely agreed that license applicants should be able to rely on manufacturer computer modeling to verify FM directional patterns for that manufacturer's antennas, there was less agreement as to whether others should be allowed to perform computer modeling to verify FM directional antenna patterns. The Commission declined at this time to expand the range of entities authorized to perform computer modeling of directional FM antenna patterns beyond antenna manufacturers. While acknowledging that there are individuals and entities other than antenna manufacturers that are qualified to perform computer modeling of directional FM antenna patterns, the Commission elected at this point to rely on antenna manufacturers to perform computer modeling consistent with current industry practice. Although there is no such limitation on those who can perform computer modeling for AM and DTV directional antennas, it found a more cautious approach is required for FM, given the greater number of FM stations versus DTV stations using directional antennas, and given that AM directional patterns are subject to continual verification through sampling that is not possible with FM directional antennas.

As more experience is gained with computer modeling of directional FM antenna patterns, the Commission will explore expanding the range of entities authorized to perform computer modeling beyond manufacturers.

9. Although the NPRM asked several questions about which software products should be used for computer modeling, the Commission declined to prescribe any particular modeling software that the antenna manufacturers must use, instead leaving this to the manufacturer's discretion. Commenters generally agreed that it should not dictate specific software products, for reasons ranging from concern about creating software monopolies or duopolies, to cost of software generally, to encouraging creation of new and better software products. Based on the comments, the Commission concluded that antenna manufacturers should have discretion to use either commercially available software products or their own proprietary software subject to the requirements set out below. Thus, if the license applicant's submission includes modeled pattern predictions from a commercially available software program, the manufacturer's report need only identify it; if the antenna manufacturer generates results using custom software the manufacturer created or that was created for the manufacturer, the Commission will require a description of the software and the computational methods underlying the software sufficient to replicate the results if necessary.

10. As proposed in the NPRM, no matter which model or software is used, when a license application includes a proof of FM directional antenna performance obtained through computer modeling, the Commission will require that the application include a statement setting forth the name(s) and qualifications of the engineer(s) who designed the antenna, performed the modeling, and prepared the manufacturer's instructions for installing the antenna. The submission must also include a statement from such engineer(s) identifying and describing the software tools used in the model and the procedures used in running the software. It will also require a certification that the software executed normally without generating any error messages or warnings indicating something was wrong with the inputs. As proposed in the NPRM, and supported by commenters, such computer modeling must analyze the antenna mounted on a tower or tower section, and the tower or tower section model must include transmission lines, appurtenances, ladders, conduits, other antennas, and any other installations that could affect the computer modeled directional pattern. The submission statement must list and describe all such elements and structures included in the model.

11. The Commission also found sufficient reason to require verification of the accuracy of the pattern generated using a particular modeling software once for each directional antenna model number or standardized series of elements. Several commenters suggested that, once a directional antenna is modeled using a particular modeling software, a full-size or scale model of that antenna, or a single element thereof, should be constructed and the pattern measured in order to test the validity of the modeling method, with two of those commenters stating that once this process is completed for a particular antenna using a particular modeling software, it need not be repeated unless the modeling method changes. The Commission agreed, and stated that in order to assist Commission staff in accuracy verification, the first time the directional pattern of a particular model of antenna is verified using a particular modeling software, it will require the license applicant to submit to the Commission both the results of the computer modelling and measurements of either a full-size or scale model of the antenna or elements thereof, demonstrating reasonable correlation between the measurements achieved and the computer model results. Once a particular antenna model or series of elements has been verified by any license applicant using a particular modeling software, the Commission will permit all subsequent license applicants using the same antenna model number or elements and using the same modeling software to submit the computer model for the subsequent antenna installation, and to cross-reference the original submission by providing the application file number. The Commission believed that this will provide a sufficient basis to verify that the computer model has been shown correctly to describe the pattern generated by the antenna or elements.

12. These changes, in combination with the Commission's existing requirement that the license applications include the tabulations and plot of the directional pattern prescribed in § 73.316, were deemed to be a sufficient basis for Commission staff to evaluate applications involving FM directional antennas. Applicants will be required to submit, as they do now, a statement from the engineer responsible for installing the antenna, certifying that the antenna has been installed pursuant to the manufacturer's instructions, and a statement from a licensed surveyor, verifying that the antenna is properly oriented.

13. In light of the record, the Commission did not change its current policies regarding interference complaints or disputes. In the NPRM, it asked whether its existing policies are sufficient to resolve any interference complaints or disputes pertaining to directional FM antennas. Most commenters agreed that interference was not and would not be a problem, and no changes to current interference rules and procedures were requested. One commenter, which did not support computer modeling, contended that the proposed rule changes will increase FM interference due to modeled directional patterns that do not accurately reflect the actual directional signals. It also argued that this will increase inter-station interference disputes because full-service FM stations, unlike secondary services such as FM translators, need not cease operations upon receiving interference complaints. While acknowledging these concerns, the Commission stated that by requiring initial computer models of antennas and components using a particular modeling software to be verified by measurements, these concerns are sufficiently addressed.

14. The Commission found that its action provided the least disruptive means to update licensing of FM stations with directional antennas, while still allowing for the benefits of computer modeling set forth in the Joint Petition and the NPRM. It reiterated that the rule changes adopted are optional, and that applicants may still submit measured relative field patterns rather than computer modeled patterns if they so desire. The Commission finally found that the record did not provide sufficient support for further changes to its application procedures, nor does it support changes to our interference complaint and resolution policies, and therefore made no other changes to its rules at this time.

Procedural Matters

15. *Regulatory Flexibility Analysis.* As required by the Regulatory Flexibility Act of 1980, as amended (RFA) an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM to this proceeding. The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. The Commission received no comments on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA. See 5 U.S.C. 604.

16. *Need for, and Objectives of, the Report and Order.* This document adopts rule changes to provide FM and Low-Power FM (LPFM) license applicants the option to submit computer models to verify directional antenna patterns on condition that such proof is provided to the licensee by the antenna manufacturer.

17. Amending these rules will allow for similar treatment of directional FM stations and directional TV, DTV, and AM broadcast stations, and will eliminate unnecessary burdens on broadcasters.

18. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA.* There were no comments to the IRFA filed.

19. *Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration.* Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

20. *Description and Estimate of the Number of Small Entities to Which the Rules Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

21. Radio Stations. Radio stations are an Economic Census category that ''comprises establishments primarily engaged in broadcasting aural programs by radio to the public. Programming may originate in their own studio, from an affiliated network, or from external sources.'' The SBA has established a small business size standard for this category as firms having $41.5 million or less in annual receipts. 13 CFR 121.201, NAICS code 515112 Radio Stations.

22. Economic Census data for 2012 shows that 2,849 radio station firms operated during that year. Of that number, 2,806 operated with annual receipts of less than $25 million per year, and 43 firms had annual receipts of $25 million or more. Because the Census has no additional classifications that could serve as a basis for determining the number of stations whose receipts exceeded $41.5 million in that year, the Commission concluded that the majority of radio broadcast stations were small entities under the applicable SBA size standard.

23. Apart from the U.S. Census, the Commission has estimated the number of licensed commercial FM stations to be 6,763. According to BIA/Kelsey Publications, Inc.'s Media Access Pro Database, as of March 2020, 6,762 commercial FM stations had revenues of $41.5 million or less. In addition, the Commission has estimated the number of noncommercial educational FM radio stations to be 4,119, and the number of Low Power FM (LPFM) stations to be 2,049. NCE stations are non-profit, and all LPFM stations are NCE stations, and all are therefore considered to be small entities. Accordingly, the Commission estimates that the majority of radio broadcast stations are small entities. In assessing whether a business concern qualifies as small under the above definition, however, business (control) affiliations must be included. This estimate, therefore, likely overstates the number of small entities that might be affected by the Commission's action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies.

24. Moreover, as noted above, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. The Commission is unable at this time to define or quantify the criteria that would establish whether a specific radio station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply does not exclude any radio station from the definition of a small business on this basis and therefore may be over-inclusive to that extent. Also, as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. The Commission notes that it is difficult at times to assess these criteria in the context of media entities and the estimates of small businesses to which they apply may be over-inclusive to this extent.

25. *Description of Projected Reporting, Record Keeping and Other Compliance Requirements.* The rule changes adopted in the Report and Order do not include any notification or recordkeeping requirements.

26. *Steps Taken to Minimize Significant Impact on Small Entities, and Significant Alternatives Considered.* The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

27. The rules adopted or amended in the Report and Order, while potentially imposing new substantive requirements on FM and LPFM radio stations, are voluntary in nature, giving applicants for licensing directional FM broadcast stations the option of submitting computer models rather than submitting measured directional patterns. Applicants wishing to continue submitting measured patterns may do so; however, it is anticipated that computer modeling will save applicants money and may increase the accuracy of the directional pattern verification. Significant alternatives would include continuing to require submissions of measured FM directional antenna patterns rather than computer models; however, in the Commission's judgment the option of submitting computer models rather than measurements reduces financial burdens to FM stations when installing an FM directional antenna.

28. *Report to Congress.* The Commission will send a copy of the Report and Order, including the FRFA, in a report to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the Report and Order, including the FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

29. *Paperwork Reduction Act Analysis.* The Report and Order may contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The

requirements will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

30. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, concurs that this rule is ''non-major'' under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of this Report and Order to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

31. Accordingly, *it is ordered* that, pursuant to the authority contained in sections 1, 4(i), 4(j), 301, 303, 307, 308, 309, 316, and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 301, 303, 307, 308, 309, 316, and 319, the Report and Order *is adopted* and *will become effective* 30 days after publication in the **Federal Register**.

32. *It is further ordered* that Part 73 of the Commission's rules *is amended* as set forth in the Final Rules, and such rule amendments *will become effective* 30 days after publication in the **Federal Register**, except that the rule changes to §§ 73.316 and 73.1690, which may contain new or modified information collection requirements, will not become effective until the Office of Management and Budget completes review of any information collection requirements that the Media Bureau determines is required under the Paperwork Reduction Act. The Commission directs the Media Bureau to announce the effective dates for the rule changes to §§ 73.316 and 73.1690 by subsequent Public Notice.

33. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Report and Order, including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

34. *It is further ordered* that the Commission *shall send* a copy of the Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

35. *It is further ordered* that, should no petitions for reconsideration or petitions for judicial review be timely filed, MB Docket No. 21–422 *shall be terminated* and its docket *closed.*

List of Subjects in 47 CFR Part 73

Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

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

PART 73—RADIO BROADCAST SERVICES

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

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

■ 2. Delayed indefinitely, amend § 73.316 as follows:
■ a. Revise paragraph (c)(2)(iii);
■ b. Redesignate paragraphs (c)(2)(iv) through (ix) as paragraphs (c)(2)(v) through (x);
■ c. Add new paragraph (c)(2)(iv); and
■ d. Revise newly redesignated paragraph (c)(2)(x).

The revisions and addition read as follows:

§ 73.316 FM antenna systems.

* * * * *

(c) * * *

(2) * * *

(iii) A tabulation of the measured or computer modeled relative field pattern required in paragraph (c)(1) of this section. The tabulation must use the same zero degree reference as the plotted pattern, and must contain values for at least every 10 degrees. Sufficient vertical patterns to indicate clearly the radiation characteristics of the antenna above and below the horizontal plane. Complete information and patterns must be provided for angles of −10 deg. from the horizontal plane and sufficient additional information must be included on that portion of the pattern lying between + 10 deg. and the zenith and −10 deg. and the nadir, to conclusively demonstrate the absence of undesirable lobes in these areas. The vertical plane pattern must be plotted on rectangular coordinate paper with reference to the horizontal plane. In the case of a composite antenna composed of two or more individual antennas, the composite antenna pattern should be used, and not the pattern for each of the individual antennas.

(iv) When the relative field pattern is computer modeled, as permitted in paragraphs (c)(2)(iii) and (x) of this section and in § 73.1690(c)(2), the computer model must be generated by the manufacturer of the antenna, and must include a statement from the engineer(s) responsible for designing the antenna, performing the modeling, and preparing the manufacturer's instructions for installation of the antenna, that identifies and describes the software tool(s) used in the modeling and the procedures applied in using the software. It must also include a certification that the software executed normally without generating any error messages or warnings indicating an error in the program inputs. Such computer modeling shall include modeling of the antenna mounted on a tower or tower section, and the tower or tower section model must include transmission lines, ladders, conduits, appurtenances, other antennas, and any other installations that may affect the computer modeled directional pattern. The first time the directional pattern of a particular model of antenna is verified using a particular modeling software, the license applicant must submit to the Commission both the results of the computer modeling and measurements of either a full-size or scale model of the antenna or elements thereof, demonstrating reasonable correlation between the measurements achieved and the computer model results. Once a particular antenna model or series of elements has been verified by any license applicant using a particular modeling software, subsequent license applicants using the same antenna model number or elements and using the same modeling software to verify the directional pattern may submit the computer model for the subsequent antenna installation and cross-reference the original submission by providing the application file number.

* * * * *

(x)(A) For a station authorized pursuant to § 73.215 or § 73.509, a showing that the root mean square (RMS) of the measured or computer modeled composite antenna pattern (encompassing both the horizontally and vertically polarized radiation components (in relative field)) is at least 85 percent of the RMS of the authorized

composite directional antenna pattern (in relative field). The RMS value, for a composite antenna pattern specified in relative field values, may be determined from the following formula:

RMS = the square root of:

[(relative field value 1)^2 + (relative field value 2)^2 + ... + (last relative field value)^2]

total number of relative field values

(B) Where the relative field values are taken from at least 36 evenly spaced radials for the entire 360 degrees of azimuth. The application for license must also demonstrate that coverage of the community of license by the 70 dBu contour is maintained for stations authorized pursuant to § 73.215 on Channels 221 through 300, as required by § 73.315(a), while noncommercial educational stations operating on Channels 201 through 220 must show that the 60 dBu contour covers at least a portion of the community of license.

* * * * *

■ 3. Effective July 11, 2022, amend § 73.1620 by revising paragraph (a)(3) to read as follows:

§ 73.1620 Program tests.

(a) * * *

(3) FM licensees replacing a directional antenna pursuant to § 73.1690(c)(2) without changes which require a construction permit (*see* § 73.1690(b)) may immediately commence program test operations with the new antenna at one half (50%) of the authorized ERP upon installation. If the directional antenna replacement is an EXACT duplicate of the antenna being replaced (*i.e.,* same manufacturer, antenna model number, and measured or computer modeled composite pattern), program tests may commence with the new antenna at the full authorized power upon installation. The licensee must file a modification of license application on FCC Form 2100, Schedule 302–FM within 10 days of commencing operations with the newly installed antenna, and the license application must contain all of the exhibits required by § 73.1690(c)(2). After review of the modification-of-license application to cover the antenna change, the Commission will issue a letter notifying the applicant whether program test operation at the full authorized power has been approved for the replacement directional antenna.

* * * * *

■ 4. Delayed indefinitely, amend § 73.1690 by revising paragraphs (c)(2) introductory text and (c)(2)(i) through (iii) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(c) * * *

(2) Replacement of a directional FM antenna, where the measured or computer modeled composite directional antenna pattern does not exceed the licensed composite directional pattern at any azimuth, where no change in effective radiated power will result, and where compliance with the principal coverage requirements of § 73.315(a) will be maintained by the measured or computer modeled directional pattern. The antenna must be mounted not more than 2 meters above or 4 meters below the authorized values. The modification of license application on FCC Form 2100, Schedule 302–FM to cover the antenna replacement must contain all of the data in paragraphs (c)(2)(i) through (v) of this section. Program test operations at one half (50%) power may commence immediately upon installation pursuant to § 73.1620(a)(3). However, if the replacement directional antenna is an exact replacement (*i.e.,* no change in manufacturer, antenna model number, AND measured or computer modeled composite antenna pattern), program test operations may commence immediately upon installation at the full authorized power.

(i) A measured or computer modeled directional antenna pattern and tabulation on the antenna manufacturer's letterhead showing both the horizontally and vertically polarized radiation components and demonstrating that neither of the components exceeds the authorized composite antenna pattern along any azimuth.

(ii) Contour protection stations authorized pursuant to § 73.215 or § 73.509 must attach a showing that the RMS (root mean square) of the composite measured or computer modeled directional antenna pattern is 85% or more of the RMS of the authorized composite antenna pattern. *See* § 73.316(c)(9). If this requirement cannot be met, the licensee may include new relative field values with the license application to reduce the authorized composite antenna pattern so as to bring the measured or computer modeled composite antenna pattern into compliance with the 85 percent requirement.

(iii) A description from the manufacturer as to the procedures used to measure or computer model the directional antenna pattern. The antenna measurements or computer modeling must be performed with the antenna mounted on a tower, tower section, or scale model equivalent to that on which the antenna will be permanently mounted, and the tower or tower section must include transmission lines, ladders, conduits, other antennas, and any other installations which may affect the measured or computer modeled directional pattern.

* * * * *

[FR Doc. 2022–11688 Filed 6–9–22; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2020–0130; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BF21

Endangered and Threatened Wildlife and Plants; Endangered Species Status for Arizona Eryngo and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine endangered species status under the Endangered Species Act of 1973 (Act), as amended, for the Arizona eryngo (*Eryngium sparganophyllum*), a plant species native to Arizona and New Mexico in the United States, and to Sonora and Chihuahua in Mexico. We also designate critical habitat for the Arizona eryngo. In total, approximately 12.7 acres (5.1 hectares) in Pima and Cochise Counties, Arizona, fall within the boundaries of the critical habitat designation. This rule extends the protections of the Act to this species and its designated critical habitat.

DATES: This rule is effective July 11, 2022.

ADDRESSES: This final rule is available on the internet at *https://www.regulations.gov.* Comments and materials we received, as well as supporting documentation we used in preparing this rule, are available for public inspection at *https://www.regulations.gov at* Docket No. FWS–R2–ES–2020–0130.

For the critical habitat designation, the coordinates or plot points or both from which the maps are generated are included in the decision file and are available at *https://www.regulations.gov* at Docket No. FWS–R2–ES–2020–0130.

FOR FURTHER INFORMATION CONTACT: Heather Whitlaw, Arizona Ecological

Services Field Office, 9828 North 31st Ave. C3, Phoenix, AZ 85051–2517; telephone 602–242–0210. 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:

Executive Summary

Why we need to publish a rule. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become endangered in the foreseeable future throughout all or a significant portion of its range). We have determined that the Arizona eryngo meets the definition of an endangered species; therefore, we are listing it as such and designating critical habitat for it. Both listing a species and designating critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process.

What this document does. This rule makes final the listing of the Arizona eryngo as an endangered species and the designation of critical habitat for the species under the Act. We are designating critical habitat in two units, on private and public property, totaling 12.7 acres (5.1 hectares) in Pima and Cochise Counties, Arizona.

The basis for our action. Under the Act, we may determine that a species is an endangered or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence. We have determined that the Arizona eryngo is primarily at risk of extinction due to habitat changes: physical alteration of cienegas, water loss, and changes in co-occurring vegetation, all of which are exacerbated by the effects of climate change (Factors A).

Section 4(a)(3) of the Act requires the Secretary of the Interior (Secretary) to designate critical habitat concurrent with listing to the maximum extent prudent and determinable. Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Previous Federal Actions

Please refer to the March 4, 2021, proposed listing and critical habitat rule for the Arizona eryngo (86 FR 12563) for a detailed description of previous Federal actions concerning this species.

Supporting Documents

A species status assessment (SSA) team prepared an SSA report for the Arizona eryngo. The SSA team was composed of Service biologists, in consultation with other species experts. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the species, including the impacts of past, present, and future factors (both negative and beneficial) affecting the species.

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we sought peer review of the SSA report. The Service sent the SSA report to eight independent peer reviewers and received four responses. The purpose of peer review is to ensure that our listing determinations and critical habitat designations are based on scientifically sound data, assumptions, and analyses. The peer reviewers have expertise in the biology, habitat, and threats to the species. The Service also sent the SSA report to 16 partners, including scientists with expertise in wetland management and conservation and plant ecology, for review. We received review from eight partners (Federal, State, and County governments, and universities).

Summary of Changes From the Proposed Rule

Based on information we received in the comments regarding proposed critical habitat, we are excluding all of proposed Unit 3 (Agua Caliente) from the critical habitat designation for the Arizona eryngo. This exclusion results in a decrease of approximately 0.33 acres (0.13 hectares) from the areas we proposed to designate as critical habitat for the species.

Summary of Comments and Recommendations

In the March 4, 2021, proposed rule to list the Arizona eryngo as an endangered species and designate critical habitat under the Act (86 FR 12563), we requested that all interested parties submit written comments on the proposal by May 3, 2021. We also contacted appropriate Federal and State agencies, scientific experts and organizations, and other interested parties and invited them to comment on the proposal. Newspaper notices inviting general public comment were published in the Arizona Daily Star. We did not receive any requests for a public hearing. All substantive information received during the comment period has either been incorporated directly into this final determination or is addressed below.

Peer Reviewer Comments

As discussed in Supporting Documents above, we received comments from four peer reviewers on the draft SSA report. We reviewed all comments we received from the peer reviewers for substantive issues and new information regarding the information contained in the SSA report. The peer reviewers generally concurred with our methods and conclusions, and provided additional information, clarifications, and suggestions, including updates to the taxonomy of *Eryngium,* clarifications in terminology and discussions of genetic diversity, and other editorial suggestions. There was one comment on distribution records of the species in Mexico, which were further clarified in the SSA report for the species. Otherwise, no substantive changes to our analysis and conclusions within the SSA report were deemed necessary, and peer reviewer comments are addressed in version 1.0 of the SSA report, which was made available for public review at *https://www.regulations.gov* under Docket No. FWS–R2–ES–2020–0130 when the March 4, 2021, proposed rule published.

Public Comments

(1) Comment: Several commenters requested that additional habitat be evaluated for designation as unoccupied critical habitat.

Our response: When designating critical habitat, we first evaluate areas occupied by the species and will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied would be inadequate to ensure the conservation of the species. We are not designating any areas currently unoccupied by Arizona eryngo because we cannot with reasonable certainty determine whether they will be essential for the conservation of the species. For long-term viability, the species will require the establishment and protection of additional resilient populations across its historical range to reduce its risk of extinction. While the species may need these areas, we do not have sufficient information at this time to identify specific locations outside the known historical distribution that have the potential conditions necessary to support the species or whether they would contribute to conservation. As has been recently demonstrated, attempts to establish the species at unoccupied locations thought to have appropriate habitat (*e.g.,* Agua Caliente) have not been successful. Thus, at this time, we are unable to identify which cienegas not currently occupied by Arizona eryngo will be suitable for the reintroduction of the species at this time.

(2) Comment: Several commenters requested that we evaluate Las Cienegas National Conservation Area, St. David Cienega, and Historic Canoa Ranch as critical habitat.

Our response: Recent efforts have been made to establish the species at additional locations that were not historically occupied (*e.g.,* Las Cienegas National Conservation Area, St. David Cienega, Historic Canoa Ranch). We support these efforts to increase species redundancy (*i.e.,* increase the number of populations of Arizona eryngo). As required by the Act, we proposed as critical habitat the specific areas within the geographical area occupied by the species at the time of listing that contain the physical or biological features essential to the conservation of the species, which may require special management considerations or protection.

We have more clearly defined what it means for an area to be occupied by Arizona eryngo (see Criteria Used To Identify Critical Habitat, below) to mean the presence of mature adult plants. Recent introductions have consisted of scattered seed or plantings of young plants, most of which did not survive. Without survival and recruitment, it is difficult to determine whether these sites provide the conditions that would support the species and contribute to long-term conservation. Because we do not intend to designate as critical habitat in areas that will not contribute to the conservation of the species, defining ''occupied'' in this manner will ensure only those areas with a significant likelihood of success will be included as critical habitat. Using this definition, Las Cienegas National Conservation Area, St. David Cienega, and Historic Canoa Ranch are not considered occupied by Arizona eryngo at this time. Section 4(a)(3)(A)(ii) of the Act allows us from time-to-time to revise critical habitat designations, as appropriate. Therefore, if we become aware of additional locations that meet the definition of critical habitat in the future, then we may revise critical habitat at that time.

(3) Comment: Several commenters requested the removal of Agua Caliente as critical habitat due to lack of physical or biological features essential to the conservation of the species present at this site and provided information on land-use and water diversion history for Agua Caliente Spring. This included Pima County, which owns Agua Caliente Park where this unit is located.

Our response: In our designation of critical habitat, we identified that Agua Caliente had the physical and biological features necessary for the conservation of the species. It contains two (saturated soils and areas of open canopy) of the three physical or biological features essential to the conservation of the Arizona eryngo. However, based on recent information on the status of the population, we are no longer certain the physical and biological features present at Agua Caliente are sufficient to support the species. Our analysis determined that excluding proposed Unit 3 (Agua Caliente) outweighs the benefit of inclusion and will not result in the extinction of the species.

(4) Comment: A commenter requested that in the interest of Fort Huachuca, Lewis Springs be excluded from critical habitat under section 4(a)(3)(B) of the Act due to economic impacts; however, the commenter did not provide any specific information as to what these economic impacts entailed.

Our response: Under section 4(a)(3)(B) of the Act, we do not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if we determine that such plan provides a benefit to the species for which critical habitat is proposed for designation. With regard to critical habitat at Lewis Springs, we cannot exempt this area from critical habitat under the Act's section 4(a)(3)(B) because it is not owned or controlled by the Department of Defense, nor designated for its use, and is not subject to an integrated natural resources management plan.

Because the commenter references economic impacts, we considered whether they intended their comment to recommend that these lands be excluded under section 4(b)(2) rather than section 4(a)(3)(B). Based on our economic analysis, the estimated annual incremental costs of consultations for the Lewis Springs unit will be $4,000. Because these costs are relatively minor, and the commenter did not provide any specific information regarding a basis for exclusion, we did not conduct an exclusion analysis.

(5) Comment: A commenter stated we must consider impacts to local governments and national defense and security, including economic impacts that would result from the proposed listing and critical habitat designation.

Our response: With regard to considering impacts of listing the Arizona eryngo, in making a determination as to whether a species meets the Act's definition of an endangered or threatened species, under section 4(b)(1)(A) of the Act the Secretary is to make that determination based solely on the basis of the best scientific and commercial data available. The question of whether or not there may be impacts caused by the listing cannot by law enter into the determination. However, we conducted an evaluation of economic and other impacts in association with the designation of critical habitat under section 4(b)(2) of the Act (IEc 2020, entire). Therefore, we considered the potential economic impacts of the critical habitat designation, including the potential benefits of such designation. Costs of the critical habitat designation would manifest through Section 7 consultations on federally owned lands, with the total anticipated cost of these consultations over a 10-year period being no more than $36,000 (IEc 2020, p. 13). As the critical habitat designations do not occur on military owned lands, it will not have an effect on national security. The economic analysis predicted the critical habitat designation was unlikely to trigger

additional State or local regulations (IEc 2020, p. 17).

(6) Comment: A commenter questioned the accuracy of our economic analysis and requested that an updated economic analysis be conducted that includes cumulative effects, fiscal burdens, and a quantification of impacts to water users.

Our response: Our economic analysis represents our best assessment of what the economic impacts may be of the critical habitat designation for the Arizona eryngo. Section 4(b)(2) of the Act requires the consideration of potential economic impacts associated with the designation of critical habitat. The regulatory effect of critical habitat designation under the Act directly impacts only Federal agencies, as a result of the requirement that those agencies avoid ''adverse modification'' of critical habitat. Specifically, section 7(a)(2) of the Act states that each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary to be critical habitat.

This requirement is the direct regulatory impact of a critical habitat designation and serves as the foundation of our economic analysis. We define it as an ''incremental impact'' because it is an economic impact that is incurred above and beyond the baseline impacts that may stem from the listing of the species (for example, costs associated with avoiding take under section 9 of the Act); thus, it incrementally adds to those baseline costs. However, in most cases, and especially where the habitat in question is already occupied by the listed species, if there is a Federal nexus, the action agency already consults with the Service to ensure its actions will not jeopardize the continued existence of the species; thus, the additional costs of consultation to further ensure the action will not destroy or adversely modify critical habitat are usually relatively minimal. Because the Act provides for the consideration of economic impacts associated only with the designation of critical habitat, and because the direct regulatory effect of critical habitat is the requirement that Federal agencies avoid destruction or adverse modification of critical habitat, the direct economic impacts of a critical habitat designation in occupied areas are generally limited to the costs of consultations on actions with a Federal nexus, and rest squarely on Federal action agencies. The economic assessment did not find that designating critical habitat would have additional economic impacts beyond the costs of consultations (IEc 2020, entire).

(7) Comment: A comment was made that we failed to comply with the Data Quality Act (DQA), the Information Quality Guidelines, Presidential memoranda, and Secretarial orders on scientific integrity and transparency, and more time is required to collect data on the species to comply with the DQA.

Our response: In making a determination as to whether a species meets the Act's definition of an endangered species or a threatened species, under section 4(b)(1)(A) of the Act, the Secretary is to make that determination based solely on the basis of the best scientific and commercial data available. In addition, under section 4(b)(6)(A), the Act requires the Service to publish a final rule within 1 year from the date we propose to list a species, with certain exceptions. We are obligated to and have followed both of the aforementioned statutory requirements. Additionally, in accordance with the Information Quality Act, also referred to as the Data Quality Act (DQA) (Pub. L. 106–554), the Service has guidelines in place for use and review of data and publications. The Service has complied with these requirements.

(8) Comment: A comment was made that listing will further harm the species and hamper research, and that we must consider the benefits gained by not listing the species and weigh these against the dangers of an incorrect listing.

Our response: In making a determination as to whether a species meets the Act's definition of an endangered species or a threatened species, under section 4(b)(1)(A) of the Act, the Secretary is to make that determination based solely on the basis of the best scientific and commercial data available. The question of whether or not there may be some negative or positive outcome to the listing cannot by law enter into the determination. On and after the effective date of this rule (see **DATES**, above), we are available to support and guide researchers in applying for recovery permits issued under section 10(a)(1)(A) of the Act to conduct research and implement actions to recover the species.

(9) Comment: Commenters requested a 90-day extension of the public comment period, and a commenter requested a 5-year extension on the final rule to gather more scientific information on the species, specifically potential sites in Mexico.

Our response: We consider the 60-day comment period for the March 4, 2021, proposed rule to have provided the public a sufficient opportunity for submitting comments on our proposal. In addition, as noted in our response to *(7) Comment,* above, the Act requires the Service to publish a final rule within 1 year from the date we propose to list a species. This 1-year timeframe can only be extended if there is substantial disagreement regarding the sufficiency or accuracy of the available data relevant to the determination or revision concerned, but only for 6 months and only for purposes of soliciting additional data. Based on the comments we received and data evaluated, we did not identify substantial disagreement regarding the sufficiency or accuracy of the data. The comments expressing disagreement requested time to collect new data to inform this finding but did not provide conflicting or additional data that we did not consider in the proposed rule. Per section 4(b) of the Act and the Interagency Policy on Information Standards under the Act, we considered the best scientific and commercial data available regarding the Arizona eryngo to evaluate its potential status under the Act. We solicited peer review of our evaluation of the available data, and our peer reviewers supported our analysis. Science is a cumulative process, and the body of knowledge is ever-growing. In light of this, the Service will always take new research into consideration. If plausible new research supports amendment or revision of this rule in the future, the Service will modify the rule consistent with the Act and our established work priorities at that time.

(10) Comment: A commenter requested that we consider a rule issued under section 4(d) of the Act for this species that would facilitate propagation by nurseries and transportation of Arizona eryngo.

Our response: Section 4(d) of the Act directs the Service to issue regulations deemed necessary and advisable to provide for the conservation of threatened species. It allows the Service to promulgate rules for species listed as threatened (not endangered) that provide flexibility in implementing the Act. We are listing the Arizona eryngo as an endangered species; thus, we cannot apply a rule issued under section 4(d) of the Act for this species. However, a section 10(a)(1)(A) permit may be requested to support scientific research or propagation.

(11) Comment: A commenter stated that the Arizona eryngo was

photographed in 2019 in juniper oak pine woodland in Sonora and asked what is known of the species range in oak woodlands.

Our response: We contacted the observer who documented the specimen in Sonora because the species photographed did not appear to be Arizona eryngo. The observer subsequently visited the University of Arizona Herbarium to compare the species in question to specimens of Arizona eryngo. Upon careful examination, the observer determined that the species documented in the pine-oak woodland in Sonora was *E. longifolium.* SEINet now reflects this updated information (Record ID: e9c3315c–828f–4210–8fcd–d24451c712dd).

(12) Comment: A commenter inquired about the distribution of Arizona eryngo in Mexico, asked who has searched for the species there, and questioned the assertion of Stromberg *et al.* 2020 (entire) that reports of the species farther south in Mexico are likely not valid.

Our response: A researcher from Mexico, who received funding under the Act's section 6, searched 55 locations in Sonora and Chihuahua for six rare plants, including the Arizona eryngo. He found the species at 2 of 55 sites (Sánchez Escalante et al. 2019), which were the Rancho Agua Caliente and Ojo Vareleño sites discussed in the SSA report. This combined with Stromberg *et al.* 2020 (entire) represents the best scientific and commercial data available on the species' distribution in Mexico.

I. Final Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Arizona eryngo (*Eryngium sparganophyllum*) is presented in the SSA report, version 1.0 (Service 2020). The Arizona eryngo is an herbaceous perennial flowering plant in the Apiaceae (carrot) family that is native to Arizona and New Mexico in the United States, and to Sonora and Chihuahua in Mexico. The species occurs in moist, organic alkali soils found in spring-fed cienegas (aridland wetlands) supported by adequate groundwater.

Arizona eryngo grows to a height of about 1.5 meters (m) (5 feet (ft)) with long, linear, parallel-veined leaves that emerge from a basal rosette. The plant is conspicuous when flowering in June through September (Stromberg *et al.* 2020, p. 179; New Mexico Rare Plants 2013, p. 1). The flowers are cream-colored and clustered in dense heads. Dry fruits ripen in September and October. The species is believed to live well over 10 years, and many pollinators have been documented interacting with the species. Arizona eryngo reproduces through pollination, creating genetically unique individuals, as well as vegetatively via rhizomes (underground stems) producing clones, which are genetically identical (Stromberg *et al.* 2020, p. 179).

The Arizona eryngo only occurs in spring-fed cienega wetlands and grows best in full sun in areas with few nonnative plant species, limited woody vegetation, or other vegetation that may shade or otherwise outcompete it. The species has been found in conditions from standing water up to 2 centimeters (cm) (0.8 inches (in)) deep to soil that is dry at the surface but is moist to saturated several centimeters into the soil (Stromberg *et al.* 2020, p. 177). It is hypothesized that flowering is determined, in part, by soil moisture availability (*i.e.,* plants do not flower in drier conditions when the plants are more stressed) and that ramets (clones) are produced during drier periods (Li 2019, p. 8; Stromberg *et al.* 2020, p. 179). Distribution of Arizona eryngo within cienegas appears to be associated with water availability; drier conditions favor the growth of trees that outcompete the species, and very wet conditions (*i.e.,* perennially standing water) favor the growth of bulrush (*Schoenoplectus americanus*) that similarly outcompetes Arizona eryngo (Li 2019, p. 4). Soils inhabited by Arizona eryngo are high in organic matter, saline, and alkaline, and have salts on soil surfaces in the seasonally dry periphery (Stromberg *et al.* 2020, p. 177).

The Arizona eryngo is known historically from six sites: three sites in Arizona and one in New Mexico in the United States, and one site in Sonora and one site in Chihuahua in Mexico (Sánchez Escalante *et al.* 2019, pp. 16–17; Stromberg *et al.* 2020, p. 175). Given the historical distribution of functional aridland cienegas (greater than 95 percent of the historical area of cienegas in the southwestern United States and northwestern Mexico is now dry (Cole and Cole 2015, p. 36)), it is likely that Arizona eryngo populations were historically more abundant, occurred closer to one another, and were more connected (through pollination) than they are currently.

The species has been extirpated from one site in Arizona and one site in New Mexico but remains extant at the other four sites (two in Arizona; one in Sonora, Mexico; and one in Chihuahua, Mexico). Additionally, efforts have been on-going to reintroduce the species to the historical site in Arizona from which it was extirpated (Agua Caliente) and to introduce the species to new sites (Historic Canoa Ranch in Pima County, Arizona, and Las Cienegas National Conservation Area in Pima and Santa Cruz Counties, Arizona) within its general historical range (Li 2021a, p. 3; Li 2021b, pp. 6–12). A handful of plants now exist at some of these reintroduction sites, such as Agua Caliente, but these efforts have not yet been successful at establishing viable populations. With the exception of the reintroduced plants at Agua Caliente, which is about 6 kilometers (km) (3.7 miles (mi)) from the La Cebadilla population, other sites are about 90 to 335 km (56 to 208 mi) apart from one another.

Reports of the species farther south in the Mexican states of Durango, Jalisco, Nayarit, Zacatecas, Michoacán, and Guerrero are likely not valid because the herbarium specimen from Durango, Mexico, is morphologically different from northern specimens (Stomberg *et al.* 2019, p. 7). Additionally, a report of the species occurring in Zacatecas, Nayarit, and Jalisco lacks supporting herbaria records (Stromberg *et al.* 2020, p. 179), and specimens collected from Michoacán and Guerrero appear to be another distinct taxon due to differences in flower color, habitat, elevation, and flowering time (Stromberg *et al.* 2020, p. 179). Because the species is obvious (tall with conspicuous flowers and locally abundant) and most cienegas, particularly ones still extant in Arizona and New Mexico, have been surveyed (AGFD 2019, p. 7), it is unlikely that new populations will be found. The six historical and current populations are discussed in greater detail below:

Las Playas, New Mexico, United States (Extirpated)—The species historically occurred at Playas or Las Playas Springs in the Playas Basin, east of the Animas Mountains in Hidalgo County, but it has not been found since 1851, and is believed to be extirpated (Sivinski 2018, p. 21; Stromberg *et al.* 2020, p. 176). The springs were diminished, and Las Playas was found primarily dry by the mid to late 1950s (Sivinski 2018, p. 27; Stromberg *et al.* 2020, p. 176). The cienega at Las Playas is now considered dead (Sivinski 2018, p. 8) due to agricultural and industrial (*i.e.,* copper mining) dewatering (Stromberg *et al.* 2020, p. 176). ''Dead cienegas'' are historical cienegas that no longer have groundwater at or near the ground surface and likely have water tables so severely depleted that restoration, given today's techniques

and economics, is not feasible (Sivinksi 2018, p. 14).

Agua Caliente, Arizona, United States (Extirpated)—Arizona eryngo historically occurred at the Agua Caliente Ranch east of Tucson in Pima County, Arizona, within the Santa Cruz River Basin (Stromberg *et al.* 2020, p. 176). This population was extirpated likely due to multiple manipulations of the site that eliminated cienega habitat, including, but not limited to, water diversion and vegetation clearing for agricultural activities, pond impoundment, groundwater pumping, and spring modification (Stromberg *et al.* 2020, p. 177; SWCA 2002, p. 11).

The property is now owned by Pima County Natural Resources, Parks and Recreation and is managed as a regional park (Pima County Parks and Recreation Department 1989, p. 2; Friends of Agua Caliente 2020, entire). Agua Caliente Regional Park includes human-made ponds that were once fed by water channeled from the springs. As a result of reduced spring flows and extended drought, in 2004, Pima County began pumping groundwater to maintain the main pond (Pond 1), a warm spring (Pima County 2021, p. 2). Restoration of Pond 1, which included the use of soil sealant to reduce seepage and conserve water, began in 2019, and was completed in 2020 (Pima County 2020a, entire). As part of the restoration, select palm trees (*Phoenix* spp.) and invasive cattails (*Typha* spp.) were removed to encourage growth of native species, and a small wetland on the northwest side of Pond 1 was created (Pima County 2020a, entire).

Experimental reintroductions of Arizona eryngo began in 2017, using plants grown in a nursery with seeds collected from La Cebadilla (Fonseca 2018, entire; Stromberg *et al.* 2020, p. 182). The initial reintroduction effort in 2017 of 20 plants had limited success due to javelina (*Tayassu tajacu*) damage, as well as placement of the plants at sites where they experienced water stress (Fonseca 2018, entire). The second effort in 2018 of 15 plants had improved success, but a number of plants were eaten by gophers (*Thomomys bottae*) (Li 2019, p. 6) or died of other causes. More recent reintroductions have resulted in the establishment of additional plants, including in the small wetland and wildlife island of Pond 1; however, efforts have not yet resulted in the establishment of a self-sustaining Arizona eryngo population.

La Cebadilla, Arizona, United States (Extant)—Arizona eryngo occurs in the La Cebadilla Cienega adjacent to the Tanque Verde Wash east of Tucson in Pima County, Arizona, within the Santa Cruz River basin (Stromberg *et al.* 2020, p. 177). The cienega is located on lands owned by La Cebadilla Estates and the Pima County Regional Flood Control District; the majority of plants occur on the privately owned portion of the cienega. In 2019, Arizona eryngo was documented in a number of colonies with a total spatial extent of 0.4 hectares (1.11 acres) (Li 2020a, p. 1). Some colony boundaries are defined by the presence of bulrush and tree canopy (Li 2019, p. 1).

The Arizona eryngo population at La Cebadilla is estimated to be about 30,000 aggregates—groups of clones, which are genetically identical individuals that result from vegetative reproduction (Li 2020b, p. 1). Each clone has a unique basal stem, and multiple clones can form a clustered aggregate that resembles an individual plant (Li 2020a, p. 2). While this is the largest of the four extant populations, the plants occur in a very confined space.

The homeowners' association of La Cebadilla Estates manages the cienega (the portion not owned by the Pima County Regional Flood Control District) and nearby La Cebadilla Lake (also referred to as a pond, to the west of the cienega). The homeowners' association has enacted covenants that prevent development of the cienega or sale to private developers (La Cebadilla Estates 2005, entire). The spring is located on the western edge of the Cienega, and a concrete spring box diverts some water to sustain the lake (Fonseca 2019, p. 2; Stromberg *et al.* 2020, p. 177). Pima County Regional Flood Control District manages their portion of the cienega as natural open space, which has a restrictive covenant that limits development and protects natural resources on the property. Both La Cebadilla Estates and Pima County Regional Flood Control District are supportive of continued conservation of the cienega and have implemented or authorized conservation actions at the site.

Lewis Springs, Arizona, United States (Extant)—Arizona eryngo occurs in the Lewis Springs Cienega just to the east of the San Pedro River in Cochise County, within the San Pedro River Basin (Stromberg *et al.* 2020, p. 177). The cienega is located within the San Pedro Riparian National Conservation Area (SPRNCA) managed by the Bureau of Land Management (BLM). The San Pedro riparian area, containing about 64 km (40 mi) of the upper San Pedro River, was designated by Congress as a National Conservation Area in 1988. The primary purpose for the designation is to conserve, protect, and enhance the desert riparian ecosystem, a rare remnant of what was once an extensive network of similar riparian systems throughout the Southwest.

The Lewis Springs Complex currently has five groundwater outflows and is comprised of multiple elongated wetlands generally oriented northwest-southeast along a slope, totaling 1.2 hectares (3 acres) (Radke 2013, entire; Simms 2019, entire; Stromberg *et al.* 2020, p. 177; Li 2020a, p. 2). As of September 2019, four of the eight wetlands support Arizona eryngo (Simms 2019, entire). Within these four wetlands, Arizona eryngo occurs in six colonies with discrete boundaries, the spatial extent of which was about 0.04 hectares (0.1 acres) in 2019 (Li 2020a, p. 1). Population estimates have been over 1,000 plants in recent years (Stromberg *et al.* 2020, p. 177; Li 2020a, p. 1; Li 2020b, p. 1), with the most recent estimate of 1,813 plants (Li 2020b, p. 1).

BLM has conducted some removal of the nonnative Johnsongrass (*Sorghum halepense*) at Lewis Springs and is planning for additional removal of the species. BLM is also planning experimental removal of the native upland plant baccharis (*Baccharis* spp.) at Lewis Springs, as well as establishment of additional populations and/or subpopulations of Arizona eryngo at suitable sites within Lewis Springs and the SPRNCA. BLM has collected seeds for propagation, banking, and seeding trials, and has conducted one seeding trial at Lewis Springs.

Rancho Agua Caliente, Sonora, Mexico (Extant)—Arizona eryngo occurs in the Agua Caliente Cienega on the privately owned Rancho Agua Caliente east of Esqueda in the municipality of Nacozari de García (Sánchez Escalante *et al.* 2019, p. 16; Stromberg *et al.* 2020, p. 179). Rancho Agua Caliente is an active cattle ranch. Based on aerial photographs, the cienega appears to be about 5 hectares (12.3 acres) (Stromberg *et al.* 2020, p. 179); however, it may only be about 1.5 hectares (3.7 acres) (Sánchez Escalante 2019, pers. comm.).

This cienega is the only known site for Arizona eryngo in Sonora. In 2018, hundreds of Arizona eryngo, including juveniles, occurred along the marsh near the spring within a nearly 1-hectare (2.5-acres) area (Sánchez Escalante *et al.* 2019, p. 16; Sánchez Escalante 2019, pers. comm.). The estimated area occupied by Arizona eryngo is larger than the other sites, while the population estimate is quite low, thus indicating the population is more sparse or patchy than La Cebadilla or Lewis Springs. Based on photography of the

site, it appears that Rancho Agua Caliente currently supports areas with a range of soil moisture (from standing water to dry soils) and open sun conditions.

Ojo Vareleño, Chihuahua, Mexico (Extant)—Arizona eryngo occurs at a privately owned hot springs spa, El Ojo Vareleño, located northwest of the municipality of Casas Grandes in Chihuahua (Sánchez Escalante *et al.* 2019, p. 9; Stromberg *et al.* 2020, pp. 178). The site is within the San Miguel River Basin at the base of the Piedras Verdes Mountains (Stromberg *et al.* 2020, p. 178). The extent of the cienega is currently about 1 hectare (2.5 acres) and supports about 56 adult plants (Sánchez Escalante *et al.* 2019, p. 17) that occupy an area of about 0.075 hectares (0.18 acres) (Sánchez Escalante 2019, pers. comm.). No juveniles were documented.

Based on photography of the site, it appears that Ojo Vareleño currently supports areas with a range of soil moisture (from standing water to dry soils) and sunlight conditions (from open sun to highly shaded). The nonnative giant reed (*Arundo donax*) invasion at the site is creating conditions with high amounts of shade and little to no space for other plants. Springflow is collected in concrete spa ponds (Sánchez Escalante *et al.* 2019, p. 28), which likely affects the natural hydrology of the site.

Regulatory and Analytical Framework

Regulatory Framework

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species is an endangered species or a threatened species. The Act defines an ''endangered species'' as a species that is in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether any species is an endangered species or a threatened species because of any of the following factors:

(A) The present or threatened destruction, modification, or curtailment of its habitat or range;

(B) Overutilization for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation;

(D) The inadequacy of existing regulatory mechanisms; or

(E) Other natural or manmade factors affecting its continued existence.

These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence. In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as other actions or conditions that may ameliorate any negative effects or may have positive effects.

We use the term ''threat'' to refer in general to actions or conditions that are known to or are reasonably likely to negatively affect individuals of a species. The term ''threat'' includes actions or conditions that have a direct impact on individuals (direct impacts), as well as those that affect individuals through alteration of their habitat or required resources (stressors). The term ''threat'' may encompass—either together or separately—the source of the action or condition itself.

However, the mere identification of any threat(s) does not necessarily mean that the species meets the statutory definition of an ''endangered species'' or a ''threatened species.'' In determining whether a species meets either definition, we must evaluate all identified threats by considering the expected response by the species, and the effects of the threats—in light of those actions and conditions that will ameliorate the threats—on an individual, population, and species level. We evaluate each threat and its expected effects on the species, then analyze the cumulative effect of all of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species, such as any existing regulatory mechanisms or conservation efforts. The Secretary determines whether the species meets the Act's definition of an ''endangered species'' or a ''threatened species'' only after conducting this cumulative analysis and describing the expected effect on the species now and in the foreseeable future.

The Act does not define the term ''foreseeable future,'' which appears in the statutory definition of ''threatened species.'' Our implementing regulations at 50 CFR 424.11(d) set forth a framework for evaluating the foreseeable future on a case-by-case basis. The term ''foreseeable future'' extends only so far into the future as the Service can reasonably determine that both the future threats and the species' responses to those threats are likely. In other words, the foreseeable future is the period of time in which we can make reliable predictions. ''Reliable'' does not mean ''certain''; it means sufficient to provide a reasonable degree of confidence in the prediction. Thus, a prediction is reliable if it is reasonable to depend on it when making decisions.

It is not always possible or necessary to define foreseeable future as a particular number of years. Analysis of the foreseeable future uses the best scientific and commercial data available and should consider the timeframes applicable to the relevant threats and to the species' likely responses to those threats in view of its life-history characteristics. Data that are typically relevant to assessing the species' biological response include species-specific factors such as lifespan, reproductive rates or productivity, certain behaviors, and other demographic factors.

Analytical Framework

The SSA report documents the results of our comprehensive biological review of the best scientific and commercial data regarding the status of the species, including an assessment of the potential threats to the species. The SSA report does not represent a decision by the Service on whether the species should be listed as an endangered or threatened species under the Act. It does, however, provide the scientific basis that informs our regulatory decisions, which involve the further application of standards within the Act and its implementing regulations and policies. The following is a summary of the key results and conclusions from the SSA report; the full SSA report can be found at Docket FWS–R2–ES–2020–0130 on *https://www.regulations.gov.*

To assess Arizona eryngo's viability, we used the three conservation biology principles of resiliency, redundancy, and representation (Shaffer and Stein 2000, pp. 306–310). Briefly, resiliency supports the ability of the species to withstand environmental and demographic stochasticity (for example, wet or dry, warm or cold years), redundancy supports the ability of the species to withstand catastrophic events (for example, droughts, large pollution events), and representation supports the ability of the species to adapt over time to long-term changes in the environment (for example, climate changes). In general, the more resilient and redundant a species is and the more representation it has, the more likely it is to sustain populations over time, even under changing environmental conditions. Using these principles, we identified the species' ecological requirements for survival and reproduction at the individual, population, and species levels, and

described the beneficial and risk factors influencing the species' viability.

The SSA process can be categorized into three sequential stages. During the first stage, we evaluated the individual species' life-history needs. The next stage involved an assessment of the historical and current condition of the species' demographics and habitat characteristics, including an explanation of how the species arrived at its current condition. The final stage of the SSA involved making predictions about the species' responses to positive and negative environmental and anthropogenic influences. Throughout all of these stages, we used the best available information to characterize viability as the ability of a species to sustain populations in the wild over time. We use this information to inform our regulatory decision.

Summary of Biological Status and Threats

In this discussion, we review the biological condition of the species and its resources, and the threats that influence the species' current and future condition, in order to assess the species' overall viability and the risks to that viability. We note that, by using the SSA framework to guide our analysis of the scientific information documented in the SSA report, we have not only analyzed individual effects on the species, but we have also analyzed their potential cumulative effects. We incorporate the cumulative effects into our SSA analysis when we characterize the current and future condition of the species. To assess the current and future condition of the species, we undertake an iterative analysis that encompasses and incorporates the threats individually and then accumulates and evaluates the effects of all the factors that may be influencing the species, including threats and conservation efforts. Because the SSA framework considers not just the presence of the factors, but to what degree they collectively influence risk to the entire species, our assessment integrates the cumulative effects of the factors and replaces a standalone cumulative effects analysis.

Using various timeframes and the current and projected future resiliency, redundancy, and representation, we describe the species' levels of viability over time. For the Arizona eryngo to maintain viability, its populations or some portion thereof must be resilient. A number of factors influence the resiliency of Arizona eryngo populations, including occupied area, abundance, and recruitment. Elements of the species' habitat that determine whether Arizona eryngo populations can grow to maximize habitat occupancy influence those factors, thereby influencing the resiliency of populations. These resiliency factors and habitat elements are discussed in detail in the SSA report and summarized here.

Species Needs

Abundance

Larger plant populations have a lower risk of extinction than smaller populations (Menges 2000, p. 78). Small populations are less resilient and more vulnerable to the effects of demographic, environmental, and genetic stochasticity and have a higher risk of extinction than larger populations (Matthies *et al.* 2004, pp. 481, 485). Small populations may experience increased inbreeding, loss of genetic variation, and ultimately a decreased potential to adapt to environmental change (Matthies *et al.* 2004, p. 481). When rare plant populations are very small (fewer than 100 individuals), they may suffer from inbreeding depression (Maschinski and Albrecht 2017, p. 392). Furthermore, fewer pollinators visit plants in small and isolated populations, which may lead to reduced pollination and lowered fecundity (Matthies *et al.* 2004, p. 482).

For populations of Arizona eryngo to be resilient, abundance should be high enough that local stochastic events do not eliminate all individuals, allowing the overall population to recover from any one event. A greater number of individuals in a population increases the chance that a portion of the population will survive. The necessary abundance or minimum viable population (MVP) size for Arizona eryngo is unknown; however, estimations can be attained from literature. For example, Pavlik (1996, p. 137) recommends MVP sizes ranging from 50 individuals to 2,500 individuals for the conservation of rare plants, depending on various life-history characteristics of the taxon. Some of the Arizona eryngo's life-history characteristics indicate that an MVP may require higher abundance, while other characteristics indicate that lower abundances may be sufficient. For example, the species is a perennial and commonly produces ramets, which means that fewer individuals are needed to achieve an MVP. Conversely, it is an herbaceous plant, which means that an MVP may require higher abundance. The other characteristics are unknown for this species. Based on our current understanding of the species' life history, we conclude that an initial MVP in the middle of the spectrum provided by Pavlik (1996, p. 137) is appropriate. Therefore, a population size of 1,225 may be needed to achieve high resiliency for the Arizona eryngo.

Determinations of MVP usually take into account the effective population size, rather than total number of individuals; 10 genetically identical individuals (for example, clones or ramets) would have an effective population size of one. In the case of the Arizona eryngo, we have estimates of abundance of individuals for each population, but we do not know the ratio of ramets to genetically unique individuals, although evidence indicates the species is highly clonal. In cases like this, Tependino (2012, p. 946) suggests adjusting the stem counts of rare clonal species to adjust for the inflated population size from the inclusion of ramets. Therefore, to account for the clonal nature of the Arizona eryngo, to estimate our final MVP we added 50 percent to the estimated MVP, which resulted in a total of about 1,840 plants needed to be a highly resilient population.

Recruitment

Arizona eryngo populations must also reproduce and produce sufficient amounts of seedlings and ramets such that recruitment equals or exceeds mortality. Ideally, we would know key demographic parameters of the plant (*i.e.,* survival, life expectancy, lifespan, the ratio of ramets to genetically unique individuals) to estimate the percentage of juveniles required in a population to achieve population stability or growth. Because we currently do not know any of these parameters, we are using the presence of juveniles as an important demographic factor influencing resiliency, because it reflects successful recruitment.

Current population size and abundance reflects previous influences on the population and habitat, while reproduction and recruitment reflect population trends that may be stable, increasing, or decreasing in the future. For example, a large, dense population of Arizona eryngo that contains mostly old individuals may be able to withstand a single stochastic event over the short term, but it is not likely to remain large and dense into the future, as there are few young individuals to sustain the population over time. A population that is less dense but has many young individuals may be likely to grow denser in the future, or such a population may be lost if a single stochastic event affects many seedlings at once. Therefore, the presence of young individuals is an important

indicator of population resiliency into the future.

Occupied Area

Highly resilient Arizona eryngo populations must occupy cienegas large enough such that stochastic events and environmental fluctuations that affect individual plants or colonies do not eliminate the entire population. Repopulation through seed dispersal and germination and ramet production within the cienega can allow the population to recover from these events.

Larger functional cienegas are likely to support larger populations of Arizona eryngo and are more likely to provide patches of suitable habitat when small stochastic events and environmental fluctuations occur. For example, during drought years, areas closer to spring seeps and possibly areas with natural depressions (*i.e.,* topographic variation) may retain more moisture throughout the year than areas farther away from seeps and slightly higher in elevation. Conversely, during years with heavy rainfall, slightly higher elevation areas may retain moist soils that are not inundated year-round, providing suitable habitat for the species.

Areas currently occupied by Arizona eryngo range from about 0.04 hectares (0.1 acre) to 0.9 hectares (2.2 acres). Based on historical and current estimates of cienega size and area occupied by Arizona eryngo, we approximate that at minimum a resilient Arizona eryngo population should occupy greater than 1 hectare (2.5 acres) within a functional cienega.

Soil Moisture

Arizona eryngo populations also need moist to saturated soils year-round. Arizona eryngo has been documented in standing water up to 2 centimeters to soil that is dry at the surface but saturated several centimeters into the soil (Stromberg *et al.* 2020, p. 177). It is hypothesized that flowering is determined, in part, by soil moisture availability (*i.e.,* plants do not flower in drier conditions when the plants are more stressed) and that ramets are produced during drier periods (Li 2019, p. 8; Stromberg *et al.* 2020, p. 179). Seedling recruitment may be episodic, with greater recruitment success in wetter years. Soils must remain sufficiently moist for successful seedling recruitment, particularly in the hottest/driest time of the year (normally May/June). If soils become too dry, other more drought-tolerant species are likely to encroach and outcompete the Arizona eryngo (Simms 2019, p. 6; Li 2019, p. 1), or if or if it becomes very dry such that the roots are not in moist soil, the plant is likely to die. If the soil is inundated with water (such that there is standing water on the surface) for too long, other species that grow more aggressively in mesic conditions are likely to outcompete the Arizona eryngo (Li 2020, p. 2).

Sunlight

Highly resilient Arizona eryngo populations require full sun. Under canopy cover, the species grows less densely, and flowering is reduced. Tall native and nonnative vegetation appears to outcompete and suppress growth of the Arizona eryngo. Additionally, dense vegetation appears to hinder seedling recruitment (Li 2021b, pp. 3–4). While these species may compete for sunlight, water, and nutrients, lack of sunlight may be a primary factor driving the absence or decreased abundance of the Arizona eryngo.

Risk Factors for the Arizona Eryngo

We reviewed the potential risk factors (*i.e.,* threats, stressors) that could be affecting the Arizona eryngo now and in the future. In this final rule, we will discuss only those factors in detail that could meaningfully impact the status of the species. Those risks that are not known to have effects on Arizona eryngo populations, such as overutilization for commercial and scientific purposes and disease, are not discussed here but are evaluated in the SSA report. The primary risk factors affecting the status of the Arizona eryngo are: (1) Physical alteration of cienegas (Factor A), (2) water loss (Factor A), and (3) changes in co-occurring vegetation (Factor A). These factors are exacerbated by the ongoing and expected effects of climate change. Direct harm or mortality due to herbivory or trampling (Factor C) may also affect individuals and the seedbank, but not at levels likely to affect species viability.

Physical Loss and Alteration of Cienega Habitat

Historically, cienegas were more common and larger than they are today. Greater than 95 percent of the historical area of cienegas in the southwestern United States and northwestern Mexico is now dry (Cole and Cole 2015, p. 36). Functional cienegas were much more common prior to the late 1800s, as evidenced by pollen and fire records, General Land Office survey notes, and early trapper and settler diaries (Hendrickson and Minckley 1985, p. 131; Fonseca 1998, p. 111; Cole and Cole 2015, p. 36; Brunelle *et al.* 2018, p. 2). Estimates of cienega abundance in the International Four Corners Region of the Southwest (Arizona, Sonora, New Mexico, and Chihuahua) vary from hundreds to thousands (Cole and Cole 2015, p. 36; Sivinski 2018, entire). Of the 155 cienegas that Cole and Cole (2015, p. 36) identified in the International Four Corners Region, 87 (56 percent) are either dead or so severely compromised that there is no prospect for their restoration. In addition to the reduced abundance of cienegas in the International Four Corners Region, the remaining cienegas are greatly reduced in size, and due to many being severely incised, they are more similar to creeks than marshes (Cole and Cole 2015, p. 36).

A number of complex factors, many of which are interrelated, led to the historical loss and degradation of cienegas and continue to contribute to this loss today. The primary factors include intensive grazing of domestic livestock, the removal of beavers (*Castor canadensis*) from regional streams and rivers, and agricultural recontouring (Minckley *et al.* 2013a, p. 214; Cole and Cole 2015, p. 32). Intensive overgrazing by sheep and cattle from the late 1500s to the late 1800s led to barren soil, erosion, headcutting (erosional feature in a stream that contributes to lowering the water table of the surrounding system), and increased frequency of or intensity of destructive floods, all leading to the alteration or complete destruction (complete loss of ecological function) of cienegas (Minckley *et al.* 2013a, p. 214; Cole and Cole 2015, p. 32). Beaver dams, once numerous within the range of the Arizona eryngo, slowed water and created pools and wetlands along water courses, and enhanced groundwater recharge; however, high levels of beaver trapping in the 1800s resulted in increased erosion and channel cutting of these once complex, shallow wetlands (Gibson and Olden 2014, p. 395; Cole and Cole 2015, p. 32). Additionally, early settlers recontoured (*e.g.,* diverted, dammed, channelized) cienegas for agricultural, mining, disease control, and other purposes; this resulted in further channelization and concentrated flow, greatly reducing the size of cienegas and further lowering the water table (Cole and Cole 2015, p. 32; Minckley *et al.* 2013b, p. 78).

We expect that Arizona eryngo populations were more widespread and occurred at historical cienegas that have lost their ecological function due to physical alteration, such that populations were more abundant, occurred closer to one another, and were more connected (through pollination and seed dispersal) than they are currently. As a result of these

lost cienegas, the four extant Arizona eryngo populations are now disjunct.

Although grazing was one cause of the loss of historical cienega habitat, grazing and trampling by livestock occur only occasionally at the remaining Arizona eryngo populations. No grazing is authorized at Lewis Springs, and we are not aware of any grazing occurring at La Cebadilla and Ojo Vareleño. Trespass livestock could enter Lewis Springs and affect habitat in the cienega; although there was no evidence of cattle in 2018 or 2019, there was evidence (*i.e.,* scat and light trailing) of a trespass horse in the area when Service biologists visited the site in 2019. Cattle are present at Rancho Agua Caliente, Sonora, and the habitat is somewhat disturbed by cattle (Sánchez Escalante *et al.* 2019, p. 16). Livestock (*e.g.,* livestock trailing and gathering) can trample vegetation and expose and compact soil, resulting in habitat erosion and altered hydrological function, but the effects of livestock are dependent on many factors such as the intensity, duration, and timing of grazing. In the absence of other forms of disturbance (*e.g.,* fire), it is possible that selective, well-managed livestock grazing in the winter or spring could create habitat disturbance and open sun conditions favoring Arizona eryngo seedling establishment.

Other physical alterations that occurred in the past likely continue to affect extant populations of Arizona eryngo through changes in the natural hydrology of cienegas supporting the species. For example, a berm that has been present at La Cebadilla since at least 1941, as well as various houses and roads adjacent and near the cienega, all affect the natural hydrology of the site. Similarly, the railroad that runs parallel to Lewis Springs likely affects the hydrology of the cienega. Unlike the historical physical alterations that severely degraded cienegas, these alterations (berm, railroad, houses, etc.) have not destroyed cienega function.

Water Loss

Water loss in cienegas poses a significant threat to the Arizona eryngo. Causes of water loss are complex, but the primary causes at cienegas historically or currently supporting Arizona eryngo are: (1) Groundwater pumping/withdrawal, (2) spring modification, (3) water diversion, and (4) drought. These stressors are all exacerbated by climate change. Groundwater pumping or withdrawal leads to aquifer depletion and no or reduced outflow from springheads. Modification of springheads reduces or eliminates springflow. Water diverted from springheads reduces or eliminates the amount of water supporting the cienega. Drought and warming also reduce springflow and the amount of water in cienegas. Reduction in winter rain particularly leads to reduced aquifer recharge. Climate change is expected to exacerbate drought conditions, increase surface temperatures and evapotranspiration, and reduce winter precipitation, all of which may lead to a reduction in aquifer recharge and increased cienega drying.

Water loss in cienegas reduces the quantity and quality of habitat for the Arizona eryngo. The species requires very moist to saturated soils and possibly some standing water for seed germination. As water is lost from cienegas, soils become drier, reducing habitat quality and allowing woody and/or invasive vegetation to establish, further reducing available habitat.

Water loss from cienegas caused the extirpation of the species at two of the six cienegas known to historically support the Arizona eryngo (Las Playas in New Mexico, and Agua Caliente in Arizona), and all populations continue to be exposed to water loss. The sources of water loss are discussed further below.

Groundwater withdrawal—The population at Las Playas was extirpated primarily due to groundwater pumping for agriculture and the Playas Smelter that caused the desiccation of the spring (Sivinski 2018, p. 27; Stromberg *et al.* 2020, p. 176). Groundwater withdrawal is also occurring near Lewis Springs, La Cebadilla, and Agua Caliente. The use of groundwater for agriculture, industry, and urban and rural development has enabled significant human population growth in the arid Southwest. Increased groundwater withdrawal can reduce or eliminate springflow, thereby eliminating wetlands altogether (Johnson *et al.* 2016, p. 52).

The largest municipalities in the Sierra Vista subwatershed, within which Lewis Springs occurs, are Sierra Vista, Bisbee, Tombstone, and Huachuca City. Within these areas, the human population is increasing, as is development distributed in rural parts of the subwatershed (Leake *et al.* 2008, p. 1). This growing population is dependent on groundwater to meet its water consumption needs. Water outflow from the subwatershed, including water withdrawn by pumping, exceeds natural inflow to the regional aquifer within the subwatershed (Leake *et al.* 2008, p. 2). As a result, groundwater levels in parts of the subwatershed are declining, and groundwater storage is being depleted (*i.e.,* a negative water budget).

Groundwater pumping in the area of Lewis Springs, up to several kilometers away, may be affecting the regional groundwater flow to the wetlands along the San Pedro River, including Lewis Springs (Stromberg *et al.* 2020, p. 181). The continued decline of groundwater levels upgradient from perennial river reaches will eventually diminish the base flow of the San Pedro River and impact the riparian ecosystem within the SPRNCA (Leake *et al.* 2008, p. 2). This groundwater use over the past century has been so profound that the effects of pumping over the past century will eventually capture and eliminate surface flow from the river, even if all groundwater pumping were to stop (Gungle *et al.* 2016, p. 29). Models show the area of Lewis Springs as being one of the areas of greatest groundwater loss in the basin (Leake *et al.* 2008, p. 14).

The aquifer supporting the La Cebadilla Springs could be reduced from numerous private wells (including the Tanque Verde Guest Ranch) producing water from the aquifer that feeds the springs (Eastoe and Fonseca 2019, pers. comm.). It is unknown how quickly pumping a mile or two away from the springs might affect the springs themselves (Eastoe and Fonseca 2019, pers. comm.).

We do not have information on the source of water supplying the springs or about the amount of groundwater use at Rancho Agua Caliente or Ojo Vareleño, both in Mexico.

Spring modification—The Arizona eryngo population at Agua Caliente was extirpated due to a number of manipulations of the site that eliminated cienega habitat, including, but not limited to, water diversion and vegetation clearing for agricultural activities, pond impoundment, groundwater pumping, and spring modification (*i.e.,* the springs were blasted in the 1930s and again in the 1960s) that significantly decreased the water flow (Stromberg *et al.* 2020, p. 177; Pima County 2021, p. 16; Friends of Agua Caliente 2020, entire; SWCA 2002, p. 11).

Water diversion—The Arizona eryngo population at La Cebadilla has been exposed to water diversion for many decades; this diversion may have led to a reduction in the size of the cienega, but enough water still flows to maintain the cienega and support the largest documented population (Fonseca 2019, p. 2; Stromberg *et al.* 2020, p. 177). Cienega habitat was eliminated from Agua Caliente due to multiple manipulations, including diversion of spring water via canals and pipes for agricultural purposes and pond

impoundment (Pima County 2021, p. 16).

Less is known about water loss associated with the cienegas supporting the Arizona eryngo in Mexico, but we are aware that the municipality of Casas Grandes is interested in installing a pipeline from the spring at El Ojo Vareleño to supply water to the Universidad Tecnológica de Casas Grandes. Currently at Ojo Vareleño, springflow is collected in concrete spa ponds, which likely affects the natural hydrology of the site.

Drought and warming—All Arizona eryngo populations are exposed to drought, as well as warming temperatures from climate change. Decreased precipitation and increased temperatures due to climate change will exacerbate declines in surface and groundwater levels, which will cause further drying of cienega habitat required by the Arizona eryngo.

Climate models indicate that the transition to a more arid climate is already underway and predict that in this century the arid regions of the southwestern United States will become drier (*i.e.,* decreased precipitation) and warmer (*i.e.,* increased surface temperatures), and have fewer frost days, decreased snow pack, increased frequency of extreme weather events (heat waves, droughts, and floods), declines in river flow and soil moisture, and greater water demand by plants, animals, and humans (Archer and Predick 2008, p. 23; Garfin *et al.* 2013, pp. 5–6). Increasing dryness in the southwestern United States and northern Mexico is predicted to occur as early as 2021–2040 (Seager *et al.* 2007, p. 1181). Climate modeling of the southwestern United States shows consistent projections of drying, primarily due to a decrease in winter precipitation (Collins *et al.* 2013, p. 1080). For both Pima and Cochise Counties, where the La Cebadilla and Lewis Springs populations occur, the average daily maximum temperature, under both lower (*i.e.,* representative concentration pathway (RCP) 4.5) and higher (*i.e.,* RCP 8.5) emissions scenarios, will increase by mid-century (Climate Explorer 2020).

Climate change over the 21st century is projected to reduce renewable surface water and groundwater resources in most dry subtropical regions (IPCC 2014, p. 69). Over the next 100 years, groundwater recharge in the San Pedro basin is expected to decrease 17 to 30 percent, depending on the climate scenario considered (Serrat-Capdevila *et al.* 2007, p. 63), and average annual base flow will be half the base flow in 2000. As the area gets drier, the San Pedro aquifer groundwater overdraft will become more severe as recharge declines and groundwater pumping increases (Meixner *et al.* 2016, p. 135). For the purposes of our analysis, we chose RCP 4.5 and RCP 8.5 (IPCC 2014, p. 8) to assess future condition of the Arizona eryngo. These climate scenarios were incorporated into our future scenarios of the status of the Arizona eryngo in the SSA report.

Summary of water loss—In summary, water loss has caused the extirpation of two of six known populations of the Arizona eryngo and has affected the current viability of all extant populations. Both extant U.S. populations are exposed to water loss through groundwater withdrawal, and one of these (La Cebadilla) is also exposed to spring diversion. Groundwater withdrawal, particularly when exacerbated by climate change, is a primary threat to the survival of the Arizona eryngo at Lewis Springs and La Cebadilla. Less is known about water loss associated with the two populations in Mexico, but spring diversion is proposed at one site supporting the Arizona eryngo, and it is likely that the species is vulnerable to groundwater withdrawal. Drought and warming as a result of climate change affects all populations, particularly when combined with groundwater withdrawal and diversion.

Change in Vegetation at Cienegas

The invasion of vegetation that reduces full sun conditions poses a threat to the Arizona eryngo. Changes in vegetation at cienegas are primarily from fire suppression, introduction of nonnative plant species, decreased flood events, and changes in hydrology and climate. Prior to the arrival of European settlers, burning of cienegas by indigenous people was frequent enough to exclude most woody plants (*e.g.,* hackberry (*Celtis* spp.), buttonbush (*Cephalanthus* spp.), cottonwood (*Populus* spp.), ash (*Fraxinus* spp.), and willow (*Salix* spp.)) and suppress bulrush from cienegas and promote growth of native grasses (Davis *et al.* 2002, p. 1; Cole and Cole 2015, p. 32). Extant cienegas now have less diversity of annual and disturbance-adapted native understory species and an increase in native woody, clonal, and nonnative plants (Stromberg *et al.* 2017, p. 10). As water levels in cienegas decrease, woody plants invade without regular disturbance (*e.g.,* fires, floods) to the system (Huxman and Scott 2007, p. 1). Shifts from herbaceous wetland vegetation to more deeply rooted riparian trees have been well documented at wetlands with lowered water tables (Stromberg *et al.* 2020, p. 182). These woody plants shade out Arizona eryngo and cause water level declines in cienegas through increased evapotranspiration, particularly in the summer (Johnson *et al.* 2016, p. 83).

Invasive, nonnative plants (*e.g.,* giant reed, Johnsongrass) are of concern because they often quickly colonize an area and aggressively compete with native species such as the Arizona eryngo for sunlight, water, and nutrients. Giant reed is a fast-growing, tall (up to 6 meters (m) (20 feet (ft)), perennial, hydrophytic (water-loving) grass that grows in riparian areas, streams, irrigation ditches, and wetlands. It is an aggressive invader that rapidly spreads into a thick monoculture that outcompetes and shades out other vegetation (Frandsen 1997, p. 245; DiPietro 2002, p. 9). Giant reed is fire-adapted and resprouts from extensive underground rhizomes even after very hot fires that kill native vegetation (DiPietro 2002, p. 9). Additionally, it uses large amounts of water, thereby reducing the amount of water available for native vegetation (DiPietro 2002, p. 10).

Johnsongrass is a fast-growing, tall, invasive perennial grass that thrives in a variety of environments and climates (Peerzada *et al.* 2017, p. 2). It mostly grows at moist sites (*e.g.,* irrigation canals, cultivated fields, field edges, pastures), and in Arizona, it is known as a riparian weed in the Sonoran and Chihuahuan Deserts. Johnsongrass impacts the growth of native plants; it is difficult to control and has become resistant to herbicides, particularly glyphosate (Peerzada *et al.* 2017, p. 2).

At three of four cienegas supporting the Arizona eryngo (Lewis Springs, La Cebadilla, and Ojo Vareleño), an increase in woody vegetation and nonnative plant species has been documented. This vegetation is outcompeting the Arizona eryngo for sunlight and space, likely causing a decrease in population size and extent at these sites. At Lewis Springs, Johnsongrass is aggressively invading and appears to be suppressing Arizona eryngo, particularly in the drier areas of the wetlands (Li 2019, entire; Simms 2019, entire). Johnsongrass has been present at this site since at least 2009. In the drier areas of the wetlands, baccharis is encroaching and appears to be suppressing Arizona eryngo; no Arizona eryngo plants have been found growing in the understory of baccharis (Li 2019, entire; Simms 2019, entire). At La Cebadilla, aerial imagery indicates that mesquite (*Prosopis* spp.) is invading the cienega, and cottonwood also appears to be shading out Arizona

eryngo (Fonseca 2019, entire). Velvet ash (*Fraxinus velutina*) trees are invading the cienega and shading out Arizona eryngo as well (Li 2020b, p. 3). At Ojo Vareleño, many nonnative plant species also occur, with a particularly aggressive invasion of giant reed (Sánchez Escalante *et al.* 2019, pp. 9–10).

In summary, nonnative Johnsongrass and giant reed are likely to continue to aggressively invade Lewis Springs and Ojo Vareleño. These nonnative plant species may contribute to the near-term extirpation of Arizona eryngo populations at these sites. Woody vegetation encroachment at La Cebadilla and Lewis Springs is also likely to continue, further degrading habitat conditions.

Direct Harm and Mortality

Livestock, such as cattle and horses, and native herbivores (both invertebrate and vertebrate) may cause harm or mortality to Arizona eryngo plants through trampling, herbivory, or uprooting. Because mature plants have large, fibrous leaves, cattle are more likely to consume young plants at an early growth stage. As discussed above, cattle are present at Rancho Agua Caliente, and trespass cattle and horses could enter Lewis Springs and trample plants, consume flowers, and reduce the seedbank of the Arizona eryngo. To our knowledge, no livestock are present at La Cebadilla or Ojo Vareleño. At the Agua Caliente reintroduction site in Arizona, javelina uprooted and killed young plants, and gophers ate young reintroduced plants (Fonseca 2018, p. 1; Li 2019, p. 6).

Many invertebrates have been observed on Arizona eryngo plants at La Cebadilla and Lewis Springs (Stromberg *et al.* 2020, p. 175; Li 2019, p. 2; Simms 2019, p. 1). Some of these invertebrates may be floral herbivores, but they do not appear to be of concern for the species' viability.

In summary, while herbivory and trampling may harm individual Arizona eryngo plants and the seedbank, they are not significant threats to the species.

Summary

Our analysis of the past, current, and future influences on the needs of the Arizona eryngo for long-term viability revealed that there are two that pose the greatest risk to future viability: water loss (groundwater withdrawal and water diversion) and invasion of nonnative and woody plant species, both of which are exacerbated by drought and warming caused by climate change. Water loss reduces the availability of moist soils, and nonnative and woody plant species outcompete Arizona eryngo for sunlight, space, and water, thereby reducing the quantity and quality of habitat.

Species Condition

Here we discuss the current condition of the Arizona eryngo, taking into account the risks to those populations that are currently occurring. We consider climate change to be currently occurring and exacerbating effects of drought, warming, groundwater withdrawal, diversion, and invasion of nonnative and woody plant species. In the SSA report, for each population, we developed and assigned condition categories for three population factors and two habitat factors that are important for viability of the Arizona eryngo. The condition scores for each factor were then used to determine an overall condition of each population: high, moderate, low, or functionally extirpated. These overall conditions translate to our presumed probability of persistence of each population, with populations in high condition having the highest presumed probability of persistence over 30 years (greater than 90 percent), populations in moderate condition having a presumed probability of persistence that falls between 60 and 90 percent, and populations in low condition having the lowest probability of persistence (between 10 and 60 percent). Functionally extirpated populations are not expected to persist over 30 years or are already extirpated.

Overall, there are four remaining populations of Arizona eryngo, all restricted to small cienegas in the Sonoran and Chihuahuan Deserts in Arizona and Mexico. Historically, Arizona eryngo populations were likely connected to one another, but today they are small and isolated due to cienega loss throughout the region. Repopulation of extirpated locations is extremely unlikely without human assistance. Two populations are currently in moderate condition and two are in low condition, and two have been extirpated. The four extant populations are described below.

La Cebadilla

La Cebadilla contains the largest population of the Arizona eryngo, with a population estimate of over 30,000 individuals. However, this population occurs in a very small area; the occupied area is approximately 0.04 hectares (1.1 acres), and the population depends on stable groundwater to maintain springflow into the cienega. The cienega has been altered by increased presence of trees, bank erosion, pasture grading, utility construction, and subdivision development (Fonseca 2019, p. 3). Historical images indicate that the cienega was more extensive in 1941, with fewer trees on some margins of the cienega and no forest on the southern margin of the cienega (Fonseca 2019, p. 1). Due to the encroachment of woody vegetation, this site has varied sunlight conditions, with more shade currently than in the past.

The cienega has been shrinking, indicating the aquifer is being depleted (Fonseca 2019, pers. comm.). The aquifer supporting the La Cebadilla springs supports numerous private wells (including the Tanque Verde Guest Ranch) (Eastoe and Fonseca 2019, pers. comm.). In addition to groundwater use, aquifer depletion could also result from increased evapotranspiration of tree cover and stream channel adjustments.

La Cebadilla Estates and the Pima County Regional Flood Control District (PCRFCD) are committed to the conservation of the unique ecological diversity of La Cebadilla cienega and are working to reduce woody vegetation. The homeowners' association of La Cebadilla Estates manages their portion of the cienega as common property for the common use and enjoyment of its members. Under an agreement with Partners for Fish and Wildlife, in 2021, La Cebadilla Estates supported the experimental removal of young velvet ash trees encroaching on the cienega, which was successful at improving conditions for Arizona eryngo (Li 2021b, p. 1).

PCRFCD manages their portion of the cienega as natural open space, which has a restrictive covenant that limits development and protects natural resources on the property. PCRFCD has implemented actions to conserve Arizona eryngo at La Cebadilla, such as removing parts of a fallen cottonwood tree that were covering Arizona eryngo (Li 2020b, p. 2), and is planning additional actions.

Because of the small extent of the population and the encroachment of woody vegetation, the Arizona eryngo population is currently in moderate condition and is at risk of extirpation from decreased springflow due to continuing loss of groundwater from the aquifer.

Lewis Springs

The population of Arizona eryngo in Lewis Springs, estimated at 1,813 plants, occurs along a very narrow cienega parallel to a railroad, occupying about 0.04 hectares (0.1 acres) (Li 2020a, p. 1). In 2005, there were more than a

dozen springs and seeps in the wetland complex; as of 2019, some of the wetland patches appear to be drying, with soil drier at several sites than it had been in 2005 (Simms 2019, entire). The water source of Lewis Springs Cienega is supplied by mountain front recharge (westward flow from the Mule Mountains and eastward flow from the Huachuca Mountains) (Baillie *et al.* 2007, p. 7; Stromberg *et al.* 2020, p. 177). Groundwater pumping up to several kilometers away may be affecting the regional groundwater flow to the wetlands along the San Pedro River, including Lewis Springs (Stromberg *et al.* 2020, p. 181).

Nonnative Johnsongrass is aggressively invading Lewis Springs and appears to be suppressing Arizona eryngo, particularly in the drier areas of the cienega (Simms 2019, p. 22; Li 2020a, p. 2). Similarly, baccharis has been invading and appears to be suppressing Arizona eryngo, as no Arizona eryngo plants were found growing in the understory of baccharis (Simms 2019, p. 6; Li 2019, p. 1). In the wetter areas of the cienega where the soil is saturated and surface water is generally present, common spikerush (*Eleocharis palustris*) and bulrush appear to suppress Arizona eryngo (Li 2020a, p. 2).

BLM has conducted some removal of Johnsongrass at Lewis Springs and is currently planning for additional removal of the species. BLM is also planning experimental removal of baccharis shrubs at Lewis Springs, and they are considering establishment of additional populations and/or subpopulations of Arizona eryngo at suitable sites within Lewis Springs and the SPRNCA. BLM is also collecting seeds for propagation and banking.

Because of the moderate population size, extremely small population extent, decreasing springflow and increased drying of soils, and plant species invasion, Lewis Springs is currently in moderate condition. The population is currently at risk of extirpation from drying due to drought, groundwater pumping, and invasion of nonnative Johnsongrass.

Rancho Agua Caliente, Mexico

The Arizona eryngo population at Rancho Agua Caliente occupies about 1 ha (2.5 acres). The population is estimated to be several hundred plants, including juveniles (Sánchez Escalante *et al.* 2019, p. 16; Sánchez Escalante 2019, pers. comm.). This cienega is the only known population of Arizona eryngo in Sonora.

Rancho Agua Caliente is an active cattle ranch, and Arizona eryngo habitat is somewhat disturbed by cattle (Sánchez Escalante *et al.* 2019, p. 16), which may help create open sun conditions for the species. We have no information on the groundwater source for the spring.

Because of the small numbers of individuals at Rancho Agua Caliente, the population is currently in low condition and is at risk of extirpation due to drought and drying of habitat.

Ojo Vareleño, Mexico

The Arizona eryngo population at Ojo Vareleño contains about 56 adult plants (Sánchez Escalante *et al.* 2019, p. 17) in a 0.075-hectare (0.18-acre) area (Sánchez Escalante 2019, pers. comm.). No juveniles have been documented at this site.

Giant reed has been aggressively invading Ojo Vareleño (Sánchez Escalante *et al.* 2019, p. 10), and it appears that the site has variable soil moisture and sunlight conditions. The giant reed invasion is creating conditions with high amounts of shade and little to no space for other plants. Springflow is collected in concrete spa ponds (Sánchez Escalante *et al.* 2019, p. 28), which likely affects the natural hydrology of the site. Currently, we do not have information on the source of water supplying the springs or the amount of groundwater use at this site.

Because of the very low population numbers and the lack of juveniles, the population of Arizona eryngo at Ojo Vareleño is currently in low condition. A small change in the water levels at the cienega or further invasion by giant reed could cause the extirpation of the population in the near future.

Conservation Efforts and Regulatory Mechanisms

Conservation efforts are occurring at multiple sites supporting Arizona eryngo. As discussed above, for example, at Lewis Springs, BLM has been assessing and planning the removal of nonnative and select woody vegetation and has conducted some removal of Johnsongrass. BLM has collected seeds for propagation, banking, and seeding trials, and has conducted one seeding trial at Lewis Springs. Additionally, BLM has introduced Arizona eryngo to the Las Cienegas National Conservation Area. Pima County has been working to reintroduce Arizona eryngo to Agua Caliente and introduce it to Canoa Ranch. La Cebadilla Estates has been supportive of various survey, monitoring, and conservation actions on their property. These conservation efforts have significantly contributed to our knowledge of Arizona eryngo and conservation of the species; however, at this time, these efforts are inadequate to prevent the need for listing because major threats, such as water loss and drought and climate change, are still present.

Determination of Arizona Eryngo's Status

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations (50 CFR part 424) set forth the procedures for determining whether a species meets the definition of an endangered species or a threatened species. The Act defines an ''endangered species'' as a species in danger of extinction throughout all or a significant portion of its range, and a ''threatened species'' as a species likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. The Act requires that we determine whether a species meets the definition of endangered species or threatened species because of any of the following factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

Status Throughout All of Its Range

After evaluating threats to the species and assessing the cumulative effect of the threats under the section 4(a)(1) factors, we found that the Arizona eryngo has declined in abundance and distribution. At present, most of the known populations exist in very low abundances, and all populations occur in extremely small areas. Furthermore, existing available habitats are reduced in quality and quantity, relative to historical conditions. Our analysis revealed three primary threats that caused these declines and pose a meaningful risk to the viability of the species. These threats are primarily related to habitat changes (Factor A from the Act): Physical alteration of cienegas, water loss, and changes in co-occurring vegetation, all of which are exacerbated by the effects of climate change.

Because of historical and current modifications of cienegas and groundwater withdrawals from the aquifers supporting occupied cienegas, Arizona eryngo populations are now fragmented and isolated from one another and unable to recolonize following extirpations. These populations are largely in a state of

chronic degradation due to water loss and changes in co-occurring vegetation, affecting soil moisture and open canopy conditions and limiting the species' resiliency. Given the high risk of a catastrophic drought or groundwater depletion, both of which are exacerbated by climate change, all Arizona eryngo populations are at a high or moderate risk of extirpation. Historically, the species, with a larger range of likely interconnected populations, would have been more resilient to stochastic events because even if some populations were extirpated by such events, they could be recolonized over time by dispersal from nearby surviving populations. This connectivity, which would have made for a highly resilient species overall, has been lost, and with two populations in low condition and two in moderate condition, the remnant populations are all at risk of loss.

Our analysis of the Arizona eryngo's current conditions, using the best available information, shows that the Arizona eryngo is in danger of extinction throughout all of its range due to the severity and immediacy of threats currently impacting the species. We find that a threatened species status is not appropriate because of the Arizona eryngo's currently contracted range, because the species' populations are fragmented from one another, and because the threats to the species are currently ongoing and occurring across its entire range.

Status Throughout a Significant Portion of Its Range

Under the Act and our implementing regulations, a species may warrant listing if it is in danger of extinction or likely to become so in the foreseeable future throughout all or a significant portion of its range. We have determined that the Arizona eryngo is in danger of extinction throughout all of its range and accordingly did not undertake an analysis of any significant portions of its range. Because the Arizona eryngo warrants listing as endangered throughout all of its range, our determination is consistent with the decision in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020), in which the court vacated the aspect of the Final Policy on Interpretation of the Phrase ''Significant Portion of Its Range'' in the Endangered Species Act's Definitions of ''Endangered Species'' and ''Threatened Species'' (79 FR 37578; July 1, 2014) that provided the Services do not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Arizona eryngo meets the Act's definition of an endangered species. Therefore, we are listing the Arizona eryngo as an endangered species in accordance with sections 3(6) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened species under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation by Federal, State, Tribal, and local agencies, private organizations, and individuals. The Act encourages cooperation with the States and other countries and calls for recovery actions to be carried out for listed species. The protection required by Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The primary purpose of the Act is the conservation of endangered and threatened species and the ecosystems upon which they depend. The ultimate goal of such conservation efforts is the recovery of these listed species, so that they no longer need the protective measures of the Act. Section 4(f) of the Act calls for the Service to develop and implement recovery plans for the conservation of endangered and threatened species. The recovery planning process involves the identification of actions that are necessary to halt or reverse the species' decline by addressing the threats to its survival and recovery. The goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

Recovery planning consists of preparing draft and final recovery plans, beginning with the development of a recovery outline and making it available to the public within 30 days of a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions and describes the process to be used to develop a recovery plan. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery plan also identifies recovery criteria for review of when a species may be ready for reclassification from endangered to threatened (''downlisting'') or removal from protected status (''delisting''), and methods for monitoring recovery progress. Recovery plans also establish a framework for agencies to coordinate their recovery efforts and provide estimates of the cost of implementing recovery tasks. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) are often established to develop recovery plans. When completed, the recovery outline, draft recovery plan, and the final recovery plan will be available on our website (*https://www.fws.gov/endangered*), or from our Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Implementation of recovery actions generally requires the participation of a broad range of partners, including other Federal agencies, States, Tribes, nongovernmental organizations, businesses, and private landowners. Examples of recovery actions include habitat restoration (*e.g.,* restoration of native vegetation), research, captive propagation and reintroduction, and outreach and education. The recovery of many listed species cannot be accomplished solely on Federal lands because their range may occur primarily or solely on non-Federal lands. To achieve recovery of these species requires cooperative conservation efforts on private, State, and Tribal lands.

Following publication of this final rule, funding for recovery actions will be available from a variety of sources, including Federal budgets, State programs, and cost-share grants for non-Federal landowners, the academic community, and nongovernmental organizations. In addition, pursuant to section 6 of the Act, the States of Arizona and New Mexico will be eligible for Federal funds to implement management actions that promote the protection or recovery of the Arizona eryngo. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/grants.*

Please let us know if you are interested in participating in recovery efforts for the Arizona eryngo. Additionally, we invite you to submit any new information on this species whenever it becomes available and any information you may have for recovery planning purposes (see **FOR FURTHER INFORMATION CONTACT**).

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is listed as an endangered or threatened species and with respect to its critical habitat, if any is designated. Regulations

implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service.

Federal agency actions within the species' habitat that may require conference or consultation or both as described in the preceding paragraph include management and any other landscape-altering activities on Federal lands administered by the BLM or groundwater use by Fort Huachuca or other Federal agencies (or permitted or funded by a Federal agency) within the hydrological influence of Lewis Springs or La Cebadilla.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to endangered plants. The prohibitions of section 9(a)(2) of the Act, codified at 50 CFR 17.61, make it illegal for any person subject to the jurisdiction of the United States to: import or export; remove and reduce to possession from areas under Federal jurisdiction; maliciously damage or destroy on any such area; remove, cut, dig up, or damage or destroy on any other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law; deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity; or sell or offer for sale in interstate or foreign commerce an endangered plant. Certain exceptions apply to employees of the Service, the National Marine Fisheries Service, other Federal land management agencies, and State conservation agencies.

We may issue permits to carry out otherwise prohibited activities involving endangered plants under certain circumstances. Regulations governing permits are codified at 50 CFR 17.62. With regard to endangered plants, a permit may be issued for scientific purposes or for enhancing the propagation or survival of the species. There are also certain statutory exemptions from the prohibitions, which are found in sections 9 and 10 of the Act.

It is our policy, as published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed, those activities that will or will not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of a final listing on proposed and ongoing activities within the range of a listed species. Based on the best available information, the following actions are unlikely to result in a violation of section 9, if these activities are carried out in accordance with existing regulations and permit requirements; this list is not comprehensive:

(1) Normal agricultural and silvicultural practices, including herbicide and pesticide use, that are carried out in accordance with any existing regulations, permit and label requirements, and best management practices;

(2) Normal residential landscaping activities on non-Federal lands; and

(3) Recreational use with minimal ground disturbance.

Based on the best available information, the following activities may potentially result in a violation of section 9 of the Act if they are not authorized in accordance with applicable law; this list is not comprehensive:

(1) Unauthorized handling, removing, trampling, or collecting of the Arizona eryngo on Federal land; and

(2) Removing, cutting, digging up, or damaging or destroying the Arizona eryngo in knowing violation of any law or regulation of the State of Arizona or in the course of any violation of a State criminal trespass law.

Questions regarding whether specific activities would constitute a violation of section 9 of the Act should be directed to the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

II. Critical Habitat

Background

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that Federal agencies ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Where a landowner requests Federal agency funding or authorization for an action that may affect a listed species or critical habitat, the Federal agency would be required to consult with the Service under section 7(a)(2) of the Act. However, even if the Service were to conclude that the proposed activity would result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific and commercial data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. The implementing regulations at 50 CFR 424.12(b)(2) further delineate unoccupied critical habitat by setting out three specific parameters: (1) When designating critical habitat, the Secretary will first evaluate areas occupied by the species; (2) the Secretary will only consider unoccupied areas to be essential where a critical habitat designation limited to geographical areas occupied by the species would be inadequate to ensure the conservation of the species; and (3) for an unoccupied area to be considered essential, the Secretary must determine that there is a reasonable certainty both that the area will contribute to the conservation of the species and that the area contains one or more of those physical or biological features essential to the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information from the SSA report and information developed during the listing process for the species. Additional information sources may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

As the regulatory definition of ''habitat'' reflects (50 CFR 424.02), habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of this species. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species and which may require special management considerations or protection. The regulations at 50 CFR 424.02 define ''physical or biological features essential to the conservation of the species'' as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential to the

conservation of the Arizona eryngo from studies of the species' habitat, ecology, and life history as described below. Additional information can be found in the SSA report (Service 2020, entire; available on *https://www.regulations.gov* under Docket No. FWS–R2–ES–2020–0130). We have determined that the following physical or biological features are essential to the conservation of Arizona eryngo:

(1) Cienegas within the Chihuahuan and Sonoran Deserts:

(a) That contain permanently moist to saturated, organic, alkaline soils with some standing water in winter and that are moist at or just below the surface in summer; and

(b) That have functional hydrological processes and are sustained by springflow via discharge of groundwater.

(2) Areas of open canopy throughout the cienega.

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features which are essential to the conservation of the species and which may require special management considerations or protection. The features essential to the conservation of this species may require special management considerations or protection to reduce the following threats: physical alteration of cienegas, water loss, and changes in co-occurring vegetation. Management activities that could ameliorate these threats include, but are not limited to: Use best management practices (BMPs) to minimize erosion and sedimentation; remove and control invasive, nonnative species (*e.g.,* Johnsongrass) that encroach on critical habitat; selectively manage woody vegetation that encroaches on critical habitat; exclude livestock, or in some instances where such management would further the conservation of cienega habitat and the species, use highly managed grazing; avoid or minimize groundwater withdrawal to maintain adequate springflow to maintain cienegas; and avoid springflow diversion and springhead modification to maintain springflow to cienegas.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat. Arizona eryngo is well-established at two historical locations, Lewis Springs and La Cebadilla, has been reintroduced at another historical location where it was extirpated (Agua Caliente), and has been introduced at several cienegas lacking historical records of occupancy. Introductions have recently been initiated at several additional locations, with the spreading of seeds and planting of seedlings. However, we do not consider these introductions to result in occupancy until fully mature, reproductive plants and production of seedlings have become established. Therefore, areas occupied at the time of listing include three locations: Lewis Springs, La Cebadilla, and Agua Caliente. Other sites, such as Las Cienegas National Conservation Area and St. David Cienega, where plantings or seed scattering recently occurred but no adult plants have become established, are considered to be unoccupied. Because we lack information on the environmental conditions of these (or any other) unoccupied sites to help us determine whether they can support the Arizona eryngo, we cannot determine that they will contribute to the long-term conservation of the species. Therefore, we are not designating any areas outside the geographical area occupied by the species as critical habitat.

In summary, for areas within the geographic area occupied by the species at the time of listing, we delineated critical habitat unit boundaries using the following criteria:

Evaluate habitat suitability of cienegas within the geographic area occupied at the time of listing, and retain those cienegas that contain some or all of the physical or biological features that are essential to support life-history processes of the species.

When determining critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features necessary for the Arizona eryngo. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this rule have been excluded by text in the rule and are not designated as critical habitat. Therefore, a Federal action involving these lands will not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action will affect the physical or biological features in the adjacent critical habitat.

We are designating as critical habitat areas that we have determined are occupied at the time of listing (*i.e.,* currently occupied) and that contain one or more of the physical or biological features that are essential to support life-history processes of the species.

Units are designated based on one or more of the physical or biological features being present to support the Arizona eryngo's life-history processes. Some units contain all of the identified physical or biological features and support multiple life-history processes. Some units contain only some of the physical or biological features necessary to support the Arizona eryngo's particular use of that habitat.

The critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Regulation Promulgation. We include more detailed information on the boundaries of the critical habitat designation in the preamble of this document. We will make the coordinates or plot points or both on which each map is based available to the public on *https://www.regulations.gov* at Docket No. FWS–R2–ES–2020–0130, and on our internet site *https://www.fws.gov/southwest/es/arizona/*.

Final Critical Habitat Designation

We are designating approximately 12.7 acres (5.1 hectares) in two units as critical habitat for the Arizona eryngo. The two units we designate as critical habitat are: (1) Lewis Springs, and (2) La Cebadilla. The critical habitat areas we list in the table below constitute our current best assessment of areas that meet the definition of critical habitat for the Arizona eryngo. Table 1 shows the land ownership, size, and occupancy of the areas that meet the definition of critical habitat for the Arizona eryngo.

TABLE 1—AREAS THAT MEET THE DEFINITION OF CRITICAL HABITAT FOR THE ARIZONA ERYNGO

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type	Size of unit in acres (hectares)	Occupied?
1. Lewis Springs	Federal (BLM)	9.6 (3.9)	Yes.
2. La Cebadilla	Private, Pima County Regional Flood Control District.	3.1 (1.3)	Yes.
Agua Caliente [proposed Unit 3]	Pima County Natural Resources, Parks and Recreation.	N/A: Excluded from designation under section 4(b)(2) of the Act.	Yes.
Total		12.7 (5.2)	

Note: Area sizes may not sum due to rounding.

We present brief descriptions of the two units we are designating, and reasons why they meet the definition of critical habitat for Arizona eryngo, below. For a description of proposed Unit 3 (Agua Caliente), which we are excluding from this designation, please see *Exclusions Based on Other Relevant Impacts,* later in this document.

Unit 1: Lewis Springs

Unit 1 consists of 9.6 acres (3.9 hectares) encompassing the wetlands at Lewis Springs just to the east of the San Pedro River in Cochise County, within the San Pedro River Basin. The unit is located within the SPRNCA, which is owned and managed by the BLM to conserve, protect, and enhance a rare remnant of desert riparian ecosystem. The unit is occupied by the species and contains all the physical or biological features essential to the conservation of the Arizona eryngo. The Lewis Springs Unit is being affected by drought, nonnative species invasion, woody vegetation encroachment, and ongoing human demand for water resulting in declining groundwater levels. Therefore, special management considerations may be required to reduce invasion of nonnative species and encroachment of woody vegetation and to improve groundwater levels to support continued springflow.

Unit 2: La Cebadilla

Unit 2 consists of 3.1 acres (1.3 hectares) of cienega habitat at La Cebadilla Cienega, adjacent to the Tanque Verde Wash east of Tucson in Pima County, within the Santa Cruz River Basin. The majority of the unit is located on lands owned by La Cebadilla Estates, with a smaller portion of the unit located on lands owned and managed by PCRFCD. The homeowners' association of La Cebadilla Estates manages their portion of the cienega as common property for the common use and enjoyment of its members. PCRFCD manages their portion of the cienega as natural open space, which has a restrictive covenant that limits development and protects natural resources on the property. The La Cebadilla Unit is occupied by the species and contains all the physical or biological features essential to the conservation of the Arizona eryngo. The unit is located in a rural neighborhood and is being affected by drought, woody vegetation encroachment, and ongoing human demand for water resulting in declining groundwater levels. Therefore, special management may be required to reduce encroachment of woody vegetation and to improve groundwater levels to support continued springflow.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species.

We published a final rule revising the definition of destruction or adverse modification on August 27, 2019 (84 FR 44976). Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. Examples of actions that are subject to the section 7 consultation process are actions on State, Tribal, local, or private lands that require a Federal permit (such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or a permit from the Service under section 10 of the Act) or that involve some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency). Federal actions not affecting listed species or critical habitat—and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or carried out by a Federal agency—do not require section 7 consultation.

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species and/or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate formal consultation on previously reviewed actions. These requirements apply when the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law) and, if subsequent to the previous consultation: (1) If the amount or extent of taking specified in the incidental take statement is exceeded; (2) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action.

In such situations, Federal agencies sometimes may need to request reinitiation of consultation with us, but the regulations also specify some exceptions to the requirement to reinitiate consultation on specific land management plans after subsequently listing a new species or designating new critical habitat. See the regulations for a description of those exceptions.

Application of the ''Adverse Modification'' Standard

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat as a whole for the conservation of the listed species. As discussed above, the role of critical habitat is to support physical or biological features essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may violate section 7(a)(2) of the Act by destroying or adversely modifying such habitat, or that may be affected by such designation.

Activities that the Services may, during a consultation under section 7(a)(2) of the Act, consider likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would alter the hydrology of the cienega. Such activities could include, but are not limited to, springflow diversion, springhead modification, groundwater withdrawal, and physical alteration of the cienega. These activities could change the hydrological processes of the cienega, reducing or eliminating habitat for the Arizona eryngo.

(2) Actions that promote the growth of nonnative plant species and canopy cover. Such actions include, but are not limited to, planting of nonnative plant species and woody vegetation, and seed spread through livestock and tire treads. These activities could reduce or eliminate habitat for the Arizona eryngo.

(3) Actions that result in further fragmentation of Arizona eryngo habitat. Such actions include, but are not limited to, development of fuel breaks, roads, and trails. These activities could reduce or eliminate habitat for the Arizona eryngo.

Exemptions

Application of Section 4(a)(3) of the Act

Section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense (DOD), or designated for its use, that are subject to an integrated natural resources management plan (INRMP) prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation. There are no Department of Defense (DoD) lands with a completed INRMP within the final critical habitat designation.

Consideration of Impacts Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if she determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless she determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2) of the Act, we may exclude an area from designated critical habitat based on economic impacts, impacts on national security, or any other relevant impacts. In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise discretion to exclude the area only if such exclusion would not result in the extinction of the species. We describe below the process that we undertook for taking into consideration each category of impacts and our analyses of the relevant impacts.

Exclusions Based on Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. In order to consider economic impacts, we prepared an incremental effects memorandum (IEM) and screening analysis which, together with our narrative and interpretation of effects, we consider our draft economic analysis (DEA) of the critical habitat designation and related factors (IEc 2020, entire). The analysis, dated November 16, 2020 (IEc 2020, entire), was made available for public review from March 4, 2021, through May 3, 2021 (see 86 FR 12563; March 4, 2021). The DEA addressed probable economic impacts of critical habitat designation for Arizona eryngo. Following the close of the March 4, 2021, proposed rule's comment period, we reviewed and evaluated all information submitted during the comment period that may pertain to our consideration of the probable incremental economic impacts of this critical habitat designation. During the public comment period on the proposed rule, we received a comment on our economic analysis, which we address in our response to *(6) Comment* under Summary of Comments and Recommendations, above. Additional information relevant to the probable incremental economic impacts of critical habitat designation for the Arizona eryngo is summarized below and available in the screening analysis for the Arizona eryngo (IEc 2020, entire), available at *https://*

www.regulations.gov. We are adopting the DEA as the final economic analysis.

In occupied areas, any actions that may affect the species or its habitat will also likely affect critical habitat, and it is unlikely that any additional conservation efforts will be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the Arizona eryngo. Therefore, only administrative costs are expected as a result of the critical habitat designation. While this additional analysis will require time and resources by both the Federal action agency and the Service, it is believed that, in most circumstances, these costs will predominantly be administrative in nature and will not be significant.

The probable incremental economic impacts of this critical habitat designation for the Arizona eryngo are expected to be limited to additional administrative effort as well as minor costs of conservation efforts resulting from a small number of future section 7 consultations. Because both of the critical habitat units are occupied by the species, incremental economic impacts of critical habitat designation, other than administrative costs, are unlikely. At approximately $5,300 or less per consultation, this designation is expected to result in 12 to 17 consultations in 10 years for a maximum total estimated cost of $36,000 over this time period (IEc 2020, p. 12). Thus, the annual administrative burden is unlikely to reach or exceed $100 million in any single year; therefore, the economic impacts are not significant. The Service considered the economic impacts of the critical habitat designation. The Secretary is not exercising her discretion to exclude any areas from this designation of critical habitat for the Arizona eryngo based on economic impacts.

Exclusions Based on Impacts on National Security and Homeland Security

In preparing this rule, we determined that none of the lands within the designated critical habitat for the Arizona eryngo are owned or managed by the Department of Defense or Department of Homeland Security, and, therefore, we anticipate no impact on national security or homeland security. We did not receive any additional information during the public comment period for the proposed critical habitat designation regarding impacts of the designation on national security or homeland security that would support excluding any specific areas from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19.

Exclusions Based on Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security. We consider a number of factors, including whether there are permitted conservation plans covering the species in the area such as HCPs, safe harbor agreements, or candidate conservation agreements with assurances (CCAAs), or whether there are non-permitted conservation agreements and partnerships that would be encouraged by designation of, or exclusion from, critical habitat. In addition, we look at the existence of Tribal conservation plans and partnerships and consider the government-to-government relationship of the United States with Tribal entities. We also consider any social impacts that might occur because of the designation.

When identifying the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation, or in the continuation, strengthening, or encouragement of partnerships. Additionally, continued implementation of an ongoing management plan that provides equal to or more conservation than a critical habitat designation would reduce the benefits of including that specific area in the critical habitat designation.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Based on the information provided in the public comments, including those from the landowner (Pima County) and the best scientific data available, we evaluated whether lands in the proposed critical habitat Unit 3 (Agua Caliente) are appropriate for exclusion from the final designation under section 4(b)(2) of the Act. If the analysis indicates that the benefits of excluding lands from the final designation outweigh the benefits of designating those lands as critical habitat, then the Secretary may exercise her discretion to exclude the lands from the final designation. In the paragraphs below, we provide a detailed balancing analysis of the areas being excluded under section 4(b)(2) of the Act.

Description of Proposed Unit 3: Agua Caliente

Proposed Unit 3 consists of three subunits totaling 0.3 acres (0.1 hectares), all within the Agua Caliente Regional Park. The park is located east of Tucson in Pima County within the Santa Cruz River Basin (Stromberg *et al.* 2020, p. 177) and is owned and managed by Pima County Natural Resources, Parks and Recreation. The Arizona eryngo historically occurred at this site, but the population was extirpated, likely due to multiple manipulations of the site that eliminated cienega habitat, including, but not limited to, water diversion and vegetation clearing for agricultural activities, pond impoundment, groundwater pumping, and spring modification (Stromberg *et al.* 2020, p. 177; SWCA 2002, p. 11). Reintroduction efforts for the species began in 2017, with 20 individuals planted that year and another 15 in 2018. Most of these plants have died, with at most 1 to 3 individuals maturing into adult plants. Seedling production has been observed on occasions, but none have survived to reach reproductive maturity. The limited success of this reintroduction and the comments provided by Pima County raise uncertainty as to whether this site could be restored to contain sufficient physical or biological features essential to the conservation of the species. Soils at this site are saturated, and there are areas of open canopy (two of three physical or biological features we identified as essential to Arizona eryngo), but this is a heavily manipulated waterway that does not function like an unaltered cienega. It lacks functional hydrological processes, which ultimately may limit the ability of the soils to maintain appropriate moisture levels for the species. Even though this unit is currently occupied, the limited recruitment and extensive die-off of reintroduced individuals is evidence that the habitat may not be fully restorable at this site.

Private or Other Non-Federal Conservation Plans or Agreements and Partnerships, in General

We sometimes exclude specific areas from critical habitat designations based in part on the existence of private or other non-Federal conservation plans or agreements and their attendant partnerships. A conservation plan or agreement describes actions that are designed to provide for the conservation needs of a species and its habitat, and may include actions to reduce or mitigate negative effects on the species caused by activities on or adjacent to the area covered by the plan. Conservation plans or agreements can be developed by private entities with no Service involvement, or in partnership with the Service.

We evaluate a variety of factors to determine how the benefits of any exclusion and the benefits of inclusion are affected by the existence of private or other non-Federal conservation plans or agreements and their attendant partnerships when we undertake a discretionary section 4(b)(2) exclusion analysis. A non-exhaustive list of factors that we will consider for non-permitted plans or agreements is shown below. These factors are not required elements of plans or agreements, and all items may not apply to every plan or agreement.

(i) The degree to which the plan or agreement provides for the conservation of the species or the essential physical or biological features (if present) for the species.

(ii) Whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan or agreement will be implemented.

(iii) The demonstrated implementation and success of the chosen conservation measures.

(iv) The degree to which the record of the plan supports a conclusion that a critical habitat designation would impair the realization of benefits expected from the plan, agreement, or partnership.

(v) The extent of public participation in the development of the conservation plan.

(vi) The degree to which there has been agency review and required determinations (*e.g.,* State regulatory requirements), as necessary and appropriate.

(vii) Whether National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) compliance was required.

(viii) Whether the plan or agreement contains a monitoring program and adaptive management to ensure that the conservation measures are effective and can be modified in the future in response to new information.

Agua Caliente Protections, Including the Sonoran Desert Conservation Plan

Pima County is a long-term conservation partner and leader, and Pima County and the Service have a memorandum of understanding (MOU) to work collaboratively and cooperatively to implement meaningful conservation and mitigation as part of the Sonoran Desert Conservation Plan (Pima County 2020b). A portion of Agua Caliente Regional Park is identified in the Sonoran Desert Conservation Plan as an Important Riparian Area and as a Biological Core Management Area. The western-most parcel that includes Agua Caliente Wash is encumbered with a restrictive covenant as mitigation land for the County's and Flood Control District's Multi-Species Conservation Plan (MSCP) section 10 permit. The MSCP is the part of the Sonoran Desert Conservation Plan that addresses endangered species compliance. Because the Arizona eryngo was not listed when the MSCP was developed, it was not explicitly included as part of the MSCP and so is not covered by the section 10 permit. Therefore, we considered the conservation activities Pima County has identified in the Sonoran Desert Conservation Plan in assessing critical habitat designation for Agua Caliente.

The conservation goals of the MOU include ensuring the long-term survival of the full spectrum of plants and animals that are indigenous to Pima County through maintaining or improving the habitat conditions and ecosystem functions necessary for their survival. Objectives under this goal include:

(1) Promote recovery of federally listed and candidate species;

(2) Where feasible and appropriate, reintroduce and recover species that have been extirpated from this region;

(3) Maintain or improve the status of unlisted species whose existence in Pima County is vulnerable;

(4) Identify biological threats to the region's biodiversity posed by introduced and nonnative species of plants and animals, and develop strategies to reduce these threats and avoid additional invasive species in the future;

(5) Identify causes that disrupt ecosystem functions within target plant communities selected for their biological significance, and develop strategies to reverse or mitigate them; and

(6) Promote long-term viability and mitigate for impacts to species, environments, and biotic communities that have special significance to people in this region because of their aesthetic or cultural values, regional uniqueness, or economic significance.

These goals align with several of the factors we may consider for basing an exclusion on a conservation plan.

As a designated County park, Agua Caliente is owned and managed by Pima County for recreational opportunities, habitat, scenery, and resource protection. Additionally, Agua Caliente Ranch Historic Landscape is listed in the National Register of Historic Places, the Arizona Register of Historic Places, and Pima County's Register of Historic Places, which affords both recognition and certain protections. The landscape of the County park includes certain trees, buildings, and ponds that are contributing elements as a National Register District, and Pima County designated the entire historic park as a Sonoran Desert Conservation Plan ''Priority Cultural Resource'' to be managed for preservation and conservation. Consequently, the County has invested grant funds and bond funds in ensuring these resources are protected and appropriately rehabilitated.

Benefits of Inclusion—Agua Caliente (Proposed Unit 3)

The principal benefit of including an area in critical habitat designation is the requirement of Federal agencies to ensure that actions that they fund, authorize, or carry out are not likely to result in the destruction or adverse modification of any designated critical habitat, which is the regulatory standard of section 7(a)(2) of the Act under which consultation is completed. Federal agencies must consult with the Service on actions that may affect a listed species, and refrain from actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some cases, the outcome of these analyses will be similar, because effects to habitat will often result in effects to the species. However, the regulatory standard is different, as the jeopardy analysis investigates the action's impact to survival and recovery of the species, while the adverse modification analysis investigates the action's effects to the designated critical habitat's contribution to conservation. Thus, critical habitat

designation may provide greater benefits to the recovery of a species than listing would alone. Therefore, critical habitat designation may provide a regulatory benefit for the Arizona eryngo on lands within the Agua Caliente Regional Park.

Another possible benefit of including lands in critical habitat is public education regarding the potential conservation value of an area that may help focus conservation efforts on areas of high conservation value for certain species. We consider any information about the Arizona eryngo and its habitat that reaches a wide audience, including parties engaged in conservation activities, to be valuable. Designation of critical habitat would provide educational benefits by informing Federal agencies and the public about the presence of the species in this unit.

However, we also acknowledge the limited benefit of including this unit to the conservation of the species. The limited success of the reintroduction of Agua Caliente indicates that the conservation benefits of including this site as critical habitat are not high. The current condition of the population indicates the habitat is not sufficient to contribute to the long-term conservation of the species.

Benefits of Exclusion—Agua Caliente (Proposed Unit 3)

The benefits of excluding 0.3 acre (0.1 hectare) of land within the Agua Caliente Regional Park, owned and managed by Pima County Natural Resources, Parks and Recreation, from the designation of critical habitat for the Arizona eryngo are substantial and include: (1) Continuance and strengthening of our effective partnership with Pima County to promote voluntary, proactive conservation of the Arizona eryngo and its habitat; (2) allowance for continued meaningful collaboration and cooperation in working toward species recovery, including conservation benefits that might not otherwise occur, such as reintroducing the species at Agua Caliente or other sites; and (3) encouragement of developing and implementing conservation and management plans in the future for the Arizona eryngo or other federally listed and sensitive species.

Pima County has been a long-term conservation partner and has led multiple efforts to conserve the Arizona eryngo, including working to reestablish the species at Agua Caliente and two other sites. The Arizona eryngo reintroduction effort at Agua Caliente is still in an experimental phase, and a viable population has not yet been established. Supporting Pima County to continue leading conservation efforts for the species without the regulatory burdens of critical habitat is important. Excluding Agua Caliente from the critical habitat designation will allow the County the ability to focus on their ongoing, voluntary conservation efforts.

Also, Agua Caliente Regional Park is a highly manipulated system that is subjected to substantial management from Pima County. Due to alterations of the habitat and hydrology, Agua Caliente no longer functions like a natural, unaltered cienega. Managers continue to experiment with the system to provide conditions appropriate for species such as the Arizona eryngo. Establishing critical habitat on a specific area of the park may limit Pima County's ability to adjust their management in a manner that may ultimately benefit the species in the long term, allowing them to determine through trial and error which locations in the park are able to be managed for the species, providing the necessary features and establishing a new population. To date, introduction of the Arizona eryngo to the park has not been successful in establishing a population, and most individuals have experienced mortality due to inadequate conditions. Excluding this park from critical habitat provides Pima County the flexibility to conduct management that will promote recovery on their lands for the long-term benefit of the species.

Additionally, many landowners perceive critical habitat as an unfair and unnecessary regulatory burden. According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main et al. 1999, p. 1,263; Bean 2002, p. 2). The magnitude of this negative outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, and control of invasive species) are necessary for species conservation (Bean 2002, pp. 3–4). We believe the exclusion of this specific area of non-federally owned lands from the critical habitat designation for Arizona eryngo can contribute to the species' recovery and provide a superior level of conservation than critical habitat can provide. The Service believes that, where consistent with the discretion provided by the Act, it is necessary to implement policies that provide positive incentives to non-Federal landowners to voluntarily conserve natural resources and that remove or reduce disincentives to conservation (Wilcove et al. 1996, pp. 1–15; Bean 2002, pp. 1–7). Partnerships with non-Federal landowners are vital to the conservation of listed species, especially on non-Federal lands; therefore, the Service is committed to supporting and encouraging such partnerships through the recognition of positive conservation contributions. In the case considered here, excluding this area from critical habitat designation will help foster the partnership that Pima County has developed with the Service; will encourage the continued implementation of voluntary conservation actions for the benefit ofthe Arizona eryngo and its habitat on these lands; and may also serve as a model and aid in fostering future cooperative relationships with other parties here, and in other locations, for the benefit of other endangered or threatened species.

Benefits of Exclusion Outweigh the Benefits of Inclusion—Agua Caliente (Proposed Unit 3)

We evaluated the exclusion of 0.3 acre (0.1 hectare) of County land within the boundaries of the Agua Caliente Regional Park, under a long-term conservation partnership and MOU, from our designation of critical habitat, and we determined the benefits of excluding these lands outweigh the benefits of including them as critical habitat for the Arizona eryngo.

The Service concludes the additional regulatory and educational benefits of including these lands as critical habitat are relatively small, because of the unlikelihood of a Federal nexus on these County lands. Examining the eight factors that may be considered under a discretionary section 4(b)(2) exclusion analysis for a non-permitted conservation plan (see *Private or Other Non-Federal Conservation Plans or Agreements and Partnerships, in General*), we found the conservation plan developed by Pima County satisfies several that would promote the conservation of the species. Specifically, the plan has objectives to promote recovery of federally listed species and promote long-term viability of native species, which would satisfy factor (i). The benefits of critical habitat designation are further reduced because the existence of a long-term conservation partnership and MOU between Pima County and the Service, as well as numerous land protections, discussed above, at Agua Caliente Regional Park. Given Pima County's history of conservation, this satisfies factor (iii) of the section 4(b)(2) exclusion analysis. In addition, the plan includes multiple objectives that would satisfy factor (viii) by promoting monitoring and adaptive management to

ensure conservation measures are effective. We anticipate that there will be little additional Federal regulatory benefit to the taxon on County land because there is a low likelihood that those areas will be negatively affected to any significant degree by Federal activities requiring section 7 consultation, and ongoing management activities indicate there would be no additional requirements pursuant to a consultation that addresses critical habitat.

Furthermore, the potential educational and informational benefits of critical habitat designation on lands containing the physical or biological features essential to the conservation of the Arizona eryngo would be minimal, because Pima County has been a leader in conservation of the Arizona eryngo and demonstrated their knowledge of the species and its habitat needs throughout their partnership with the Service. Additionally, the current active conservation efforts on County lands contribute to our knowledge of the species through reintroduction efforts, monitoring, and scientific research.

In contrast, the benefits derived from excluding Agua Caliente and enhancing our partnership with Pima County are significant. Because voluntary conservation efforts for the benefit of listed species on non-Federal lands are so valuable, the Service considers the maintenance and encouragement of conservation partnerships to be a significant benefit of exclusion. Excluding these areas from critical habitat will help foster the partnership Pima County has developed with the Service and will encourage the continued implementation of voluntary conservation actions for the benefit of the Arizona eryngo and its habitat on these lands.

We find that excluding areas from critical habitat that are receiving both long-term conservation and management for the purpose of protecting the habitat that supports the Arizona eryngo will preserve our partnership with Pima County and encourage future collaboration towards conservation and recovery of listed species. The partnership benefits are significant and outweigh the small potential regulatory, educational, and ancillary benefits of including the land in the critical habitat designation for the Arizona eryngo. Therefore, the conservation partnership between Pima County and the Service provides greater protection of habitat for the Arizona eryngo than could be gained through the project-by-project analysis of a critical habitat designation.

Exclusion Will Not Result in Extinction of the Species—Agua Caliente (Proposed Unit 3)

We determined that the exclusion of 0.3 acre (0.1 hectare) of land within the boundaries of the Agua Caliente Regional Park owned and managed by Pima County Natural Resources, Parks and Recreation will not result in extinction of the taxon. Protections afforded the taxon and its habitat by the long-term Pima County and Service conservation partnership, MOU, and various land protections provide assurances that the taxon will not go extinct as a result of excluding these lands from the critical habitat designation.

An important consideration as we evaluate these exclusions and their potential effect on the species in question is that critical habitat does not carry with it a regulatory requirement to restore or actively manage habitat for the benefit of listed species; the regulatory effect of critical habitat is only the avoidance of destruction or adverse modification of critical habitat should an action with a Federal nexus occur. It is, therefore, advantageous for the conservation of the species to support the proactive efforts of non-Federal landowners who are contributing to the enhancement of essential habitat features for listed species through exclusion. The jeopardy standard of section 7 of the Act will also provide protection in these occupied areas when there is a Federal nexus. Therefore, based on the above discussion, the Secretary is exercising her discretion to exclude 0.3 acre (0.1 hectare) of land from the designation of critical habitat for the Arizona eryngo.

Summary of Exclusions

As discussed above, based on the information provided by entities seeking exclusion, as well as any additional public comments we received, we evaluated whether certain lands in our proposed critical habitat designation were appropriate for exclusion from this final designation pursuant to section 4(b)(2) of the Act. We are excluding the following areas from critical habitat designation for the Arizona eryngo:

TABLE 2—AREAS EXCLUDED FROM CRITICAL HABITAT DESIGNATION BY CRITICAL HABITAT UNIT

Proposed unit	Specific area	Areas meeting the definition of critical habitat, in acres (hectares)	Areas excluded from critical habitat, in acres (hectares)
3. Agua Caliente	3a. Pond 1 Wetland	0.04 (0.02)	0.04 (0.02)
	3b. Pond 1 Wildlife Island	0.2 (0.07)	0.2 (0.07)
	3c. Pond 2	0.09 (0.04)	0.09 (0.04)

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996

(SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.,* small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term ''significant economic impact'' is meant to apply to a typical small business firm's business operations.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, it is our position that only Federal action agencies will be directly regulated by this critical habitat designation. There is no requirement under the RFA to evaluate the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities will be directly regulated by this rulemaking, the Service certifies that this critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the designation will result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that this critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, a regulatory flexibility analysis is not required.

Energy Supply, Distribution, or Use—Executive Order 13211

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. In our economic analysis, we did not find that this critical habitat designation will significantly affect energy supplies, distribution, or use, as the areas identified as critical habitat are in cienegas in mostly remote areas with little energy supplies, distribution, or infrastructure in place. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we make the following finding:

(1) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or Tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(2) We do not believe that this rule will significantly or uniquely affect small governments because the lands within the critical habitat designation that are owned by Pima County are already subject to a restrictive covenant that limits development and protects

natural resources on the property, and small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Therefore, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the Arizona eryngo in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for this designation of critical habitat for the Arizona eryngo, and it concludes that this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—Executive Order 13132

In accordance with E.O. 13132 (Federalism), this rule does not have significant federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of this critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, this final rule does not have substantial direct effects either on the States, or on the relationship between the national government and the States, or on the distribution of powers and responsibilities among the various levels of government. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the physical or biological features of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act will be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this final rule identifies the physical or biological features essential to the conservation of the species. The designated areas of critical habitat are presented on maps, and the rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act (42 U.S.C. 4321 et seq.)

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses pursuant to the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951), Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We have determined that no Tribal lands fall within the boundaries of the critical habitat designation for the Arizona eryngo, so no Tribal lands will be affected by this designation.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Arizona Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this final rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Arizona Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.12, in paragraph (h), by adding an entry for ''*Eryngium sparganophyllum*'' to the List of Endangered and Threatened Plants in alphabetical order under FLOWERING PLANTS to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Eryngium sparganophyllum.	Arizona eryngo	Wherever found	E	87 FR [INSERT **Federal Register** PAGE WHERE THE DOCUMENT BEGINS], June 10, 2022; 50 CFR 17.96(a).[CH]
*	*	*	*	*

■ 3. Amend § 17.96, in paragraph (a), by adding an entry for ''Family Apiaceae: *Eryngium sparganophyllum* (Arizona eryngo)'' in alphabetical order to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Apiaceae: *Eryngium sparganophyllum* (Arizona eryngo)

(1) Critical habitat units are depicted for Pima and Cochise Counties, Arizona, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Arizona eryngo consist of the following components:

(i) Cienegas within the Chihuahuan and Sonoran Deserts:

(A) That contain permanently moist to saturated, organic, alkaline soils with some standing water in winter and that are moist at or just below the surface in summer; and

(B) That have functional hydrological processes and are sustained by springflow via discharge of groundwater.

(ii) Areas of open canopy throughout the cienega.

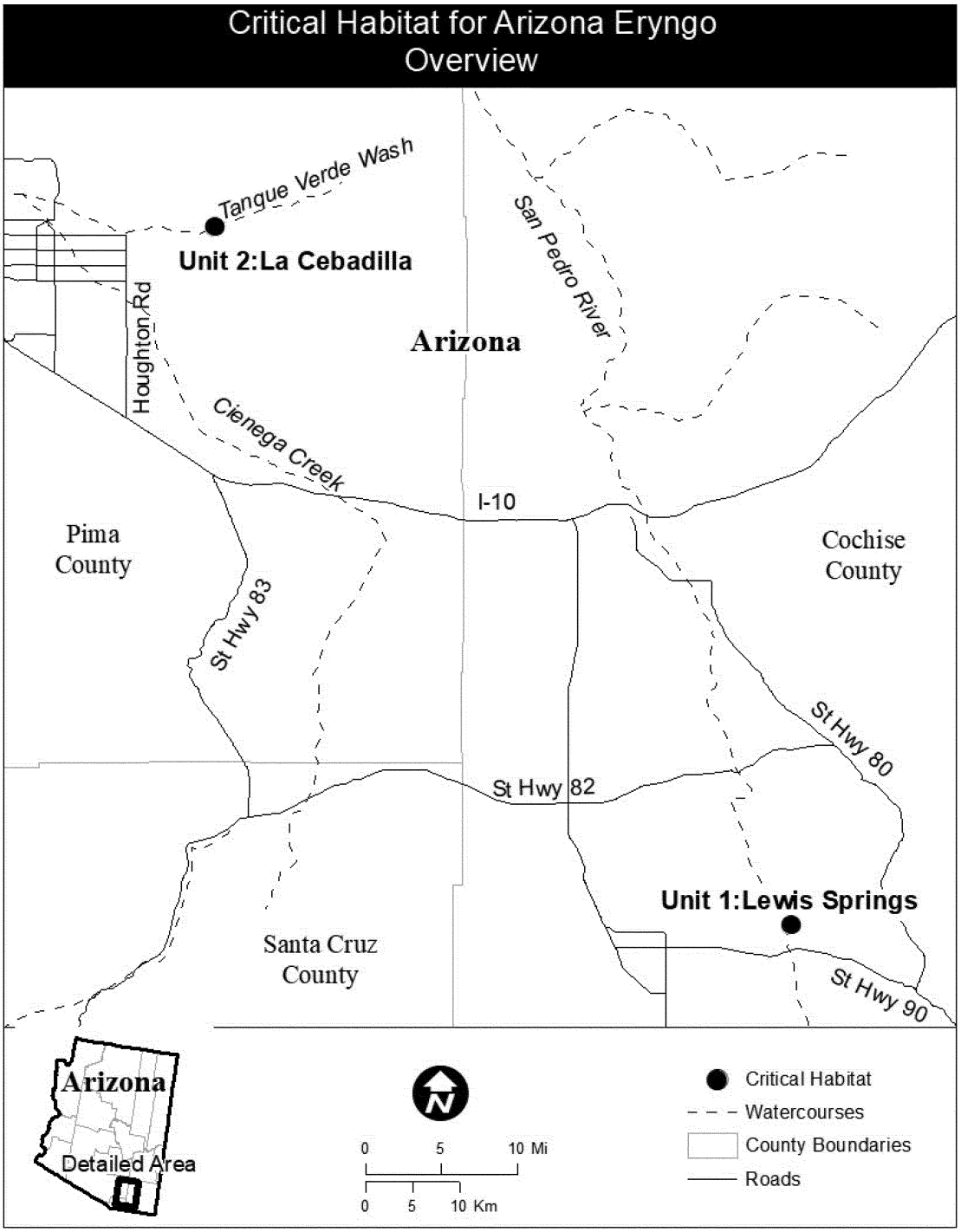
(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, runways, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on July 11, 2022.

(4) Data layers defining map units were created on a base of U.S. Geological Survey digital ortho-photo quarter-quadrangles, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) Zone 15N coordinates. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/southwest/es/arizona/,* at *https://www.regulations.gov* at Docket No. FWS–R2–ES–2020–0130, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) *Note:* Index map follows:

BILLING CODE 4333–15–P

Figure 1 for Family Apiaceae: *Eryngium sparganophyllum* (Arizona eryngo) paragraph (5)

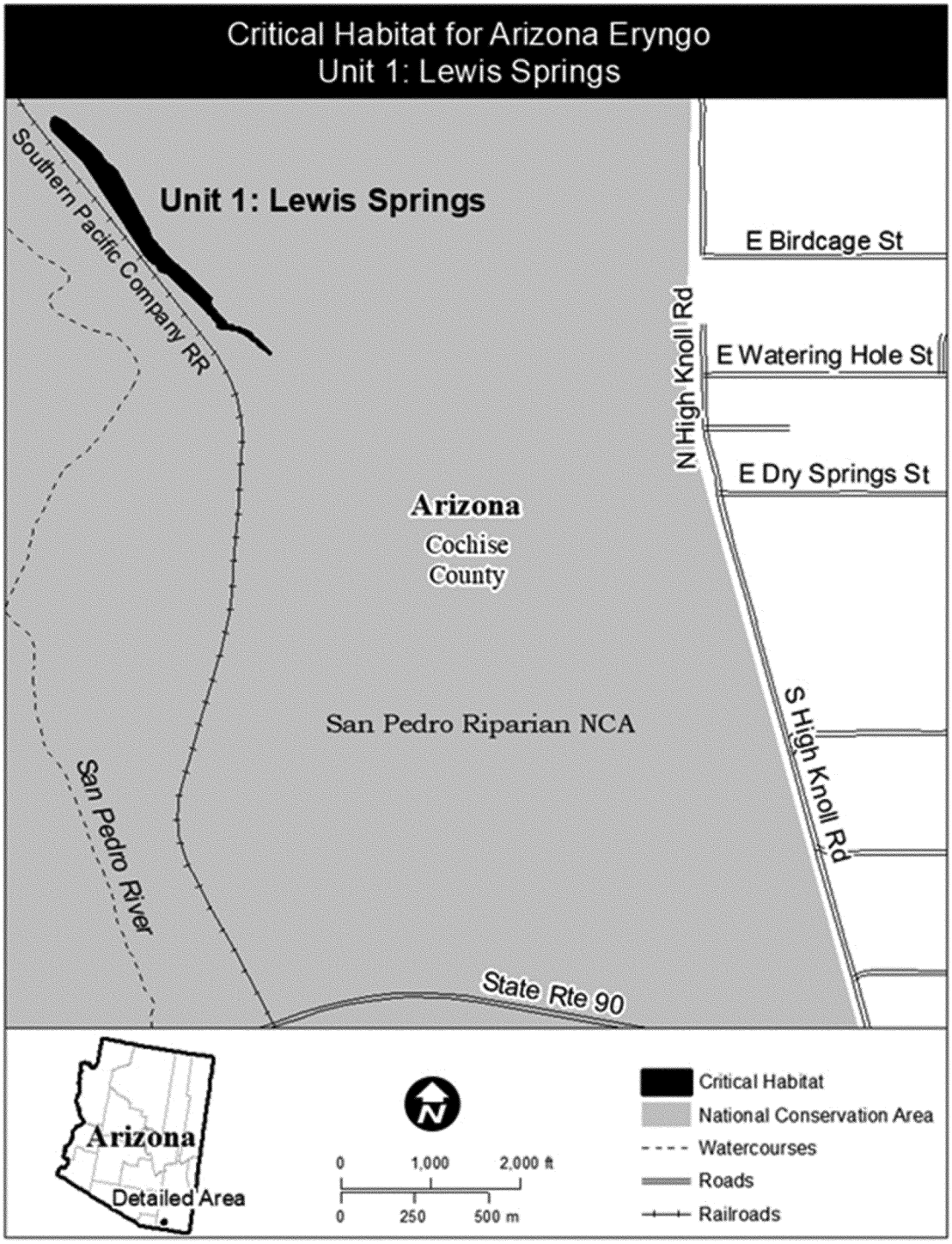


(6) Unit 1: Lewis Springs, Cochise County, Arizona.

(i) Unit 1 consists of 9.6 acres (3.9 hectares) encompassing the wetlands at Lewis Springs just to the east of the San Pedro River in Cochise County, within the San Pedro River Basin. The unit is located within the San Pedro Riparian National Conservation Area, which is owned and managed by the Bureau of Land Management.

(ii) Map of Unit 1 follows:

Figure 2 for Family Apiaceae: *Eryngium sparganophyllum* (Arizona eryngo) paragraph (6)(ii)

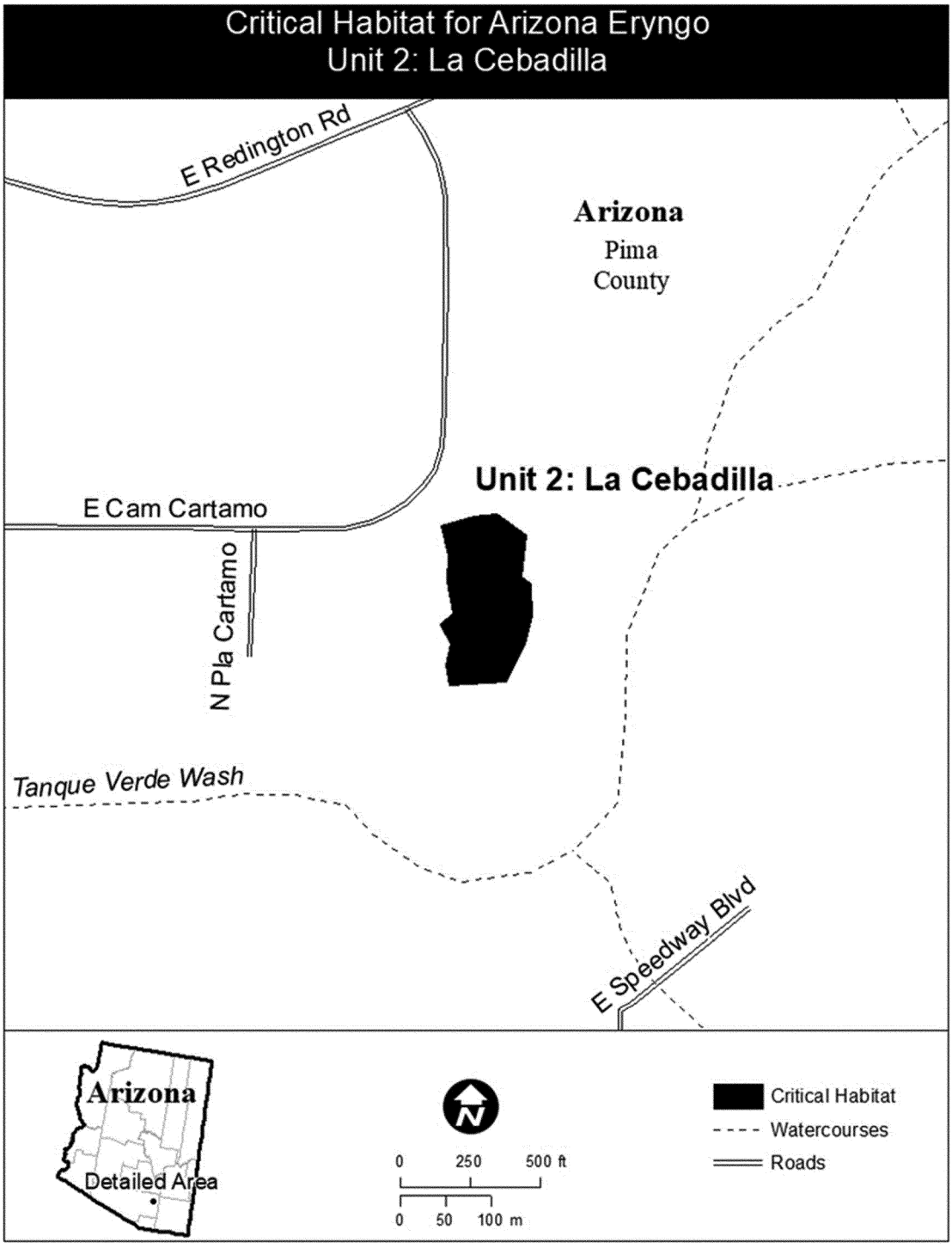


(7) Unit 2: La Cebadilla, Pima County, Arizona.

(i) Unit 2 consists of 3.1 acres (1.3 hectares) of cienega habitat at La Cebadilla Cienega, adjacent to the Tanque Verde Wash east of Tucson within the Santa Cruz River Basin. The majority of the unit is located on lands owned by La Cebadilla Estates, with a smaller portion of the unit located on lands owned and managed by the Pima County Regional Flood Control District.

(ii) Map of Unit 2 follows:

Figure 3 for Family Apiaceae: *Eryngium sparganophyllum* (Arizona eryngo) paragraph (7)(ii)



* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–12521 Filed 6–9–22; 8:45 am]

BILLING CODE 4333–15–C

Proposed Rules

Federal Register
Vol. 87, No. 112
Friday, June 10, 2022

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

DEPARTMENT OF DEFENSE

Office of the Secretary

5 CFR Part 3601

[Docket ID: DoD–2021–OS–0032]

RIN 0790–AL21

Supplemental Standards of Ethical Conduct for Employees of the Department of Defense

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The DoD, with the concurrence of the U.S. Office of Government Ethics (OGE), proposes to amend the Supplemental Standards of Ethical Conduct for Employees of the Department of Defense (DoD Supplemental Regulation). The amendments revise and update the DoD Supplemental Regulation originally written in 1993, to supplement the OGE Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards). Amendments include changes in the following areas: designation of separate agency components for the purposes of gifts and teaching, speaking, and writing; additional exceptions for gifts from outside sources; additional limitations on gifts between DoD employees; and authority to waive any of the provisions of the DoD Supplemental Regulation.

DATES: Comments will be accepted on or before July 11, 2022.

ADDRESSES: You may submit comments identified by docket number and/or regulatory identifier number (RIN) 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 or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make them 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. All submitted comments and attachments are part of the public record and subject to disclosure. So, do not enclose any material in your comments that you consider to be confidential. All comments will be available for public viewing at *https://www.regulations.gov,* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Karen Dalheim, Standards of Conduct Office, Office of the Secretary of Defense, Office of the General Counsel; telephone: 703–695–3422.

SUPPLEMENTARY INFORMATION:

I. Background

Executive Order 12674, as amended by Executive Order 12731, authorized OGE to establish a single, comprehensive, and clear set of Executive Branch standards of conduct. On August 7, 1992, OGE published the Standards of Ethical Conduct for Employees of the Executive Branch (OGE Standards), as codified at 5 CFR part 2635. (*See* 57 FR 35006, as corrected at 57 FR 48557 and 57 FR 52583.) The OGE Standards, effective February 3, 1993, established uniform ethical conduct rules applicable to all officers and employees.

With the concurrence of OGE, 5 CFR 2635.105 authorizes executive branch agencies to publish agency-specific supplemental regulations necessary and appropriate to implement their respective ethics programs. Pursuant to this authority, DoD, with OGE's concurrence and co-signature, published on September 10, 1993, a final rule to establish its supplemental standards of ethical conduct for DoD personnel (58 FR 47619, 58 FR 47622). DoD, with OGE's concurrence and joint issuance, now proposes to amend the DoD Supplemental Regulation. An update to the DoD Supplemental Regulation is necessary to effectively administer DoD's ethics program and address changes to DoD's programs and operations which have ensued in the 29 years since the publication of the Supplemental Regulation in 1993 for the reasons explained below.

II. Explanation of Changes With This Rule

The provision at 5 CFR 3601.102 currently designates components as separate agencies for the purposes of accepting gifts from non-Federal sources, and for outside teaching, speaking, and writing activities, two components have been added to the list, the National Reconnaissance Office (NRO), and DoD (Office of the Secretary of Defense (OSD) remainder agency.) Although the concept of the OSD remainder agency is not novel, listing the OSD remainder agency and explaining that officers and employees of other DoD components not designated as separate agencies will be treated as officers and employees of the OSD remainder agency will clarify the application of the gift and teaching, speaking, and writing rules for these components.

The other amended sections relate to additional gift exceptions from outside sources and additional limitations on gifts between DoD employees. Finally, the addition of examples in the DoD Supplemental Regulation serves to illustrate the application of the rules.

DoD removes two sections from the 1993 DoD Supplemental Regulation, 5 CFR 3601.105, ''Standards for accomplishing disqualifications''; and 5 CFR 3601.106, ''Limitation on solicited sales.'' Regarding the ''[s]tandards for accomplishing disqualification,'' DoD believes that following the OGE government-wide standard at 5 CFR part 2635, subpart D; and §§ 2635.502, 2635.604, and 2635.606, which requires oral notification of disqualification, sufficiently protects DoD interests without concurrently creating an administrative burden. Irrespective of whether a written disqualification is required, employees remain obligated to disqualify themselves from participating in matters affecting their financial interests, pursuant to 18 U.S.C. 208 and OGE's implementing regulations at 5 CFR part 2635, subpart D. The elimination of the written disqualification requirement does not preclude employees from choosing to provide a written disqualification to a

supervisor. The written disqualification will remain a best practice in internal guidance.

Regarding the ''[l]imitation on solicited sales,'' this section is not a supplementation of the OGE Standards, 5 CFR part 2635, and is, therefore, being removed consistent with the guidance in OGE Legal Advisory, LA–11–07 (2011), *https://www2.oge.gov/web/oge.nsf/Resources/LA-11-07:+The+OGE+Supplemental+Agency+Regulation+Process.* The subject matter of this section falls outside of OGE's authority and, therefore, cannot be included in the DoD Supplemental Regulation. The requirement, however, remains in effect in internal DoD issuances.

Updates to 5 CFR 3601.106 (formerly § 3601.107) take into consideration advances in technology related to financial disclosure reporting and remove the requirement that the prior approval be written. The original DoD Supplemental Regulation, requiring written prior approval of business activities or compensated outside employment with a prohibited source, was deemed necessary in an era when paper documentation was the norm.

Beginning in 2016, DoD mandated the electronic filing of all financial disclosure reports, with a built-in mandatory supervisory review function. Financial disclosure forms are filed annually and supervisors are required, as a part of their review, to determine if an employee's business activity or outside employment conflicts with the employee's official duties. Prior to certifying a filer's report, the supervisor will be required by departmental guidance to annotate their approval of the filer's business activity or outside employment on the report.

This electronic filing system is easily accessible and follows employees in DoD's mobile workforce. Using the electronic filing system ensures supervisors will have access to an employee's prior financial disclosure reports and consequently, information on their business activity and outside employment.

Finally, DoD adds one new section entitled ''[w]aiver'' that allows the DoD General Counsel to waive any provision of the DoD Supplemental Regulation upon finding that doing so would not be inconsistent with 5 CFR part 2635 and is not otherwise prohibited by law. This provision also allows the DoD General Counsel to withdraw a waiver when it is no longer necessary.

The amendments also incorporate a number of changes that are technical in nature, (*e.g.,* updating agency names and addressing typographical errors that do not affect the substance of the DoD Supplemental Regulation).

III. Section by Section Discussion

The following is a section-by-section overview of the amendments in this rulemaking.

Section 3601.102—Designation of DoD components as separate agencies for purposes of gifts, and teaching, speaking and writing. Proposed § 3601.102 is amended to update the list of components, designated as separate agencies for the purpose of accepting gifts from non-Federal sources and outside teaching, speaking, and writing activities. DoD previously designated 16 DoD components as separate agencies and the remainder of the DoD components as a separate single agency, the OSD remainder agency. The amendment designates two additional separate agencies, the NRO, consistent with NRO's designation as a separate component in appendix B to 5 CFR part 2641 and DoD OSD. For these purposes, use of the term ''agency'' does not carry the responsibilities of a ''defense agency'' as set forth in 10 U.S.C. 191–197(2019). The amendment also updates the name of the Defense Security Service, which was renamed the Defense Counterintelligence and Security Agency in 2019. To further illustrate the components concept, examples were added. DoD also included clarifying discussion about the OSD remainder agency for post-government employment restrictions.

Section 3601.103—Additional exceptions for gifts from outside sources. Proposed § 3601.103 clarifies and amends the current DoD Supplemental Regulation that provides an additional exception to the gift prohibition in 5 CFR 2635.202(a). Specifically, § 3601.103(a) highlights that officers and employees may accept an unsolicited gift of free attendance at certain events sponsored by a State or local government or by certain civic organizations when their personal attendance has been determined to serve a community relations interest of their agency. The proposed § 3601.103(a) exception amendment is intended to clarify and emphasize the continuing community relations interest DoD has in the communities where DoD activities operate. The addition of examples further illustrates these concepts. The amendment also requires that the community relations interest outweigh any concern that acceptance would cause a reasonable person with knowledge of the relevant facts to question the employee's integrity or impartiality. This new step in the gift acceptance analysis models OGE's framework for considering otherwise permissible gifts in 5 CFR 2635.201(b). Finally, the proposed § 3601.103(a) exception amendment permits attendance by an employee's guest, not just his or her spouse. This change creates consistency between DoD's Supplemental Regulation and OGE's 2016 revision of 5 CFR part 2635, subpart B, which uses the phrase ''spouse or other guest'' in the context of gifts. Proposed § 3601.103(b) reassigns approval authority for acceptance of educational scholarships or grants from the Secretary of Defense, or Secretary of the Military Department concerned, to the Designated Agency Ethics Official (DAEO) or the DAEO's designee. Experience indicates that the DAEO, as opposed to the Secretary of Defense or the Secretary of a Military Department, is in a better position to evaluate and review the acceptance of educational scholarships or gifts by employees or dependents of employees. The amendment also more closely tracks the standard for an ''established program of recognition'' in 5 CFR 2635.204(d)(2) and requires the DAEO or the DAEO's designee to make the determination in writing. The updates are consistent with the process for reviewing awards accepted using 5 CFR 2635.204(d), which requires an agency ethics official to review the acceptance of certain gifts. Establishing the approval authority at the DAEO or designee level fully protects DoD interests and ensures that the reviews are done in a timely manner.

Section 3601.104—Additional limitations on gifts between employees. Proposed § 3601.104(a) modifies the current $300 limit on gifts from a group that includes an employee's subordinate. This limit has not been increased since the implementation of the DoD Supplemental Regulation in September 1993. The new rulemaking uses the ''minimal value'' threshold established in the Foreign Gifts and Decorations Act, 5 U.S.C. 7342(a)(5) (2019), which is adjusted every three years by the General Services Administration.

Section 3601.105—Disclaimer for teaching, speaking and writing in a personal capacity related to official duties. Proposed § 3601.105 is renumbered from the existing regulation because of the deletion of § 3601.105 (Standards of accomplishing disqualification), § 3601.106 (Limitation on solicited sales), and § 3601.107 (Prior approval for outside employment and business activities). Additionally, § 3601.105 makes minor non-substantive changes and includes

examples to further illustrate application of the regulation.

Section 3601.106—Prior Approval for Outside Employment and Business Activities. Proposed § 3601.106 is renumbered from the existing regulation because of the deletion of previous chapters as described above. Section 3601.106 removes the requirement for written prior approval that certain employees must receive to engage in outside employment or business activities. The requirement for prior approval is retained and will be documented annually in the applicable electronic financial disclosure filing system. Additionally, two non-substantive changes were made to correctly identify OGE documents.

Section 3601.107—Waiver. Proposed § 3601.107 authorizes the DoD General Counsel (DoD Designated Agency Ethics Official) to waive any provision of this part, provided that a waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and issuance of the waiver will not undermine public confidence. This section also contains guidance pertaining to the contents of the waiver. The DoD General Counsel may withdraw the waiver if he or she determines that it is no longer necessary.

IV. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(a)(2), DoD is not required to provide a general notice of proposed rulemaking, opportunity for advance comment, and a 30-day delay in effectiveness because this proposed rule is a matter relating to Federal personnel. This rulemaking contains statements of policy, interpretive rules, and conduct regulations related to DoD personnel. However, because this rulemaking may be improved, comments may be submitted on or before July 11, 2022. All comments will be analyzed and any appropriate changes to the proposed rule will be incorporated in the subsequent publication of the final rule.

Congressional Review

This rulemaking relates to agency personnel and does not substantially affect the rights or obligations of non-agency parties. Therefore, it does not meet the definition of a ''rule'' at 5 U.S.C 804 and is not subject to the procedures of the Congressional Review Act.

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

These Executive orders direct agencies to assess all costs, benefits and available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health, safety effects, distributive impacts, and equity). These Executive orders emphasize the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rulemaking is a ''significant regulatory action'' under section 3(f) of Executive Order 12866, ''Regulatory Planning and Review,'' as supplemented by Executive Order 13563, ''Improving Regulation and Regulatory Review.'' Accordingly, the Office of Management and Budget has reviewed this rulemaking.

Executive Order 12988, ''Civil Justice Reform''

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, ''Civil Justice Reform.''

Paperwork Reduction Act

The amended regulations contain no additional information-collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

Regulatory Flexibility Act (RFA)

As required by the RFA, DoD certifies this regulation will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 5 CFR Part 3601

Conflict of interests, Executive branch standards of conduct, Government employees.

For the reasons discussed in the preamble, DoD proposes to revise 5 CFR part 3601 to read as follows:

PART 3601—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF DEFENSE

Sec.

Authority: 5 U.S.C. 301, 7301, 7351, 7353; 5 U.S.C. app. (Ethics in Government Act of 1978); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.204(k), 2635.803, 2635.807.

§ 3601.101 Purpose.

In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of Defense (DoD) and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. DoD employees are required to comply with part 2635, this part, and implementing guidance and procedures.

§ 3601.102 Designation of DoD components as separate agencies for purposes of gifts from outside sources, and teaching, speaking, and writing.

(a) Pursuant to 5 CFR 2635.203(a), each of the following DoD components is designated as a separate agency for purposes of the regulations in subpart B of 5 CFR part 2635 governing gifts from outside sources and 5 CFR 2635.807 governing teaching, speaking, and writing:

(1) Armed Services Board of Contract Appeals;

(2) Department of the Army;

(3) Department of the Navy;

(4) Department of the Air Force;

(5) Defense Commissary Agency;

(6) Defense Contract Audit Agency;

(7) Defense Finance and Accounting Service;

(8) Defense Information Systems Agency;

(9) Defense Intelligence Agency;

(10) Defense Logistics Agency;

(11) Defense Counterintelligence and Security Agency;

(12) Defense Threat Reduction Agency;

(13) National Geospatial-Intelligence Agency;

(14) National Security Agency;

(15) Office of Inspector General;

(16) Uniformed Services University of the Health Sciences;

(17) National Reconnaissance Office; and

(18) Office of the Secretary of Defense remainder agency.

Example 1 to paragraph (a): For paragraph (a)(1): [Teaching, Speaking, or Writing] An Armed Services Board of Contract Appeals (ASBCA) employee is asked to give a compensated speech on prisoners of war, a topic on which he

has a personal interest. While the Department of Defense has ongoing policies, programs or operations related to this topic, the ASBCA does not. The employee may give the speech in a personal capacity and receive compensation because the ASBCA is a designated separate agency, the speech is not related to an ongoing program or operation of the ASBCA, and the speech is not otherwise related to the employee's official duties.

Example 2 to paragraph (a): For paragraphs (a)(2) and (18) of this section: [Separate component—gift] An employee of the Department of the Army (Army) and an employee of the Office of the Joint Chiefs of Staff (JCS) are each offered a ticket to a football game by a company that contracts with OSD. As long as the contractor is not a prohibited source for the Army and the gift is not offered because of the employee's official position, the Army employee may accept the ticket because the Army is designated as a separate agency under paragraph (a)(2). The JCS employee may not accept the ticket because JCS is not designated as a separate agency and, therefore, is part of the ''OSD remainder agency.'' The OSD contractor is therefore a prohibited source for the JCS employee or for any employee of any of the other organizations that are part of the OSD remainder agency.

Example 3 to paragraph (a): For paragraph (a)(11): [Agency designation] An employee of the Department of the Air Force is offered a gift by a company that only does business with the Defense Counterintelligence and Security Agency, which is designated as a separate agency. The company would be a prohibited source of gifts for employees of the Defense Counterintelligence and Security Agency but not for employees of the Department of the Air Force or for any other component which has been designated as a separate agency.

(b) Employees of DoD components not designated as separate agencies, including employees of the Office of the Secretary of Defense, will be treated as employees of the ''Office of the Secretary of Defense (OSD) remainder agency.'' The OSD remainder agency shall itself be treated as a separate DoD agency for purposes of determining whether the donor of a gift is a prohibited source under 5 CFR 2635.203(d) and for identifying the employee's agency under 5 CFR 2635.807 governing teaching, speaking, and writing.

(1) The use of the term ''agency'' in this part does not carry with it the designation and responsibilities of a ''defense agency'' as set forth in 10 U.S.C. 191–197(2019).

(2) For purposes of this part, ''prohibited source'' is defined at 5 CFR 2635.203(d), except that ''agency'' shall mean the employee's component.

Note 1 to paragraph (b): All DoD organizations not individually listed in paragraph (a) of this section are part of the OSD remainder agency.

Note 2 to paragraph (b): Prohibited sources for each component for purposes of gifts and teaching, speaking, and writing are exclusive to that component and are not imputed to OSD.

Note 3 to paragraph (b): An employee who is detailed to another component will use the prohibited source list of the component to which they are detailed for purposes of gifts, teaching, speaking, and writing.

(c) The designations in this section shall only apply for purposes of gifts under 5 CFR 2635.203(a) and teaching, speaking and writing under 5 CFR 2635.807, and are distinct from the designations approved by the Office of Government Ethics for purposes of the post-Government employment restrictions in 18 U.S.C. 207(c). *See* 5 CFR 2641.302 and appendix B to part 2641.

§ 3601.103 Additional exceptions for gifts from outside sources.

In addition to the gift exceptions in 5 CFR 2635.204, which authorize acceptance of certain gifts from outside sources, and subject to all provisions of 5 CFR part 2635, subpart B, an employee may accept unsolicited gifts from outside sources otherwise prohibited by 5 CFR 2635.202 as detailed in this section. For purposes of this section, the term ''agency'' is defined in § 3601.102, and the term ''free attendance'' is defined in 5 CFR 2635.203(g).

(a) *Community relations events.* (1) An employee may accept an unsolicited gift of free attendance for himself or herself and a guest at a community relations event sponsored by a State or local government, or by a civic organization exempt from taxation under 26 U.S.C. 501(c)(4), when:

(i) The cost of free attendance is provided by the sponsor of the event; and

(ii) The employee's agency designee determines that the community relations interests of the agency will be served by the employee's attendance in his or her personal capacity, and the employee's attendance outweighs any concern that acceptance would cause a reasonable person with knowledge of the relevant facts to question the employee's integrity or impartiality.

(2) Refer to 5 CFR 2635.204(g)(5) in determining whether the cost of attendance may be considered to be provided by the sponsor of the event.

Example 1 to paragraph (a): [Community relations interest] The City of Jacksonville, Florida, hosts a Military Appreciation Day event. Members of the general public are charged an admission fee to attend. Department of the Navy employees who have recently returned from deployment are invited and offered free admission for themselves and a guest. These Navy employees may personally accept the gift of free attendance for themselves and a guest, if their agency designee determines that their attendance at the event will serve a community relations interest and that employees' attendance outweighs concerns that acceptance would call into question their integrity or impartiality.

Example 2 to paragraph (a): [No community relations interest] A foundation that provides grants to non-profit organizations focusing on environmental initiatives is sponsoring a fundraising golf tournament. The foundation is offering to waive the entry fee for military personnel at the local installation. Military personnel may not accept the offer by the sponsor to waive the entry fee under paragraph (a) of this section, because participation in this event does not further local community relations interests for the DoD installation. While the community relations exception may not be used to accept the gift, nothing in this section precludes an employee from accepting the gift if another gift exclusion, exception, or authority would apply.

(b) *Scholarships and grants.* An employee and his or her dependents may accept an educational scholarship or grant from an entity that does not have interests that may be substantially affected by the performance or non-performance of the employee's official duties, or from an association or similar entity that does not have a majority of members with such interests, if the Designated Agency Ethics Official (DAEO) or the DAEO's designee makes a written determination that the scholarship or grant is made pursuant to an established program of recognition, including those established for the benefit of employees, or the dependents of employees. A scholarship or grant is made pursuant to an established program of recognition if:

(1) Scholarships or grants have been made on a regular basis or, if the program is new, there is a reasonable basis for concluding that scholarships or grants will be made on a regular basis

based on funding or funding commitments; and

(2) Selection of recipients is made pursuant to written standards.

§ 3601.104 Additional limitations on gifts between employees.

The following limitations apply to gifts from groups of employees that include a subordinate and to voluntary contributions to gifts for superiors permitted under 5 CFR 2635.304(c)(1):

(a) *Gifts from a group that includes a subordinate.* Regardless of the number of employees contributing to a gift on a special, infrequent occasion as permitted by 5 CFR 2635.304(c)(1), an employee may not accept a gift or gifts, including indirectly within the meaning of 5 CFR 2635.203(f), from a donating group if the aggregate market value exceeds the minimal value, as established by 5 U.S.C. 7342(a)(5), and if the employee knows or has reason to know that any member of the donating group is a subordinate.

(1) The cost of items excluded from the definition of a gift by 5 CFR 2635.203(b) and the cost of food, refreshments, and entertainment provided to mark the occasion for which the gift is given shall not be included in determining whether the value of a gift or gifts exceeds the aggregate minimal value limit.

(2) The value of a gift or gifts from two or more donating groups will be aggregated and will be considered to be from a single donating group if the employee who is offered the gift knows or has reason to know that an individual who is his or her subordinate is a member of more than one of the donating groups.

(b) *Voluntary contribution.* For purposes of 5 CFR 2635.304(c)(1), the nominal amount of a voluntary contribution that an employee may solicit from another employee for a group gift to the contributory employee's superior for any special, infrequent occasion will not exceed $10. A voluntary contribution of a nominal amount for food, refreshments, and entertainment at an event to mark the occasion for which a group gift is given may be solicited as a separate, voluntary contribution not subject to the $10 limit.

§ 3601.105 Disclaimer for teaching, speaking, and writing in a personal capacity related to official duties.

An employee who uses or permits the use of his or her military rank or who includes or permits the inclusion of his or her title or position as one of several biographical details given to identify himself or herself in connection with teaching, speaking, or writing, in accordance with 5 CFR 2635.807(b), must make a disclaimer if the subject of the teaching, speaking, or writing deals in significant part with any ongoing or announced policy, program, or operation of the employee's agency, as defined in § 3601.102, and the employee has not been authorized by appropriate agency authority to present that material as the agency's position. The disclaimer must be made as follows:

(a) The required disclaimer must expressly state that the views presented are those of the speaker or author and do not necessarily represent the views of DoD or its components.

(b) When a disclaimer is required for an article, book, or other writing, the disclaimer will be printed in a reasonably prominent position in the writing itself.

(c) When a disclaimer is required for a speech or other oral presentation, the disclaimer may be given orally provided it is given at the beginning of the oral presentation.

Example 1 to § 3601.105: [Disclaimer Required] An employee is asked to provide unpaid personal remarks at a local university on a DoD matter she handled in the past year. As part of her introduction, the university facilitator identifies the employee by her official title. Since the subject matter of her speech is related to her official duties, and her official title is used, she must provide a reasonably prominent disclaimer at the beginning of her remarks.

Example 2 to § 3601.105: [Disclaimer Not Required] An employee is invited in his personal capacity to speak at his alma mater on Career Day about his personal experiences as a Government employee, but will not discuss the ongoing or announced policy, program, or operation of his agency. The introduction to his talk only mentions that he is a graduate of the school and currently a ''DoD employee,'' but does not use his official title, rank, or position. No disclaimer would be necessary because the introduction to the employee's speech did not include his official title or position and the subject of the speech does not deal in significant part with any ongoing or announced policy, program or operation of the relevant DoD agency.

Note 1 to § 3601.105: Ethics review of whether a disclaimer is necessary or prudent is not a substitute for compliance with other DoD requirements such as obtaining a security review of the content of the teaching, speaking or writing.

§ 3601.106 Prior approval for outside employment and business activities.

(a) A DoD employee, other than a special Government employee who is required to file a financial disclosure report (OGE Forms 450 or 278e), shall obtain approval from the agency designee before engaging in a business activity or compensated outside employment with a prohibited source, unless general approval has been given in accordance with paragraph (b) of this section. Approval shall be granted unless a determination is made that the business activity or compensated outside employment is expected to involve conduct prohibited by statute or regulation. Approval of the DoD employee's business activity or compensated outside employment with a prohibited source will be annotated on the employee's annual financial disclosure report. Nothing in this part precludes a supervisor from providing the employee with written approval. For purposes of this section, the following definitions apply:

(1) *Business activity.* Any business, contractual, or other financial relationship not involving the provision of personal services by the DoD employee. It does not include a routine commercial transaction or the purchase of an asset or interest, such as common stock, that is available to the general public.

(2) *Employment.* Any form of non-Federal employment or business relationship involving the provision of personal services by the DoD employee. It includes, but is not limited to, personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, or trustee.

(3) *Prohibited source. See* 5 CFR 2635.203(d) (modified by the separate DoD component agency designations in § 3601.102).

(b) The DoD component DAEO or designee may, by a written notice, exempt categories of business activities or employment from the requirement of paragraph (a) of this section based on a determination that business activities or employment within those categories would generally be approved and are not likely to involve conduct prohibited by statute or regulation.

§ 3601.107 Waiver.

(a) The DoD General Counsel may waive any provision of this part based upon a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that waiver of the provision will not undermine public confidence in the integrity of Government programs or operations. The waiver must be:

(1) In writing;

(2) Supported by a detailed statement of facts and findings; and

(3) Narrow in scope and limited in duration.

(b) The DoD General Counsel may withdraw the waiver, in writing, if it is determined to no longer be necessary.

(c) The authority for granting and withdrawing a waiver cannot be delegated below the DoD Alternate DAEO.

Caroline Krass,

General Counsel, U.S. Department of Defense.

Emory Rounds,

Director, U.S. Office of Government Ethics.

[FR Doc. 2022–12365 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1150

[Doc. No. AMS–DA–20–0060]

National Dairy Promotion and Research Board Reapportionment; Re-Opening of Comment Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional 45 days for public comments on the proposed rule that would amend the Dairy Promotion and Research Order (Dairy Order). The proposed rule would modify the number of National Dairy Promotion and Research Board (Dairy Board) members in 2 of the 12 regions. The total number of domestic Dairy Board members would remain the same at 36. This modification was requested by the Dairy Board, which administers the Dairy Order, to better reflect the geographic distribution of milk production in the United States.

DATES: The comment period for the proposed rule originally published on September 21, 2021, at 86 FR 52420, is reopened. Comments must be submitted on or before July 25, 2022.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments may be submitted through the Federal e-rulemaking portal at *https://www.regulations.gov* or emailed to *Whitney.Rick@usda.gov* and should reference the document number AMS–DA–20–0060, the date of publication, and the page number of this issue of the **Federal Register**. All comments will be included in the official record and will be made available to the public. Please be advised that the identity of the individuals or entities submitting comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Whitney A. Rick, Director, Promotion, Research, and Planning Division, Dairy Program, AMS, USDA, 1400 Independence Ave. SW, Room 2958–S, Stop 0233, Washington, DC 20250–0233. Phone: (202) 720–6909. Email: *Whitney.Rick@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 1150.131(e) of the Dairy Order requires the Dairy Board to review the geographic distribution of milk production volume throughout the United States at least every five years and not more than every three years and, if warranted, shall recommend to the Secretary a reapportionment of the regions, in order to better reflect the geographic distribution of milk production volume in the United States.

A proposed rule, published in the **Federal Register** on September 21, 2021 (86 FR 52420), would increase Dairy Board Region 8 (Idaho) representation from 2 members to 3 members and would decrease Region 10 (Alabama, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virginia) representation from 2 members to 1 member. The total number of domestic Dairy Board members would remain the same at 36.

USDA received a comment from the Dairy Board requesting an extension to the comment period, to allow additional time for the Dairy Board and other interested parties to fully analyze the proposed changes to the board membership. USDA also received comments from dairy farmers, a dairy industry organization, and the public expressing concern regarding the proposed decreased representation in Region 10. Therefore, AMS is reopening the comment period to encourage additional input on the proposed modifications to the number of National Dairy Promotion and Research Board (Dairy Board) members.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–12460 Filed 6–9–22; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0673; Project Identifier MCAI–2021–01282–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) 2017–10–17, which applies to certain Airbus SAS Model A330–200; A330–200 Freighter; and A330–300 series airplanes. AD 2017–10–17 requires revising the existing maintenance or inspection program, as applicable, to incorporate new fuel airworthiness limitations. Since the FAA issued AD 2017–10–17, the FAA has determined that new or more restrictive fuel airworthiness limitations and tasks are necessary. This proposed AD would continue to require the actions in AD 2017–10–17 and require revising the existing maintenance or inspection program, as applicable, to incorporate additional new or more restrictive fuel airworthiness limitations and tasks, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference. This proposed AD would also expand the applicability to include additional airplane models. 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 25, 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 SAS service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, 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 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–2022–0673.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0673; 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–2022–0673; Project Identifier MCAI–2021–01282–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 2017–10–17, Amendment 39–18891 (82 FR 24017, May 25, 2017) (AD 2017–10–17), which applies to certain Airbus SAS Model A330–223F and –243F airplanes; Model A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes. AD 2017–10–17 requires revising the existing maintenance or inspection program, as applicable, to include new fuel airworthiness limitations. The FAA issued AD 2017–10–17 to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Actions Since AD 2017–10–17 Was Issued

Since the FAA issued AD 2017–10–17, the FAA has determined that new or more restrictive fuel airworthiness limitations and tasks are necessary. In addition, Model A330–841 and –941 airplanes have been type certificated in the United States and added to the applicability of this proposed AD.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0252, dated November 17, 2021 (EASA AD 2021–0252) (also referred to as the MCAI), to correct an unsafe condition for all Airbus SAS Model A330–223F and –243F airplanes; Model A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes; A330–841 airplanes; and Model A330–941 airplanes.

Airplanes with an original airworthiness certificate or original export certificate of airworthiness issued after July 1, 2021, must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet; this proposed AD therefore does not include those airplanes in the applicability.

This proposed AD was prompted by a determination that new or more restrictive fuel airworthiness limitations and tasks are necessary. The FAA is proposing this AD to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane. See the MCAI for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0252 describes new or more restrictive fuel airworthiness limitations and tasks.

This AD would also require Airbus A330 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations (FAL), Revision 01, dated October 28, 2015, which the Director of the Federal Register approved for incorporation by reference as of June 29, 2017 (82 FR 24017, May 25, 2017).

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 2017–10–17. This proposed AD would also require revising the existing maintenance or inspection program, as applicable, to incorporate new or more restrictive fuel airworthiness limitations and tasks, which are specified in EASA AD 2021–0252 described previously, as proposed for incorporation by reference. Any differences with EASA AD 2021–0252 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) and Critical Design Configuration Control Limitations (CDCCLs). Compliance with these actions and CDCCLs 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 2021–0252 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0252 through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0252 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 2021–0252. Service information required by EASA AD 2021–0252 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0673 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), intervals, or CDCCLs may be used unless the actions, intervals, and CDCCLs 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, Intervals, and CDCCLs'' paragraph that does not specifically refer to AMOCs, but operators may still request an AMOC to use an alternative action, interval, or CDCCL.

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 2017–10–17 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) 2017–10–17, Amendment 39–18891 (82 FR 24017, May 25, 2017); and

■ b. Adding the following new AD:

Airbus SAS: Docket No. FAA–2022–0673; Project Identifier MCAI–2021–01282–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by July 25, 2022.

(b) Affected ADs

This AD replaces AD 2017–10–17, Amendment 39–18891 (82 FR 24017, May 25, 2017) (AD 2017–10–17).

(c) Applicability

This AD applies to Airbus SAS Model airplanes identified in paragraphs (c)(1) through (4) of this AD, certificated in any category, with an original airworthiness certificate or original export certificate of airworthiness issued on or before July 1, 2021.

(1) Model A330–223F and –243F airplanes.

(2) Model A330–201, –202, –203, –223, and –243 airplanes.

(3) Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(4) Model A330–841, and –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 fuel airworthiness limitations and tasks are necessary. The FAA is issuing this AD to address the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss 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 (j) of AD 2017–10–17, with no changes. For airplanes identified in paragraphs (c)(1) through (3) with an original certificate of airworthiness or original export certificate of airworthiness issued on or before October 28, 2015: Within 3 months after June 29, 2017 (the effective date of AD 2017–10–17), revise the existing maintenance or inspection program, as applicable, to incorporate Airbus A330 Airworthiness Limitations Section (ALS) Part 5—Fuel Airworthiness Limitations (FAL), Revision 01, dated October 28, 2015. The compliance times for accomplishing the initial tasks specified in Airbus A330 ALS Part 5—FAL, Revision 01, dated October 28, 2015, are at the times specified in Airbus A330 ALS Part 5—FAL, Revision 01, dated October 28, 2015, or within 3 months after revising the maintenance or inspection program as required by paragraph (g) of this AD, whichever occurs later. 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, Intervals, and Critical Design Configuration Control Limitations (CDCCLs), With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2017–10–17, with a new exception. Except as required by paragraph (i) of this AD, after accomplishing the revision required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections), intervals, or CDCCLs may be used unless the actions, intervals, or CDCCLs are approved as an 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 2021–0252, dated November 17, 2021 (EASA AD 2021–0252). 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 2021–0252

(1) Where EASA AD 2021–0252 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 2021–0252 do not apply to this AD.

(3) Paragraph (3) of EASA AD 2021–0252 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 AD 2021–0252 is at the applicable ''limitations'' and ''intervals'' as incorporated by the requirements of paragraph (3) of EASA AD 2021–0252, or within 90 days after the effective date of this AD, whichever occurs later.

(5) The provisions specified in paragraphs (4) and (5) of EASA AD 2021–0252 do not apply to this AD.

(6) The ''Remarks'' section of EASA AD 2021–0252 does not apply to this AD.

(k) New Provisions for Alternative Actions, Intervals, and CDCCLs

After the existing maintenance or inspection program has been revised as required by paragraph (i) of this AD, no alternative actions (*e.g.,* inspections), intervals, and CDCCLs are allowed unless they are approved as specified in the provisions of the ''Ref. Publications'' section of EASA AD 2021–0252.

(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.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(m) Related Information

(1) For EASA AD 2021–0252, 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–2022–0673.

(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 SAS service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, Rond-Point Emile Dewoitine No: 2, 31700 Blagnac Cedex, 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 June 3, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–12406 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0715; Airspace Docket No. 22–ASW–13]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Coalgate, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove the Class E airspace at Coalgate, OK. The FAA is proposing this action due to the cancellation of the instrument procedures at the associated airport, and the airspace no longer being required.

DATES: Comments must be received on or before July 25, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0715/Airspace Docket No. 22–ASW–13, at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would remove the Class E airspace extending upward from 700 feet above the surface at Mary Hurley Hospital Heliport, Coalgate, OK, due to the cancellation of the instrument procedures at this airport, and the airspace no longer being required.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0715/Airspace Docket No. 22–ASW–13.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by removing the Class E airspace extending upward from 700 feet above the surface at Mary Hurley Hospital Heliport, Coalgate, OK.

This action is the result of the instrument procedures at this airport being cancelled, and the airspace no longer being required.

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

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

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

ASW OK E5 Coalgate, OK [Remove]

Issued in Fort Worth, Texas, on June 6, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–12413 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0714; Airspace Docket No. 22–AGL–23]

RIN 2120–AA66

Proposed Amendment of Class D and Class E Airspace; Mansfield, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend the Class D and Class E airspace at Mansfield, OH. The FAA is proposing this action due to a biennial airspace review. The geographic coordinates of the Mansfield VORTAC would also be updated to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before July 25, 2022.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590; telephone (202) 366–9826, or (800) 647–5527. You must identify FAA Docket No. FAA–2022–0714/Airspace Docket No. 22–AGL–23 at the beginning of your comments. You may also submit comments through the internet at *https://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend the Class D airspace, the Class E surface airspace, and the Class E airspace extending upward from 700 feet above the surface at Mansfield Lahm Municipal Airport, Mansfield, OH, to support instrument flight rule operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2022–0714/Airspace Docket No. 22–AGL–23.'' The postcard will be date/time stamped and returned to the commenter.

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

Availability of NPRMs

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

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents for Incorporation by Reference

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

The Proposal

The FAA is proposing an amendment to 14 CFR part 71 by:

Amending the Class D airspace at Mansfield Lahm Municipal Airport, Mansfield, OH, by removing the Mansfield VORTAC and associated extension from the airspace legal description as they are no longer needed; and replacing the outdated terms ''Notice to Airmen'' with ''Notice to Air Missions'' and ''Airport/Facility Directory'' with ''Chart Supplement'';

Amending the Class E surface airspace at Mansfield Lahm Municipal Airport by removing the Mansfield VORTAC and associated extension from the airspace legal description as they are no longer needed; and adding missing part-time language to the airspace legal description;

And amending the Class E airspace extending upward from 700 feet above the surface at Mansfield Lahm Municipal Airport by removing the extensions to the southeast, northwest, and southwest of the airport from the airspace legal description as they are no longer needed; amending the extension northeast of the airport to within 2 (decreased from 4) miles each side of the 047° bearing from the airport extending from the 6.9-mile radius of the airport to 8.9 (decreased from 11.2) miles northeast of the airport; amending the extension southeast of the VORTAC to within 9.9 miles northeast and 6.1 miles southwest (previously 4.4 miles each side) of the Mansfield VORTAC 133° (previously 130°) radial extending from the 6.9-mile radius of the airport to 19 (increased from 13.8) miles southeast of the VORTAC; amending the extension northwest of the VORTAC to within 9.9 miles southwest and 6.1 miles northeast (previously 6.1 miles each side) of the Mansfield VORTAC 310° (previously 307°) radial extending from the 6.9-mile radius of the airport to 10 (decreased from 13.3) miles northwest of the VORTAC; removing the cities associated with the airports in the airspace legal description to comply with changes to FAA Order JO 7400.2N, Procedures for Handling Airspace Matters; and updating the geographic coordinates of the Mansfield VORTAC to coincide with the FAA's aeronautical database.

This action is due to a biennial airspace review.

Class D and E airspace designations are published in paragraphs 5000, 6002, and 6005, respectively, of FAA Order JO 7400.11F, dated August 10, 2021, and effective September 15, 2021, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in FAA Order JO 7400.11.

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

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AGL OH D Mansfield, OH [Amended]

Mansfield Lahm Municipal Airport, OH
(Lat. 40°49′17″ N, long. 82°31′00″ W)

That airspace extending from the surface to and including 3,800 feet MSL within a 4.4-mile radius of the Mansfield Lahm Airport. This Class D airspace area is effective during the specific dates and times established in advance by Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Areas Designated as Surface Areas.

* * * * *

AGL OH E2 Mansfield, OH [Amended]

Mansfield Lahm Regional Airport, OH
(Lat. 40°49′17″ N, long. 82°31′00″ W)

Within a 4.4-mile radius of Mansfield Lahm Regional Airport. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Air Missions. The effective dates and times will thereafter be continuously published in the Chart Supplement.

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

* * * * *

AGL OH E5 Mansfield, OH [Amended]

Mansfield Lahm Regional Airport, OH
(Lat. 40°49′17″ N, long. 82°31′00″ W)
Galion Municipal Airport, OH
(Lat. 40°45′12″ N, long. 82°43′26″ W)
Shelby Community Airport, OH
(Lat. 40°52′22″ N, long. 82°41′51″ W)
Willard Airport, OH
(Lat. 41°02′20″ N, long. 82°43′28″ W)
Mansfield VORTAC
(Lat. 40°52′07″ N, long. 82°35′27″ W)

That airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Mansfield Lahm Regional Airport; and within 2 miles each side of the 047° bearing from Mansfield Lahm Regional Airport extending from the 6.9-mile radius to 8.9 miles northeast of the airport; and within 9.9 miles northeast and 6.1 miles southwest of the Mansfield VORTAC 133° radial extending from the 6.9-mile radius of Mansfield Lahm Regional Airport to 19 miles southeast of the Mansfield VORTAC; and within 9.9 miles southwest and 6.1 miles northeast of the Mansfield VORTAC 310° radial extending from the 6.9-mile radius of Mansfield Lahm Regional Airport to 10 miles northwest of the Mansfield VORTAC; and within a 6.3-mile radius of Galion Municipal Airport, and within a 6.3-mile radius of Shelby Community Airport, and within a 6.3-mile radius of Willard Airport.

Issued in Fort Worth, Texas, on June 6, 2022.

Martin A. Skinner,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–12415 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2022–0222]

RIN 1625–AA09

Drawbridge Operation Regulation; Okeechobee Waterway, Stuart, FL

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notification of inquiry, request for comments.

SUMMARY: The Coast Guard is seeking information and comments on proposing a change to the drawbridge operating regulations for the Florida East Coast (FEC) Railroad Bridge, mile 7.4, and the SR 707 (Dixie Hwy) Bridge, mile 7.5, across the Okeechobee Waterway (OWW), at Stuart, Florida. In anticipation of passenger rail service across the FEC Railroad Bridge, the Coast Guard recognizes a change to the drawbridge operating schedules may be necessary to meet the reasonable needs of the maritime community and railway traffic. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must reach the Coast Guard on or before July 25, 2022.

ADDRESSES: You may submit comments identified by docket number USCG–2022–0222 using Federal Decision Making Portal at *https://www.regulations.gov.*

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Ms. Jennifer Zercher, Bridge Management Specialist, Seventh Coast Guard District, telephone 305–415–6740, email *Jennifer.N.Zercher@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
E.O. Executive Order
FR Federal Register
§ Section Symbol
U.S.C. United States Code
FEC Florida East Coast
SR State Route
WAMS Waterways Analysis and Management System
OWW Okeechobee Waterway
HWY Highway
NOI Notification of Inquiry

II. Background, Purpose and Purpose

On May 3, 2022, the Coast Guard published a notification of inquiry (NOI) in the **Federal Register** (87 FR 26145) to solicit public comments on proposing a change to the drawbridge operating regulations for the Florida East Coast (FEC) Railroad Bridge, mile 7.4, and the SR 707 (Dixie Hwy) Bridge, mile 7.5, across the Okeechobee Waterway (OWW), at Stuart, Florida. Comments and related material were to reach the Coast Guard on or before July 5, 2022. As of May 27, 2022, 16 comments were received. These comments will be addressed with the Supplemental NOI comments.

On May 26, 2022, the Honorable Brian Mast requested the NOI be ''recalled, rewritten, and republished'' based on concerns the NOI failed to address all recommendations included in the 2018 Waterways Analysis and Management System (WAMS) study. The Coast Guard will publish an ex parte communications memorandum via the **Federal Register** using docket number USCG–2022–0222.

This Supplemental NOI is being provided to clarify the Coast Guard's intent in gathering information under this NOI. The Coast Guard is seeking information regarding usage and equitable access to the waterway under the FEC Railroad Bridge, mile 7.4, and the SR 707 (Dixie Hwy) Bridge, mile 7.5, across the OWW, at Stuart, Florida. For drawbridge operating regulations, the Coast Guard interprets ''equitable'' usage as access to the waterway which meets the reasonable needs of navigation while balancing the needs of competing modes of transportation.

III. Discussion on Comments and Changes

As noted above, a request was made to recall, rewrite, and republish the NOI based on an apparent lack of objectivity regarding the Coast Guard's intent as to mariners' access to the waterway. The Coast Guard has updated the summary and revised question six of the original NOI to avoid perceived bias by the Coast Guard. A Supplemental NOI will be published in the **Federal Register**.

IV. Information Requested

To aid us in further developing a proposed rule, we seek responses from waterway users to the following questions:

(1) Do you currently transit through the FEC Railroad Bridge crossing the Okeechobee Waterway, mile 7.4, at Stuart, Florida?

(2) How often do you transit this waterway?

(3) If railway traffic impedes your navigation of this area, how long are you normally delayed?

(4) How would you propose to regulate the balance of railway and maritime traffic in this area?

(5) What challenges have you experienced when transiting this area due to these bridges and/or railway activity?

(6) At what frequency and duration should the drawbridge openings occur in order to meet the needs of navigation?

(7) Should the SR 707 (Dixie Hwy) Bridge opening schedule mirror the operating schedule of the FEC Railroad Bridge?

V. Public Participation and Request for Comments

We encourage you to submit comments in response to this notice of inquiry through the Federal Decision Making Portal at *https://www.regulations.gov.* To do so, go to

https://www.regulations.gov, type USCG–2022–0222 in the search box and click ''Search.'' Next, look for this document in the Search Results column, and click on it. Then click on the Comment option. In your submission, please include the docket number for this notice of inquiry and provide a reason for each suggestion or recommendation. If your material cannot be submitted using *https://www.regulations.gov* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

To view documents mentioned in this proposed rule as being available in the docket, find the docket as described in the previous paragraph, and then select ''Supporting & Related Material'' in the Document Type column. Public comments will also be placed in our online docket and can be viewed by following instructions on the *https://www.regulations.gov* Frequently Asked Questions web page. We review all comments received, but we may choose not to post off-topic, inappropriate, or duplicate comments that we receive. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

We accept anonymous comments. Comments we post to *https://www.regulations.gov* will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

We may hold a public meeting, if necessary, to receive oral comments on this Notice of Inquiry and will announce the date, time, and location in a separate document published in the **Federal Register**. If you signed up for docket email alerts mentioned in the paragraph above, you will receive an email notice when the public meeting notice is published and placed in the docket.

This document is issued under authority of 5 U.S.C. 552 (a) and 33 U.S.C. 499.

Dated: June 6, 2022.

Jeffrey K. Randall,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 2022–12509 Filed 6–9–22; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

33 CFR Part 386

[Docket Number: COE–2022–0004]

RIN 0710–AB31

Credit Assistance and Related Fees for Water Resources Infrastructure Projects

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: The U.S. Army Corps of Engineers (Corps) is soliciting comments on a proposed rule implementing a new credit assistance program consistent with the funding provided under Subtitle C of Title V of the Water Resources Reform and Development Act of 2014 (WRRDA), often referred to as the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA), for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility or private and the process by which the Corps will administer such credit assistance including the assessment of fees. The proposed rule sets forth the policies and procedures that the Corps will use for receiving, evaluating, approving applications, and servicing and monitoring direct loans and loan guarantees.

DATES: Comments must be received on or before August 9, 2022.

ADDRESSES: Submit your comments, identified by Docket Number COE–2022–0004, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The Corps 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.

FOR FURTHER INFORMATION CONTACT: Aaron Snyder, Corps Water Infrastructure Financing Team, 441 G. Street NW, CECW–I Attn: Aaron Snyder 3K87, Washington, DC 20314; telephone number: (612) 518–0355; email address: *CWIFP@usace.army.mil.* The phone number above may also be reached by individuals who are deaf or hard of hearing, or who have speech disabilities, through the Federal Relay Service's teletype service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Army Corps of Engineers (Corps) is publishing for public comment a proposed rule to implement a program authorized under Subtitle C of Title V of the Water Resources Reform and Development Act of 2014 (WRRDA), often referred to as the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). The program was provided funding and further statutory direction in Division D Title 1 of the Consolidated Appropriations Act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act. WIFIA authorizes the Corps to provide secured (direct) loans and guaranteed loans to eligible water resources infrastructure projects. The only eligible project type—under Division D, Title 1 of the Consolidated Appropriations Act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act are: ''. . . . safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of state, local government, public utility, or private: Provided, That no project may be funded with amount provided under this heading for a dam that is identified as jointly owned in the National Inventory of Dams and where one of those joint owners is the Federal Government . . . . . .''—and this rule would limit implementation to only those project types listed in the Acts. WIFIA authorizes the Corps to charge fees to recover all or a portion of the Corps' cost of providing credit assistance and all costs of conducting engineering reviews and retaining expert firms, including financial and legal services, in the field of municipal and project finance to assist in the underwriting and servicing of Federal

credit instruments. WIFIA also authorizes the borrower to pay part or all of the credit subsidy cost and this authority would be implemented under this rule. Projects will be evaluated and selected by the Secretary of the Army (the Secretary) based on the requirements and the criteria described in this rule. Following the selection of projects, individual credit agreements will be developed through negotiations between the borrowers and the Corps.

Congress enacted the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) (Pub. L. 113–121) as part of the Water Resources Reform and Development Act of 2014, as amended by section 1445 of Public Law 114–94, section 5008 of Public Law 114–322, and section 4201 of Public Law 115–270 (see 33 U.S.C. 3901–3914). These amendments were minor changes primarily focused on the Administrator of the Environmental Protection Agency (EPA) and other changes regarding State Infrastructure Financing Authorities, removing limitations on use of tax exempt funding sources, changes to project eligibility for the EPA, and allowance of fees as an eligible cost which is included elsewhere in this proposed rule. Title I, Division D of the Consolidated Appropriations Act, 2021 provided $12 million in budget authority for the cost of direct loans and guaranteed loans (''credit subsidy cost'') for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private. Title 1, Division D also provided that the $12 million credit subsidy appropriation, is available to subsidize gross obligations for the principal amount of direct loans, including capitalized interest, and total loan principal, including capitalized interest, any part of which is to be guaranteed not to exceed $950,000,000. Division J, Title III of the Infrastructure Investment and Jobs Act provided for an additional amount for Water Infrastructure Finance and Innovation Program Account, $75,000,000, to remain available until expended provided, that of the amounts provided under Division J, Title III of the Act, $64,000,000 shall be for the cost of direct loans and for the cost of guaranteed loans, for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private: provided further, that no project may be funded with amounts provided under Division J, Title III for a dam that is identified as jointly owned in the National Inventory of Dams and where one of those joint owners is the Federal Government: provided further, that of the amounts provided under Division J, Title III of the Act, $11,000,000 shall be for administrative expenses to carry out the direct and guaranteed loan programs, notwithstanding section 5033 of the Water Infrastructure Finance and Innovation Act of 2014. The U.S. Army Corps of Engineers (Corps) is proposing to establish its new WIFIA program limited to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private.

A primary objective for Federal credit programs is to help correct a capital market imperfection. Municipal, regional, state-level and other infrastructure project sponsors generally do not market debt sales used to fund infrastructure projects beyond 30-year terms through public bond markets due to existing market conventions. Proceeds from bond sales are available immediately, not according to cash flow needs during project construction. In addition, debt sold through multiple issuances during an infrastructure project's construction period exposes project sponsors to debt interest rate risk. Congress provided the Corps WIFIA program the legal authority to help address these factors that otherwise may impede affordable infrastructure investment through the prospective terms of WIFIA credit assistance.

WIFIA, authorized the Corps to provide both loans and loan guarantees to eligible entities: corporations; partnerships; joint ventures; trusts; State or local governmental entities, agencies, or instrumentalities; tribal governments or consortiums of tribal governments; or State infrastructure finance authorities.

While WIFIA authorizes the Corps to provide for a wide variety of eligible projects this draft proposed rule is implementing a credit assistance program for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private (referred to here after as ''non-Federal dams''). As applied to credit assistance for non-Federal dam projects under Title 1, Division D or the Consolidated Appropriations Act, 2021, Division J, Title III of the Infrastructure Investment and Jobs Act, Sections 3902, 3905, and 3907 of Title 33 of the U.S.C., describe the conditions that govern a project's eligibility. Projects must have eligible costs of not less than $20 million. 33 U.S.C. 3907(a)(2)(A). Eligible borrowers, eligible projects, and other statutory requirements are further described in detail in the sections below and summarized in 33 CFR part 386 and 85 FR 39189. As used throughout this **SUPPLEMENTARY INFORMATION** section and part 386 of the rule, ''borrower'' is synonymous with ''obligor''. WIFIA defines an ''obligor'' as ''an eligible entity that is primarily liable for payment of the principal of, or interest on, a Federal credit instrument.'' 33 U.S.C. 3901(7). ''Obligor'' is used in place of ''borrower'' whenever ''obligor'' appears in a corresponding section of WIFIA.

II. Water Resources Infrastructure Needs

The American Jobs Plan estimates that in 2020, weather and climate disasters cost the United States $95 billion in damages to homes, businesses, and public infrastructure.[1] The Administration has made investment in U.S. infrastructure a priority to increase resiliency in the face of such threats.

Non-Federal dams account for roughly 87,000 of the 90,580 dams as reported in the National Inventory of Dams. Over 14,000 non-Federal dams are now classified as ''high hazard potential,'' meaning that they would likely result in loss of life if they were to fail.[2] According to a 2019 cost estimate conducted by the Association of State Dam Safety Officials (ASDSO), the cost to rehabilitate (repair, replace or remove) all non-Federal dams is estimated at over $66 billion with high hazard potential dams accounting for over $20 billion.[3] Funding requirements are only projected to increase as infrastructure continues to age, risk awareness progresses, and design standards evolve.[4]

While almost half of the States have created a state-funded grant or low-interest revolving loan program to assist dam owners with repairs, the ASDSO indicates that these programs vary significantly in the financial assistance available.[5] Another Federal infrastructure financing program, WIFIA, administered by the EPA

[1] The White House Briefing Room. ''FACT SHEET: The American Jobs Plan'' at *https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/31/fact-sheet-the-american-jobs-plan*. March 13, 2021.

[2] U.S. Army Corps of Engineers, ''National Inventory of Dams,'' at *https://nid.usace.army.mil*. 2020 partial update.

[3] Association of State Dam Safety Officials (ASDSO), ''The Cost of Rehabilitating Our Nation's Dams: A Methodology, Estimate, and Proposed Funding Mechanisms.'' revised 2019.

[4] Congressional Research Service, ''Dam Safety Overview and the Federal Role,'' October 24, 2019.

[5] ASDSO, ''The Cost of Rehabilitating''.

provides credit financing for non-Federal water and wastewater infrastructure project. Similar to the Corps WIFIA program, the maximum portion of eligible project costs are 49% or 80% for small communities. The EPA WIFIA program can finance dam projects however those projects compete against a wide range of water and wastewater type projects. In FY 2021 the EPA WIFIA program had an appropriation of $55 million, allowing WIFIA to lend approximately $5.5 billion. In 2021, the EPA made it possible for dam projects to receive funding under the Federal Drinking Water State Revolving Fund (DWSRF), administered by the EPA, provided that the dam's primary purpose is for drinking water supply and that the dam must be owned by the public water system. Through the DWSRF program the EPA will make available $1.8 billion in capitalization grants for drinking water infrastructure needs, a portion of which could go towards drinking water supply dam projects, depending on the priorities of the States. The Federal Watershed Rehabilitation Program administered by the Natural Resources Conservation Service (NRCS) helps project sponsors rehabilitate aging dams that are reaching the end of their design lives. This rehabilitation addresses critical public health and safety concerns. Division J, Title I of the Infrastructure Investment and Jobs Act provides $118M for projects under the Watershed Rehabilitation Program. The Federal Rehabilitation of High Hazard Potential Dam (HHPD) Program, administered by Federal Emergency Management Agency (FEMA), provides grants for repair, removal, or rehabilitation of eligible non-Federal, high hazard potential dams. Projects can receive a maximum grant of the lesser of $7.5 million or 12.5% of the total appropriated amount. The program was appropriated $10 million in both FY 2019 and FY 2020, $12 million in FY 2021, and $585 million in Division J, Title V of the Infrastructure Investment and Jobs Act ($75 million of which must go to dam removal projects). Despite these programs and their funding capacity, the available funding for dam safety infrastructure falls short of the $66 billion need cited by ASDSO. The Corps WIFIA program helps to bridge that gap by providing non-Federal entities with an additional means to invest in dam safety infrastructure, which will help communities withstand future weather and climate events. As communities become more resilient, all else being equal, this is expected to assist in limiting Federal disaster spending associated with such events.

III. Program Information

A. Funding

The Federal Credit Reform Act of 1990 (FCRA), Title V of Public Law 101–508, codified at 2 U.S.C. 661–661f, requires that agencies estimate the long-term cost of providing direct loans and loan guarantees on a net present value basis and requires that agencies have the necessary budget authority appropriated before entering into an obligation for a loan. To date, $76 million in appropriations have been provided to the Corps for the cost of credit assistance for non-Federal dams under WIFIA.

B. Borrower Eligibility

Section 3904 of Title 33 of the U.S.C., defines entities that are eligible for WIFIA assistance. To be eligible under this program, a borrower must be one of the following:

1. A corporation;
2. A partnership;
3. A joint venture;
4. A trust;
5. A State, or local governmental entity, agency, or instrumentality;
6. A tribal government or consortium of tribal governments; or
7. A State infrastructure financing authority.

While Section 3904(5) includes ''Federal'' entities in the list of entities that are eligible to receive assistance, this program will not issue credit assistance to ''Federal'' entities or activities because recording credit assistance to a Federal entity or activity on a net present value basis would be inconsistent with 31 U.S.C. 1501, existing Government-wide guidance, and a cash budget. As required by Title 1, Division D of the Consolidated Appropriations act of 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act, the credit assistance program covered by this proposed rule must be administered in accordance with the WIFIA criteria published on June 30, 2020 (85 FR 39189). Please review the criteria published at 85 FR 39189 for additional background and information regarding project eligibility.

C. Project Eligibility

Section 3905 of Title 33 of the U.S.C. defines projects eligible for assistance. To be eligible under this program, a project must fall under one of the following four categories:

1. Safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private; and which meet the statutory requirements of Title 1, Division D of the Consolidated Appropriations Act 2021 and be in accordance with the criteria outlined in 85 FR 39189.

2. Any project that meets the criteria under C.1. above must also be a project for flood damage reduction, hurricane and storm damage reduction, environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—

a. A project to reduce flood damage;

b. A project to restore aquatic ecosystems;

c. A project to improve the inland and intracoastal waterways navigation system of the United States; and

d. A project to improve navigation of a coastal inland harbor of the United States, including channel deepening and construction of associated general navigation features.

3. Acquisition of real property or an interest in real property for a project that meets the criteria under C.1. above—

a. If the acquisition is integral to a project eligible for WIFIA credit assistance; or

b. Pursuant to an existing plan that, in the judgment of the Secretary, would mitigate the environmental impacts of water resources infrastructure projects that are otherwise eligible for WIFIA credit assistance.

4. A combination of projects, each of which is eligible for WIFIA credit assistance, for which a single application is submitted and which is secured by a common security pledge.

Title I, Division D of the Consolidated Appropriations Act, 2021 and Division J, Title III of the Infrastructure Investment and Jobs Act limited use of the appropriated funding to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams. Dam removal is an eligible project under this authorization.

In addition, as noted above, Title I, Division D of the Consolidated Appropriations Act, 2021 stipulates that ''none of the direct loans or loan guarantee authority made available under this heading shall be available for any project unless the Secretary and the Director of the Office of Management and Budget have certified in advance in writing that the direct loan or loan guarantee, as applicable, and the project

comply with the criteria. . .'' published in the **Federal Register** on June 30, 2020 (85 FR 39189).

The Corps will closely coordinate with the EPA on overlapping project eligibility to ensure proposed borrowers utilize the program best suited for their project considering agency technical expertise. The Corps agrees to partner closely with EPA during the project selection process for eligible projects and to work together to ensure that funding allocated either by EPA or Corps WIFIA programs will use the most appropriate program relative to the project's scope, purpose, and benefits. The Corps solicits public comment on how best to assist applicants to utilize the program best suited for a project in such instances.

D. Project Cost Eligibility

Section 3906 of Title 33 of the U.S.C. defines eligible activities with respect to eligible projects as the following four types of project costs:

1. The cost of development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities.

2. The cost of construction, reconstruction, rehabilitation, and replacement activities.

3. The cost of the acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

4. The cost of capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction.

In addition to the statutory project cost eligibility requirements listed above, the Corps program allows for fees associated with obtaining WIFIA funds to be considered as part of eligible project costs, as authorized by 33 U.S.C. 3908(b)(7), limited to the Application, Transaction Processing, and Servicing fees as described below in Section III.H (Fees). Proceeds from the WIFIA credit assistance shall not be utilized to provide cash contributions to the Corps for project-related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7). The ''Optional Credit Subsidy Fee'' is not an eligible cost. The Corps solicits public comment on whether additional clarification is needed on project cost eligibility, such as whether a list of what costs are expressly ineligible would be helpful or whether that may result in additional confusion as opposed to limiting the list to only include those which are eligible, as proposed.

E. Statutory Requirements

WIFIA contains the following requirements, as paraphrased below, which are restated in the proposed rule:

- Public or private applicants for credit assistance would be required to submit applications to the Corps in order to be considered for approval (33 U.S.C. 3903).
- Project financing would be required to be repayable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project; to include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and may have a lien on revenues subject to any lien securing project obligations (33 U.S.C. 3908 (b)(3)).
- In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking would be required to be publicly sponsored. Public sponsorship means that the obligor can demonstrate, to the satisfaction of the Secretary, that it has consulted with the affected State, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support could be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced (33 U.S.C. 3907(a)(4)).
- To be eligible for financing, a prospective borrower would be required to have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life (33 U.S.C. 3907(a)(6)).

Additionally, projects receiving WIFIA credit assistance would not be able to use that assistance for operations and maintenance activities.

F. Application Process

For each fiscal year that Congress appropriates funds for credit assistance under this program, the Corps will provide detailed instructions for submitting preliminary applications and applications, as well as the due dates for submissions. It will advise prospective borrowers of the estimated amount of funding available to support Federal credit instruments and information required in a preliminary application and application not detailed in this rule.

The application process has two steps. The first step requires the submission of a preliminary application. No fees are established for this preliminary application step. The Corps will review these preliminary applications and determine which applicants will be invited to continue in the application process and submit applications. An invitation to submit an application does not imply an obligation by the Corps to enter into a Loan Agreement or Loan Guarantee Agreement. Those applicants that choose to submit an application will be required to include an application fee, if applicable. Consequently, the Corps anticipates that the fees established in this rule will only apply to those projects. See Paragraph III.H. below for more information on fees.

The purpose of the preliminary application is to provide the Corps with the information necessary to determine whether a given project is eligible under the WIFIA statute, appropriations, and regulations. This serves to provide the Corps with sufficient information to evaluate preliminary applications and to invite prospective borrowers to submit applications.

The purpose of the application is to provide the Corps with materials necessary to underwrite the proposed WIFIA assistance. The application will require similar information to the preliminary application, but with a greater level of detail and more fully developed information in support of the applicant's proposal.

The application must include sufficient information to allow the Secretary to make the determination required by 33 U.S.C. 3905(1) that the project is technically sound, economically justified, and environmentally acceptable. The information required to support this determination will depend on various factors, including but not limited to the purpose and scope of the activity proposed for WIFIA assistance. Applicants for WIFIA assistance should refer to any prior analysis that could assist the Corps in confirming the determination required by 33 U.S.C. 3905(1). The Corps does not expect the application to provide the level of analysis required for traditional Corps feasibility studies. Applicants should provide information to enable the Corps to determine that the project will meet

all applicable engineering, safety, and other technical standards; that it is economically justified; and that it will satisfy all necessary environmental requirements to include requirements associated with the Corps Programmatic Environmental Assessment prepared for this rule under the National Environmental Policy Act (NEPA). In addition, the application must include a description of the extent to which the project financing plan includes any other form of Federal assistance (including grants), in addition to WIFIA credit assistance. This information directly relates to the total Federal risk exposure across all Federal programs and will require information on all possible sources of Federal support. The Corps will also be coordinating with other Federal agencies, such as the Federal Emergency Management Agency (FEMA), on other Federal programs that may be used to fund or finance projects under this rule. Additional information regarding the requirements for an applicant's submittal would be described in the application materials.

The application also should address any connection between the proposed WIFIA assistance and other Federal activities. In order for non-Federal flood risk management projects to be eligible for future Federal repair or rehabilitation assistance following storm events under 33 U.S.C. 701n, applicants would need to satisfy requirements from that program. Applicants can consult with the Corps WIFIA office to assist in understanding whether activities proposed for WIFIA assistance might implicate other Federal authorities and funding.

G. Creditworthiness

As provided in WIFIA, the Secretary must determine that every funded project is creditworthy. 33 U.S.C. 3907(a)(1). An overarching goal of the creditworthiness determination process is to ensure that each project that is ultimately offered credit assistance advances the WIFIA program's mission while providing a level of risk exposure that is acceptable to the Corps. Therefore, the WIFIA program will evaluate applications for financial assistance based on credit risks over the repayment period of the WIFIA credit assistance. As required by 33 U.S.C. 3907(a)(1), the creditworthiness determination will be based on a review of the following:

- Terms, conditions, financial structure, and security features of the proposed financing;
- Dedicated revenue source(s) securing the financing;
- Financial assumptions upon which the project is based; and
- Financial soundness and credit history and outlook of the borrower.

H. Fees

Sections 3908(b)(7), 3909(b), and 3909(c)(3) of 33 U.S.C. allow the Corps to collect user fees from applicants to cover some or all of the costs associated with administering the program. The Corps is proposing to establish fees associated with the provision of Federal credit assistance under the WIFIA program. As specified under 33 U.S.C. 3908(b)(7), 3909(b), and 3909(c)(3), Congress authorizes the Corps to charge fees to recover all or a portion of the Corps' cost of providing credit assistance and the costs of conducting engineering reviews and retaining expert firms, including financial and legal services in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments. The Corps is proposing to establish an application fee, transaction processing fee, annual servicing fee, optional credit subsidy fee, and enhanced monitoring fee to cover these costs to the extent not covered by Congressional appropriations. As described in greater detail below, the types of fees the Corps is proposing to establish are consistent with other Federal credit programs.

The rationale for establishing fees associated with the provision of credit assistance is to cover the Corps' cost of administering the program to the extent these costs are not covered by appropriations. To effectively administer the program, the Corps will incur both internal administrative costs (staffing, program support contracts, and other costs) as well as costs associated with conducting engineering reviews and retaining expert firms, including financial and legal services in the field of municipal and project finance, to assist in the underwriting of the Federal credit instrument.

The Water Infrastructure Improvements for the Nation Act of 2016, Public Law 114–332, in section 5008(c), amended WIFIA to allow, at the request of an applicant, the financing of some fees as eligible costs as defined below. Borrowers are permitted to finance eligible fees as part of the WIFIA credit assistance. The Corps is soliciting public comment on all aspects of the fees discussed below as well as the associated assumptions.

1. Application Fee

The Corps will require a non-refundable application fee for each project that is invited to submit an application (second step following submission of a preliminary application) for credit assistance under WIFIA, if applicable. The application fee will be due upon submission of the application. This application fee supports the Corps' planning efforts by helping to ensure that the program invites only the appropriate number of applicants that it has the capacity to fund. In the event that the prospective borrower has not completed and submitted a full application within one-year of the Corps' invitation to apply for credit assistance, the prospective borrower must submit to the Corps a request for extension prior to the expiration year that sets forth the prospective borrower's rationale for an extension, summarizes the prospective borrower's progress achieved on the project to date, and provides an updated schedule of project development activities, including submission of the WIFIA application. The Corps may grant this extension after evaluating the progress of the prospective borrower's application and its readiness to apply.

The application fee will be waived for applications from public entities for projects serving small communities or economically disadvantaged communities. See Paragraph III.I. below for the definitions of small communities and economically disadvantaged communities for the purpose of this credit assistance program. For all other project applications, the application fee is $25,000. This $25,000 application fee represents an amount equal to 0.125 percent of the minimum threshold project cost ($20 million, 33 U.S.C. 3907(a)(2)(A)), which the Corps considers to be sufficient to begin the financial, engineering, and legal analysis of the project while providing assurance that the applicant intends to proceed to closing. The Corps will undertake significant costs to evaluate applications and hire expert firms for underwriting and considers an application fee essential for applicants to show good faith in applying for credit assistance, to help cover the agency's administrative costs in processing applications, and to ensure effective administration of the program. The application will not be reviewed without fee payment. The Corps will only invite projects to submit an application and application fee if the Corps believes there is a reasonable expectation that the project could receive financing. However, an invitation to submit an application does not guarantee that a project will proceed to financial close.

2. Transaction Processing Fees

For projects invited to submit an application, the Corps will require payment of transaction processing fees at the time of closing, or at the time the application is withdrawn or denied (in the event the project does not proceed to closing). The proceeds of any such fees will be used to pay the remaining portion of the Corps' cost of processing the application for credit assistance, including the costs of conducting engineering reviews and retaining expert firms to assist in underwriting, drafting and negotiating the terms of the Federal credit instrument. In procuring the services of third-party firms, the Corps may issue task orders with $0 funding (*i.e.,* no Federal funds). In such situations, at the direction of the Corps, payments to the contractor for services will be paid (i) by or on behalf of the Corps or (ii) directly by the applicant for services rendered in accordance with the terms of a sponsor payment letter/agreement executed by the applicant (or its affiliate) and the contractor. In all instances, when a contractor is engaged to represent the Corps or its representative on a WIFIA matter and is paid by the applicant (or its affiliate), the Corps or its representative, as applicable, will remain the client of the contractor.

The Corps estimates these costs would generally be in the range of approximately $125,000 to $300,000 per project, with the expectation that more complex projects could exceed this range. However, prior to the transaction processing fees being incurred, the Corps will develop a more precise estimate based on its understanding of the project and associated financial and legal structure. The application fee described above will be credited to the transaction processing fee. For example, if the total transaction processing fees are $300,000 and the applicant pays $25,000 with the application, $275,000 will be due at closing, or earlier if the project does not proceed to closing, *e.g.,* if the application is withdrawn or denied. The total transaction processing fee for each project will be set based on the costs incurred by the Corps for that specific project. Due to the nature of the transaction processing, the amount is expected to vary among applicants. This variation reflects the amount of time taken to process a loan, which may not directly correlate with the size of the loan. More complex transactions with lengthy negotiations will have higher costs.

The Corps may waive a portion of the fee for public applicants if appropriations are available to pay for the Corps' cost of administering the WIFIA program and to pay for loan processing. Funds appropriated to the program may pay for the administration of the program, including internal administrative costs of staffing, program support contracts (separate from the expert services described previously), and other internal administrative needs.

To the extent appropriations are available in excess of those needed for the Corps' internal administrative costs, the Corps may use the remaining available administrative allowance (less any amount needed for future years' administration) to reduce fees. The Corps may allocate additional administrative funds by reducing fees by an equal amount per loan for those projects serving economically disadvantaged communities, with public applicants. If additional administrative funds remain, the Corps may reduce fees by an equal amount for each remaining loan, with public applicants.

3. Servicing Fee

The Corps will charge an annual servicing fee after closing of the loan. The fee will be dependent upon the costs of servicing the credit instrument (*e.g.,* collecting and processing loan principal and interest payments) as determined by the Secretary. Such fees will be set at a level to enable the Corps to recover all or a portion of the costs to the Federal Government of servicing WIFIA credit instruments and will be determined at the time of closing. The Corps expects such fees to range from $10,000 to $50,000 annually per loan and to be adjusted for inflation.

4. Optional Credit Subsidy Fee

The Corps may charge a fee, with agreement of the applicant, to reduce the budget authority required to fund the credit instrument. The Corps anticipates scenarios where assessing such a fee will provide flexibility to allow an applicant to ''buy down'' the budget authority required for the credit instrument. This could allow an applicant to proceed to approval if sufficient budget authority would not otherwise be available. Such a fee will only be charged upon agreement by an applicant and shall not be considered an eligible project cost. Utilization of this fee will only be in rare instances.

5. Enhanced Monitoring Fee

The Corps may charge a fee to cover extraordinary expenses if a borrower experiences difficulty relating to technical, financial, or legal matters or other events (*e.g.,* engineering failures or financial workouts) that require the Corps to incur time or expenses beyond standard monitoring. The Corps will be entitled to payment in full from the borrower of additional fees in an amount determined by the Corps and of related fees and expenses of its independent consultants and outside counsel that are incurred directly by the Corps and not paid directly by the borrower. Such fees shall not be considered an eligible project cost.

I. Credit Assistance

Two types of credit instruments are permitted under WIFIA secured (direct) loans and loan guarantees. The second credit instrument under 33 U.S.C. 3908 (e), referred to as loan guarantees are defined under the Federal Credit Reform Act of 1991 as a binding agreement by a Federal agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreements.

Statutory requirements applicable to this credit instrument appear at 33 U.S.C. 3908 and 3909. Additional Terms and conditions for loans and loan guarantees will be negotiated between the Corps and successful applicants.

In general, WIFIA limits the amount of credit assistance that may be provided to a project to 49% or less of reasonably-anticipated eligible project costs. However, the statute authorizes the Corps to use up to 25% of its budget authority to provide credit assistance to one or more projects of up to 80% (statutory cap on Federal participation) of the total costs of any given project. The 80% statutory cap on Federal participation would be determined by adding the total loan proceeds, direct appropriations, grants, or other applicable Federal funding. Following credit assistance issuance, future direct appropriations, grants, or other applicable Federal funding may be modified to maintain compliance with the 80% statutory cap. Note, however, that projects receiving direct Federal appropriations or other Federal funding may not be eligible to receive WIFIA credit assistance based on the eligibility criteria outlined in this rule as well as at 85 FR 39189, as they may be determined to be Federal in nature. The Corps would limit its budget authority to extending credit assistance to eligible entities for those entities' use in directly carrying out activities eligible for assistance under 33 U.S.C. 3906. The Corps would not extend credit assistance or allow loan proceeds to be used by any entity to provide cash contributions to the Corps for project related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7). The

Corps would generally use its budget authority to provide credit assistance for greater than 49% of eligible project costs to projects serving economically disadvantaged communities that would otherwise not be able to obtain WIFIA credit assistance. For the purposes of this program, the Corps is proposing to preliminarily define economically disadvantaged communities as those that experience low-income, persistent poverty, or high unemployment. The implementation of this definition may be modified as appropriate in response to updated tools and resources as they become available. The Corps is soliciting comment on whether this is the most appropriate criteria to use to identify economically disadvantaged communities.

Additionally, the Corps may use its budget authority to provide credit assistance for greater than 49% of eligible project costs when a project would be unable to proceed to closing without such additional assistance due to unforeseen events. 33 U.S.C. 3912. Unforeseen events that could prevent a project from going to closure may include: unexpected loss of other sources of financing, increased cost of capital, or acts of nature. In such an event, the Corps would reexamine the creditworthiness of the project and only provide funding if the project can still meet all requirements of the program.

Costs incurred, and the value of any integral in-kind contributions made before receipt of credit assistance may be considered in calculating eligible project costs upon approval of the Secretary. Such costs and integral in-kind contributions must be directly related to the development or execution of the project and must be eligible project costs per 33 U.S.C. 3907(a)(2). In addition, such costs, excluding the value of any integral in-kind contributions, are payable from the proceeds of the Federal credit instrument and would be considered incurred costs. Capitalized interest on the Federal credit instrument would not be eligible for calculating eligible project costs.

The Corps would not obligate funds for a project that has not received an environmental Categorical Exclusion, Finding of No Significant Impact, or Record of Decision under the NEPA.

The credit agreement would include the anticipated schedule for loan disbursements. However, actual disbursements would be based on costs incurred in accordance with the approved construction plan. This requirement would protect the Corps in the event of non-performance.

As required by section 3908(b)(4) of Title 33 of the U.S.C., the interest rate on a secured loan would be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement. The base interest rate can be identified through use of the daily rate tables published by the Bureau of the Fiscal Service for the State and Local Government Series (SLGS) investments. The WIFIA program would estimate the yield on comparable Treasury securities by adding one basis point to the SLGS daily rate with a maturity that is closest to the weighted average loan life of the WIFIA credit assistance.

As allowed by statute at 33 U.S.C. 3908(c)(2), scheduled loan repayments of principal and interest on a secured loan or loan guarantee shall commence not later than 5 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement, as determined by the Secretary. However, scheduled loan repayments of principal and interest on a secured loan or loan guarantee to a State infrastructure financing authority would commence not later than 5 years after the date on which amounts are first disbursed. The final maturity of the credit agreement shall be in no instance later than 35 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement.

As required by section 3908(b)(5) of Title 33 of the U.S.C., the final maturity date of a secured loan would be the earlier of the date that is (1) 35 years after the date of substantial completion of the project, as determined by the Secretary, or (2) the useful life of the project, as determined by the Secretary. However, the final maturity date of a secured loan to a State infrastructure financing authority would be not later than 35 years after the date on which amounts are first disbursed. In determining the useful life of the project, for the purposes of establishing the final maturity date of the Federal credit instrument, the Secretary would consider the useful economic life of the asset(s) being financed, as required under Office of Management and Budget (OMB) Circular A–129.[6]

As required by statute, the Corps' Federal credit instrument may have a junior claim to other debt issued by the obligor in terms of its priority interest in the project's pledged security. However, the Corps' claim on pledged security would not be subordinated to the claims of any holder of the project obligations in the event of a bankruptcy, insolvency, or liquidation of the obligor of the project. The Corps' interest may include collateral other than pledged revenues.

J. Rating Requirement

The Corps, as required by 33 U.S.C. 3907(a)(1)(D)(i), would require each applicant to furnish a preliminary rating opinion letter as part of the application process. The applicant would be responsible for identifying and approaching one or more Nationally Recognized Statistical Rating Organizations (NRSROs) to obtain such a letter. This letter must indicate that the applicant project's senior obligations (which may be the Federal credit instrument), have the potential of attaining an investment-grade rating. As required by Section 3907(a)(1)(D)(ii) of the WIFIA, 33 U.S.C. 3901 *et seq.,* the Corps would require each applicant to provide, prior to final acceptance and financing of the project, final rating opinion letters from at least two rating agencies indicating that the senior obligations of the project have an investment-grade rating. If the Federal credit instrument is the project's senior obligation, these ratings must apply to all project obligations with claims at parity to that of the Federal credit instrument on the security pledged to the Federal credit instrument, including the Federal credit instrument. The Corps would also require as a matter of policy, prior to final execution of the loan agreement or loan guarantee agreement, that the applicant provide at least one final rating opinion letter which provides a credit rating on the final negotiated direct loan or loan guarantee that does not include consideration of the full faith and credit of the United States of America.

K. Federal Requirements

Recipients of WIFIA credit assistance would be required to comply with Federal requirements applicable to all federally-financed projects. The proposed rule provides a non-exhaustive list of these requirements in Section IV (Statutory and Executive Order Reviews).

L. American Iron and Steel Requirements

Recipients of WIFIA credit assistance would be required to comply, per 33 U.S.C. 3914(a), with American Iron and Steel (AIS) requirements, which requires that if any WIFIA assistance is

[6] At the time of publication of this rule, the OMB circular may be accessed electronically at *https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/circulars/A129/a-129.pdf.*

provided for construction, alteration, maintenance, or repair of a project, all of the iron and steel products used in the project must be produced in the United States. These products include lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials. 33 U.S.C. 3914(b). This requirement applies to all iron and steel products used in the project, not only those paid for with proceeds from the WIFIA credit assistance.

M. Labor Standards (Davis-Bacon Act of 1931)

The WIFIA requires recipients of WIFIA credit assistance to pay all laborers and mechanics employed by contractors or subcontractors' wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor. 33 U.S.C. 3909(h) (cross-referencing Title VI of the Federal Water Pollution Control Act); 33 U.S.C. 1372. This is commonly referred to as Davis-Bacon wage requirements. This requirement applies to all laborers and mechanics working on a project, not only those paid from proceeds of the WIFIA credit assistance.

N. Reporting Requirements

The Corps proposes to require, at a minimum, that any recipient of WIFIA credit assistance must make available to the Corps an annual project performance report and audited financial statements to the Corps within the time period stated in the credit agreement following the recipient's fiscal year-end for each year during which the recipient's obligation to the Federal Government remains in effect. The Corps proposes that they may conduct periodic financial and compliance audits of the recipient, as determined necessary by the Corps. The specific credit agreement between the recipient of credit assistance and the Corps may contain additional reporting requirements. This would be a necessary and important requirement in order to allow the Corps to provide proper and sufficient oversight of federally-financed projects.

O. Selection Criteria

Congress enacted WIFIA with the goal of accelerating investment in our nation's water infrastructure by providing credit assistance to creditworthy projects of major importance to the water sector. Only eligible projects will be selected. The project priorities as proposed under this rule are as follows: Projects serving small, rural communities and economically disadvantaged communities and projects serving Tribal communities.

The program's goal is to enable local investment in projects that enhance community resilience to flooding, while supporting the Corps' policy initiatives by prioritizing the projects listed above.

Section 3907(b)(2) of Title 33 of the U.S. Code establishes 11 criteria, at a minimum, for selecting among eligible projects to receive credit assistance, but does not prohibit the Corps from identifying additional selection criteria and requirements. As such, the Corps is proposing the following 12 selection criteria.

1. The extent to which the project is nationally or regionally significant, with respect to the generation of public benefits, such as—

a. The reduction of flood risk;

b. The improvement of water quality and quantity, including aquifer recharge;

c. The protection of drinking water, including source water protection;

d. The support of domestic and international commerce; and

e. The restoration of degraded aquatic ecosystem structures.

2. The extent to which the project financing plan includes public or private financing, in addition to WIFIA credit assistance.

3. The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able to proceed.

4. The extent to which the project uses new or innovative approaches.

5. The amount of budget authority required to fund the WIFIA Federal credit instrument.

6. The extent to which the project—

a. Protects against extreme weather event, such as floods or hurricanes; or

b. Helps maintain or protect the environment.

7. The extent to which a project serves regions with significant clean energy exploration, development, or production areas.

8. The extent to which a project serves regions with significant water resource challenges, including the need to address—

a. Water quality concerns in areas of regional, national, or international significance;

b. Water quantity concerns related to groundwater, surface water, or other water sources;

c. Significant flood risk;

d. Water resource challenges identified in existing regional, State, or multistate agreements; or

e. Water resources with exceptional recreational value or ecological assistance.

9. The extent to which the project addresses identified municipal, State, or regional priorities.

10. The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence not later than 90 days after the date on which a Federal credit instrument is obligated for the project under WIFIA.

11. The extent to which WIFIA credit assistance reduces overall Federal contributions to the project.

12. The extent to which the project serves economically disadvantaged communities and spurs economic opportunity for, and minimally adversely impacts, disadvantaged communities and their populations.

Criterion (5) is directly related to a project's creditworthiness, financial viability, and the Corps' capacity to make a loan. This criterion would be used to assess projects separate from the assessment under the other selection criteria. In particular, it would inform the Corps' ability to provide funding in an equitable manner to prospective borrowers seeking financing. The amount of budget authority used by a project would be an important consideration when selecting projects. The greater the budget authority used by a project, which is a function of both project size and creditworthiness, the less budget authority is available to finance other projects. Selecting projects would be at the discretion of the Secretary who may decide that a project that uses a disproportionally high level of budget authority provides essential public safety benefits and deserves greater consideration.

The Corps added criterion (12) to reflect the Corps' intention to address the needs of economically disadvantaged communities where obtaining financing for critical water resources infrastructure presents additional difficulties and to further current Administration priorities as expressed in E.O. 13985, E.O. 13990, and E.O. 14008.[7] While the

[7] Executive Order 13985 of January 20, 2021. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government.

Executive Order 13990 of Jan 20, 2021. Protecting Health and the Environment and Restoring Science to Tackle the Climate Crisis.

Executive Order 14008 of January 27, 2021. Tackling the Climate Crisis at Home and Abroad.

creditworthiness requirement, as well as the requirement to obtain an investment-grade rating on senior obligations, may be a challenge for economically disadvantaged communities, the flexibility and low interest rates of the Federal credit instrument may improve overall financial feasibility and burden to the community.

IV. Statutory and Executive Order Reviews

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

Executive Order 12866, ''Regulatory Planning and Review,'' and Executive Order 13563, ''Improving Regulation and Regulatory Review,'' require that significant regulatory actions be submitted for review to the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB). These orders also direct agencies to assess the costs and benefits of available regulatory alternatives and, if the regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has been determined significant under Executive Order 12866. In accordance with Executive Order 12866 and Executive Order 13563, this significant regulatory action was submitted to OMB for review. The costs to the public of implementing the Corps WIFIA program include: the fees charged to applicants and loan recipients, as well as any remaining costs of administering the program that are not fully covered by the user fees and instead require support by Federal appropriations. The benefits of implementing the Corps WIFIA program include: (1) the value of the benefits provided by non-Federal dam safety projects enabled by future the Corps WIFIA credit assistance (for example, flood damages prevented by dam safety improvement projects), and (2) the savings realized by the borrowers from the lower lending rates of the Corps WIFIA credit assistance.

B. Executive Order 11988: Floodplain Management

Projects funded under this rule will meet or exceed applicable State, local, tribal, and territorial standards for flood risk and floodplain management, as well as Executive Order 11988, which directs Federal agencies to avoid, to the extent possible, long-and short-term adverse impacts associated with the occupancy and modification of the floodplain as well as to avoid direct and indirect support of floodplain development wherever there is a practicable alternative.

All projects under this rule are considered Federal actions under E.O. 11988 and thus, project applicants shall determine whether the proposed project will occur in the floodplain. If the project is located within the floodplain, the applicant must determine whether the action is critical or not and what floodplain standard to follow. Further guidance on implementation of E.O. 11988 can be found in the Corps Engineer Regulation 1165–2–26 (30 March 1984).

C. Paperwork Reduction Act (PRA)

The information collection activities in this final rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). Per the PRA, the agency cannot collect any information until the information collection request has been approved by OMB.

D. Regulatory Flexibility Act (RFA)

The RFA requires Federal agencies to consider the impact of regulations on small entities (small businesses, small organizations, or small government jurisdictions) in developing the proposed and final regulations. The RFA applies to the Corps WIFIA program rule since notice and comment are required as part of this rulemaking process.

Congress has provided authority and funding required for the Corps to make direct loans and loan guarantees for safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility, or private. The Corps is proposing to establish its new WIFIA program within the limitations set by Congress. The proposed rule sets forth the policies and procedures that the Corps will use for receiving, evaluating, approving applications, and servicing and monitoring direct loans and loan guarantees.

Small entities that would be impacted by this rule will be non-Federal dam owners who own dams that require loans in excess of $20,000,000. This includes small government jurisdictions and organizations who voluntarily submit a preliminary application and are subsequently invited to submit a full application. The Corps will only invite potential borrowers to submit an application and application fee if the Corps believes there is a reasonable expectation that the project could receive financing. The application fee will be waived for small communities and economically disadvantaged communities. Based on data derived from the EPA's WIFIA program since its implementation in 2017, the Corps anticipates receiving approximately 50 preliminary applications each year from eligible entities per year, and of these entities, the Corps estimates five will be considered small entities.

There are approximately 87,000 non-federally owned dams in the US (some of which are owned by the same entity). Of the NAICS classifications, the most applicable industry classification for these entities is the ''Water Supply and Irrigation Systems'' industry subsector. Information on this industry is provided in the tables below. Based on the Small Business Administration's (SBA) Size Standard/Small Entity Threshold and the average annual receipts, the Water Supply and Irrigation Systems industry has 684 firms that qualify as small entities.

NAICS code	Industry subsector description	SBA size standard/small entity threshold (average annual receipts)	Total small businesses
221310	Water Supply and Irrigation Systems	$36.0 M	684

Enterprise size ($1,000)	Firms	Establishments	Employment	Annual payroll ($1,000)	Receipts ($1,000)
01: Total	3,334	4,131	36,836	2,346,769	11,712,605
02: <100	684	684	1,088	9,494	35,768
03: 100–499	1,30	1,300	3,420	87,118	336,983
04: 500–999	569	570	2,676	106,172	402,485
05: 1,000–2,499	448	455	3,492	165,793	694,133
06: 2,500–4,999	143	151	1,968	104,614	482,800

Enterprise size ($1,000)	Firms	Establishments	Employment	Annual payroll ($1,000)	Receipts ($1,000)
07: 5,000–7,499	54	67	1,208	67,701	322,787
08: 7,500–9,999	29	38	705	40,656	219,741
09: 10,000–14,999	25	40	1,035	58,494	277,199
10: 15,000–19,999	12	17	416	29,630	166,138
11: 20,000–24,999	9	19	501	25,101	99,781
12: 25,000–29,999	5	14	424	27,005	84,788
13: 30,000–34,999	5	9	282	15,409	117,611
14: 35,000–39,999	5	30	701	36,112	123,970
15: 40,000–49,999	6	11	678	60,553	179,170
16: 50,000–74,999	8	68	1,605	96,580	392,037
17: 75,000–99,999	5	24	904	76,175	303,054
18: 100,000+	27	634	15,733	1,340,162	7,474,160

Eligible small entities that qualify for WIFIA credit assistance and plan to utilize debt financing such as bank loans, bonds, or a WIFIA credit assistance to fund an eligible project, will incur compliance costs associated with any such debt instrument. As such, the compliance costs to obtain a WIFIA credit assistance noted below in most instances represents a meaningful savings compared to alternative capital market debt financing options. WIFIA compliance costs likely include the following:

- *Fees:* The WIFIA application fee of $25,000 will be waived for small and/or disadvantaged communities. All WIFIA credit assistance recipients will be charged a transaction processing fee, likely between $125,000 and $300,000, at the time of loan closing to cover the costs incurred by the Corps for the processing each loan. The cost of the fee will depend on the complexity of the transaction (more complex transactions will have higher transaction processing fees). If administrative funds are available, this fee may be refunded to the borrower(s). Additionally, all WIFIA credit assistance recipients will be charged an annual servicing fee, likely between $10,000 and $50,000. This cost of this fee will depend on the costs of servicing the credit instrument. The transaction processing fee and the annual servicing fee will be determined at the time of loan closing. To facilitate access to the funding, all applicants have the option to use loan proceeds to pay for all consulting reports and application fees. This amount is less than the underwriting fees incurred for alternative debt financings, which are usually 1.0% of the borrowed amount.
- *Rating letters:* The Corps WIFIA program will require borrowers to provide credit rating letters before closing on the WIFIA credit assistance. Credit ratings typically cost approximately $50,000 to obtain. Credit ratings are a standard practice for alternative debt financings and as such, the cost to obtain one for Corps financing does not materially change the costs for small entities.
- *Reading the regulation:* The regulation other related documents are not expected to take more than a typical 8-hour workday to read and comprehend. Assuming an average hourly rate of $100/hour, reading the regulation would cost approximately $1,600 for 2 employees to read the regulation.
- *Consulting fees:* Consultants are not required to participate in the WIFIA program. However, eligible entities may opt to utilize support from consultants to prepare financial, legal, and technical documents required to support an application. The Corps estimates that should an entity opt to utilize such support, the cost is anticipated to be less than $75,000. This amount is less than the consulting fees incurred for alternative debt financings, which are usually in excess of $100,000.
- *Reporting:* WIFIA requires that borrowers submit financial audit or financial condition reports, so that the program can monitor the status of the project and identify any changes to the credit risk posed to the Federal Government. These reports are already produced regularly by borrowers, so the added cost to borrowers is anticipated to be less than $5,000 per year.
- *Record-keeping:* It is anticipated that record-keeping costs for WIFIA credit assistance will not exceed $5,000 per year.

The estimated costs to small business associated with the program are summarized in the table below.

Fees	$125,000–$350,000 plus $10,000–$50,000 annually
Rating letters	$50,000.
Loan interest	Based on loan amount and duration.
Reading the regulation	$800–$1,600.
Consulting fees	$0–$75,000.
Reporting	$0–$5,000.
Record-keeping	$5,000 annually.
Total	$175,800–$481,600 Plus $15,000–$55,000 annually.

These costs do not represent a significant economic impact. The only reason entities would proceed with the program is if there is a benefit compared to other alternative debt financings. The total estimated costs are anticipated to be between approximately $175,000 and $500,000, plus an annual cost between $10,000 and $50,000. For the affected industries, the maximum of these costs represents less than 2% of the revenue threshold for small entities. Further, participation in the WIFIA program is voluntary and the Corps anticipates inviting approximately 5 small, non-Federal entities to apply for Federal credit assistance through the program.

Because (1) participating in the program is voluntary and undertaken by small entities to affordably finance eligible projects, and (2) the cost of obtaining a WIFIA credit assistance is likely lower than the alternative forms

of debt financing necessary to undertake a project, of the small entities that seek a WIFIA credit assistance through the program, none will experience a significant economic impact. Further, because the WIFIA program expects to invite approximately five small entities per year to apply for Federal credit assistance through the program, the rule is not anticipated to have a significant or adverse impact on small entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any State, local, or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in E.O. 13175. While a tribal government, or a consortium of tribal governments, may apply for WIFIA credit assistance, this action does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to E.O. 13045 because it is not economically significant as defined in E.O. 12866, and because this action does not address environmental health or safety risks. This rulemaking provides the procedure to apply for credit assistance and establishes the fees related to the provision of Federal credit assistance under the WIFIA. The selection criteria used for evaluating and selecting among eligible projects to receive credit assistance contained in this **SUPPLEMENTARY INFORMATION** section of the preamble includes the extent to which the project generates public safety benefits.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. This rulemaking simply provides the procedure to apply for credit assistance and establishes the fees related to the provision of Federal credit assistance under the Corps WIFIA program.

J. National Technology Transfer and Advancement Act of 1995 (NTTAA)

This action is not subject to the NTTAA, Public Law 104–113, because it does not establish an environmental health or safety standard.

K. National Environmental Policy Act (NEPA)

This action of promulgating this rule will not have a significant effect on the human environment. Each project obtaining assistance under this program is required to adhere to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*). These requirements apply at the time of application for assistance. The Corps has completed a Programmatic Environmental Assessment and associated Finding of No Significant Impact in support of this rule. These documents are available at *https://www.usace.army.mil/Missions/Civil-Works/Infrastructure/revolutionize/CWIFP/.*

L. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 directs Federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations. This action does not cause disproportionately high and adverse human health environmental effects on minority or low-income populations.

M. Congressional Review Act (CRA)

This action is subject to the CRA, and the Corps will submit a rule report to each House of the Congress and to the Comptroller General of the United States. Pursuant to the CRA (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule'', as defined by 5 U.S.C. 804(2).

List of Subjects in 33 CFR Part 386

Administrative practice and procedure, Intergovernmental relations, Waterways.

■ For the reasons stated in the preamble, the Corps proposes to amend 33 CFR chapter II by adding part 386 to read as follows:

PART 386—CREDIT ASSISTANCE FOR WATER RESOURCES INFRASTRUCTURE PROJECTS

Sec.
386.1 Purpose and scope.
386.2 Definitions.
386.3 Limitations on assistance.
386.4 Application process.
386.5 Federal requirements.
386.6 Federal flood risk management standard.
386.7 American iron and steel.
386.8 Labor standards.
386.9 Investment-grade ratings.
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Authority: 33 U.S.C. 3901 *et seq.*

§ 386.1 Purpose and scope.

The Water Infrastructure Finance and Innovation Act of 2014 (WIFIA) authorized a new Federal credit program for water resources infrastructure projects to be administered by the U.S. Army Corps of Engineers (Corps). Title 1, Division D of the Consolidated Appropriations Act, 2021, and Division J, Title III of the Infrastructure Investment and Jobs Act limits the program to safety projects to maintain, upgrade, and repair dams identified in the National Inventory of Dams with a primary owner type of State, local government, public utility or private.

§ 386.2 Definitions.

The following definitions apply to this part:

(a) *Application* means the form and attachments submitted by prospective borrowers that have been selected to apply for credit assistance after the review of letters of interest.

(b) *Borrower* means any entity that enters into a direct loan or Loan Guarantee Agreement with the Corps that is primarily liable for payment of the principal or interest on a Federal credit instrument. ''Borrower'' is synonymous with ''obligor.'' ''Obligor'' is used in place of borrower in this part whenever ''obligor'' appears in a corresponding section of WIFIA.

(c) *Clean energy* means systems, processes, and best practices for

producing, converting, storing, transmitting, distributing, and consuming energy that avoid, reduce, or sequester the amount of greenhouse gas (GHG) emitted to, or concentrated in, the atmosphere.

(d) *Community* means a collection of people in a geographic area having one or more characteristic in common. The geographic area may be contained within or cross political subdivisions of States.

(e) *Credit assistance* means a secured loan or loan guarantee under 33 U.S.C. 3908.

(f) *Credit agreement* means a contractual agreement (or agreements) between the Corps and a borrower (and the lender, if applicable) establishing the terms and conditions, rules, and requirements of a secured loan or loan guarantee.

(g) *Credit subsidy* shall have the same meaning as ''cost'' under section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)), which is the net present value at the time the Loan Agreement or Loan Guarantee Agreement is executed. The credit subsidy cost for a given project is the net present value, at the time the Loan Agreement or Loan Guarantee Agreement is executed of the following estimated cash flows, discounted to the point of disbursement:

(1) Payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments; less

(2) Payments to the Government including origination and other fees, penalties, and recoveries including the effects of changes in loan or debt terms resulting from the exercise by the borrower, eligible lender, or other holder of an option included in a Loan Agreement or Loan Guarantee Agreement.

(h) *Economically disadvantaged community* refers to a community that experiences low-income, persistent poverty, or high unemployment.

(i) *Economically justified* means that the anticipated benefits to the community(ies) will exceed the costs.

(j) *Eligible entity* means one of the following:

(1) A corporation;

(2) A partnership;

(3) A joint venture;

(4) A trust;

(5) A State, or local government entity, agency, or instrumentality;

(6) A tribal government or consortium of tribal governments; or

(7) A State infrastructure financing authority.

(k) *Eligible project costs* means the amounts, which are paid by, or for the account of, a borrower in connection with a project, including the cost of:

(1) Development-phase activities, including planning, feasibility analysis (including any related analysis necessary to carry out an eligible project), revenue forecasting, environmental review, permitting, preliminary engineering and design work, and other pre-construction activities.

(2) Construction, reconstruction, rehabilitation, and replacement activities.

(3) Acquisition of real property or an interest in real property (including water rights, land relating to the project, and improvements to land), environmental mitigation, construction contingencies, and acquisition of equipment; and

(4) Capitalized interest necessary to meet market requirements, reasonably required reserve funds, capital issuance expenses, and other carrying costs during construction. Capitalized interest on the Federal credit instrument is not an eligible project cost.

(l) *Environmentally acceptable* means the project satisfies all necessary environmental requirements, including requirements associated with the Corps Programmatic Environmental Assessment prepared for this program under the National Environmental Policy Act (NEPA).

(m) *Federal credit instrument* means a secured loan or loan guarantee authorized to be made available under 33 U.S.C. 3901–3914 with respect to a project.

(n) *High unemployment* means the unemployment rate in a community is, for the most recent 24-month period for which data is available, at least 1% greater than the national average unemployment rate.

(o) *Investment-grade rating* means a rating category of BBB minus, Baa3, bbb minus, BBB (low), or higher assigned by a nationally recognized statistical rating organization (NRSRO) to project obligations offered into the capital markets.

(p) *Iron and steel products* means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

(q) *Low-income community* means a community in a geographic area that meets any of the following criteria:

(1) Individuals whose household income is at or below 200 percent of the poverty line, as defined by the Bureau of the Census, constitute more than 50 percent of the population;

(2) The percentage of individuals whose household income is at or below 200 percent of the poverty line, as defined by the Bureau of the Census, in the community is twice that as the county or State as a whole; or

(3) The community or territory has a per capita income of 80 percent or less of the national average.

(4) For U.S. territories for which Bureau of the Census American Community Survey data is not available, *low-income community* means a community in a geographic area that is located within a territory that has a poverty rate greater than 20%.

(r) *Loan guarantee* means any guarantee or other pledge by the Secretary of the Army (Secretary) to pay all or part of the principal of and interest on a loan or other debt obligation issued by a borrower and funded by a lender.

(s) *Lender* means any non-Federal qualified institutional buyer (as defined in 17 CFR 230.144A(a), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*)), including:

(1) A qualified retirement plan (as defined in section 4974(c) of the Internal Revenue Code of 1986, 26 U.S.C. 4974(c)) that is a qualified institutional buyer; and

(2) A governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986, 26 U.S.C. 414(d)) that is a qualified institutional buyer.

(t) *Nationally recognized statistical rating organization (NRSRO)* means a credit rating agency identified and registered by the Office of Credit Ratings in the Securities and Exchange Commission under 15 U.S.C. 78c.

(u) *Non-Federal* means an organization that is not an agency or instrumentality of the Federal Government, including State, interstate, Indian tribal, or local government, as well as private organizations.

(v) *Persistent poverty* means that 20% or more of the population has been living in poverty over the prior two decennial censuses for which data is available and the most recent Small Area Income and Poverty Estimates.

(w) *Preliminary application* means the form and attachments prospective borrowers submit to the Corps to be considered for credit assistance following the announcement of available funding.

(x) *Project* means:

(1) Safety projects to maintain, upgrade, and repair dams (including dam removal) identified in the National

Inventory of Dams with a primary owner type of State, local government, public utility, or private; and which meets the statutory requirements of Title 1, Division D of the Consolidated Appropriations Act 2021, meet the criteria outlined in 85 FR 39189 (*see* division D of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94)).

(2) Any project that meets the criteria in paragraph (x)(1) of this section must also be a project for flood damage reduction, hurricane and storm damage reduction, aquatic environmental restoration, coastal or inland harbor navigation improvement, or inland and intracoastal waterways navigation improvement that the Secretary determines is technically sound, economically justified, and environmentally acceptable, including—

(i) A project to reduce flood damage;

(ii) A project to restore aquatic ecosystems;

(iii) A project to improve the inland and intracoastal waterways navigation system of the United States; and

(iv) A project to improve navigation of a coastal inland harbor of the United States, including channel deepening and construction of associated general navigation features.

(3) Acquisition of real property or an interest in real property for a project that meets the criteria under paragraph (x)(1) of this section—

(i) If the acquisition is integral to a project eligible for WIFIA credit assistance; or

(ii) Pursuant to an existing plan that, in the judgment of the Secretary, would mitigate the environmental impacts of water resources infrastructure projects otherwise eligible for WIFIA credit assistance.

(4) A combination of projects secured by a common security pledge, each of which is eligible for WIFIA credit assistance, for which an eligible entity, or a combination of eligible entities, submits a single application.

(y) *Project obligation* means any note, bond, debenture, or other debt obligation issued by a borrower in connection with the financing of a project, other than a Federal credit instrument.

(z) *Prospective borrower* means an eligible entity seeking credit assistance.

(aa) *Projected substantial completion date* means the expected date as determined by the Secretary, at which the stage in the progress of the project when the project or designated portion thereof is sufficiently complete in accordance with the contract documents so that the project or designated portion thereof can be used for its intended use.

(bb) *Publicly sponsored* means the obligor can demonstrate, to the satisfaction of the Secretary, that it has consulted with the affected State, local, or tribal government in which the project is located, or is otherwise affected by the project, and that such government supports the proposed project. Support can be shown by a certified letter signed by the approving municipal department or similar agency, mayor or other similar designated authority, local ordinance, or any other means by which local government approval can be evidenced.

(cc) *Secured loan* means a direct loan or other debt obligation (including a note, bond, debenture, and sale or lease financing arrangement) issued by a borrower funded by the Secretary in connection with the financing of a project under 33 U.S.C. 3908.

(dd) *Small community* means a community of not more than 25,000 individuals.

(ee) *State* means any of the fifty States, the District of Columbia, Puerto Rico, or any other territory or possession of the United States.

(ff) *State infrastructure financing authority* means the State entity established or designated by the Governor of a State to receive a capitalization grant provided by, or otherwise carry out the requirements of, title VI of the Federal Water Pollution Control Act (33 U.S.C. 1381 *et seq.*) or section 1452 of the Safe Drinking Water Act (42 U.S.C. 300j–12).

(gg) *Subsidy amount* means the dollar amount of budget authority that is sufficient to cover the estimated long-term cost to the Federal Government of a Federal credit instrument, calculated on a net present value basis, excluding administrative costs and any incidental effects on the governmental receipts or outlays in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 *et seq.*).

(hh) *Substantial completion* means the stage in the progress of the project when the project or designated portion thereof is sufficiently complete in accordance with the contract documents so that the project or designated portion thereof can be used for its intended use.

(ii) *Technically sounds* means the project will meet all applicable engineering, safety, and other technical standards.

(jj) *Term sheet* means a contractual agreement between the Corps and the borrower (and the lender, if applicable) that sets forth the key business terms and conditions of a Federal credit instrument.

(kk) *Territory* means each of the commonwealths, territories, and possessions of the United States established in Title 48 of the U.S.C.

(ll) *Treatment works* has the meaning given the term in section 212 of the Federal Water Pollution Control Act (33 U.S.C. 1292).

(mm) *WIFIA* means the Water Infrastructure Finance and Innovation Act of 2014 (Pub. L. 113–121), as amended.

§ 386.3 Limitations on assistance.

(a) The total amount of credit assistance offered to any project under this part shall not exceed 49% of the reasonably anticipated eligible project costs, or, if the secured loan does not receive an investment grade rating, the total amount of credit assistance shall not exceed the amount of the senior project obligations of the project (33 U.S.C. 3908(b)(2)(B)).

(b) Notwithstanding paragraph (a) of this section, the Secretary may offer credit assistance in excess of 49% of the reasonably anticipated eligible project costs as long as such excess assistance combined for all projects does not require greater than 25% of the subsidy amount made available for the fiscal year, per 33 U.S.C. 3912(d).

(1) Use of the authority to offer credit assistance in excess of 49% of the anticipated eligible project costs shall be considered on a case by case basis.

(2) In the event this authority is used, all other criteria and requirements described in this part must be met and adhered to.

(c) For each project receiving credit assistance, total Federal assistance may not exceed 80% of the total project costs, except for certain rural water projects authorized to be carried out by the Secretary of the Interior that includes among its beneficiaries a federally recognized Indian tribe and for which the authorized Federal share of the total project costs is greater than 80%, and in accordance with 85 FR 39189 (*see* division D of the Further Consolidated Appropriations Act, 2020 (Pub. L. 116–94)).

(d) Proceeds from the credit assistance shall not be utilized to provide cash contributions to the Corps for project related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7), limited to the application, transaction processing, and servicing fees as described in § 386.15.

(e) Costs incurred, and the value of any integral in-kind contributions made, before receipt of credit assistance may be considered in calculating eligible project costs only upon approval of the Secretary. Such costs and integral in-

kind contributions must be directly related to the development or execution of the project and must be eligible project costs as defined in § 386.2. In addition, such costs, excluding the value of any integral in-kind contributions, are payable from the proceeds of the Federal credit instrument and shall be considered incurred costs for purposes of paragraph (h) of this section. Capitalized interest on the Federal credit instrument is not eligible for calculating eligible project costs.

(f) No costs financed internally or with interim funding may be refinanced under this part later than a year following substantial completion of the project.

(g) The Secretary shall not obligate funds for a project that has not received an environmental Categorical Exclusion, Finding of No Significant Impact, or Record of Decision under the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*

(h) The Secretary shall fund a secured loan based on the project's financing needs. The credit agreement shall include the anticipated schedule for such loan disbursements. Actual disbursements will be based on incurred costs, and in accordance with the approved construction plan, as evidenced by invoices or other documentation acceptable to the Secretary.

(i) The interest rate on a secured loan will be equal to or greater than the yield on U.S. Treasury securities of comparable maturity on the date of execution of the credit agreement as identified through use of the daily rate tables published by the Bureau of the Fiscal Service for the State and Local Government Series (SLGS) investments. The yield on comparable Treasury securities will be estimated by adding one basis point to the SLGS daily rate with a maturity that is closest to the weighted average loan life of the Federal credit instrument, per 33 U.S.C. 3908(b)(4).

(j) The final maturity date of a secured loan will be the earlier of the date that is 35 years after the date of substantial completion of the project, as determined by the Secretary and identified in the credit agreement, or if the useful life of the project, as determined by the Secretary, is less than 35 years, the useful life of the project; however, the final maturity date of a secured loan to a State infrastructure financing authority will be not later than 35 years after the date on which amounts are first disbursed. In determining the useful life of the project, for the purposes of establishing the final maturity date of the Federal credit instrument, the Secretary will consider the useful economic life of the asset(s) being financed.

(k) A secured loan will not be subordinated to the claims of any holder of project obligations in the event of bankruptcy, insolvency, or liquidation of the borrower of the project (33 U.S.C. 3908(b)(6)).

(l) The Corps will establish a repayment schedule for a secured loan or loan guarantee based on the projected cash flow from project revenues and other repayment sources. Scheduled loan or loan guarantee repayments of principal and interest on a secured loan or loan guarantee will commence not later than 5 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement, as determined by the Secretary (33 U.S.C. 3908(c)(A)); however, scheduled loan or loan guarantee repayments of principal and interest on a secured loan to a State infrastructure financing authority will commence not later than 5 years after the date on which amounts are first disbursed. The final maturity of the credit agreement shall be in no instance later than 35 years after the projected date of substantial completion of the project at the time of execution of the Loan Agreement or Loan Guarantee Agreement.

§ 386.4 Application process.

(a) Each fiscal year for which budget authority is made available by Congress, the Corps shall publish a solicitation to announce the availability of credit assistance. It will specify how to electronically submit a preliminary application, the estimated amount of funding available to support Federal credit instruments, contact name(s), and other details for submissions and funding approvals.

(b) Prospective borrowers seeking credit assistance under this part will be required to follow an application process requiring submission of the preliminary application as designated in the solicitation to announce the availability of credit assistance. In addition, the extent to which the project financing plan includes any other form of Federal assistance (including grants), in addition to WIFIA credit assistance, will be required to be provided in the application.

(c) Following approval of the term sheet, and/or negotiation of satisfactory terms and conditions of the Federal credit instrument, the prospective borrower will proceed to closing, as described in § 386.13.

§ 386.5 Federal requirements.

All projects receiving credit assistance under this part shall comply, where applicable, with:

(a) *Environmental authorities.* (1) The National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.;*

(2) Archeological and Historic Preservation Act, 16 U.S.C. 469–469c;

(3) Clean Air Act, 42 U.S.C. 7401 *et seq.;*

(4) Clean Water Act, 33 U.S.C. 1251 *et seq.;*

(5) Coastal Barrier Resources Act, 16 U.S.C. 3501 *et seq.;*

(6) Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.;*

(7) Endangered Species Act, 16 U.S.C. 1531 *et seq.;*

(8) Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, 3 CFR, 1994 Comp., p. 859;

(9) Floodplain Management, Executive Order 11988, 3 CFR, 1977 Comp., p. 117;

(10) Protection of Wetlands, Executive Order 11990, 3 CFR, 1977 Comp., p. 121, as amended by Executive Order 12608, 3 CFR, 1987 Comp., p. 245;

(11) Farmland Protection Policy Act, 7 U.S.C. 4201 *et seq.;*

(12) Fish and Wildlife Coordination Act, 16 U.S.C. 661–666c, as amended;

(13) Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.;*

(14) National Historic Preservation Act, 16 U.S.C. 470 *et seq.;*

(15) Safe Drinking Water Act, 42 U.S.C. 300f *et seq.;* and

(16) Wild and Scenic Rivers Act, 16 U.S.C. 1271 *et seq.*

(b) *Economic and miscellaneous authorities.* (1) Debarment and Suspension, Executive Order 12549, 3 CFR, 1986 Comp., p. 189;

(2) New Restrictions on Lobbying, 31 U.S.C. 1352;

(3) Prohibitions relating to violations of the Clean Water Act or Clean Air Act with respect to Federal contracts, grants, or loans under 42 U.S.C. 7606 and 33 U.S.C. 1368, and Executive Order 11738, 3 CFR, 1971–1975 Comp., p. 799; and

(4) The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 *et seq.*

(c) *Civil rights, nondiscrimination, equal employment opportunity authorities.* (1) Age Discrimination Act, 42 U.S.C. 6101 *et seq.;*

(2) Equal Employment Opportunity, Executive Order 11246, 3 CFR, 1964–1965 Comp., p. 339;

(3) Section 504 of the Rehabilitation Act, 29 U.S.C. 794, supplemented by

Executive Orders 11914, 3 CFR, 1976 Comp., p. 117, and 11250, 3 CFR, 1964–1965 Comp., p. 351; and

(4) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d *et seq.*

(d) *Others authorities.* Other Federal and compliance requirements as may be applicable.

§ 386.6 Federal flood risk management standard.

(a) In making WIFIA funding decisions under this part, the Corps will follow the requirements of Executive Order (E.O.) 11988 and Engineering Regulation (ER) 1165–2–26, ''Implementation of E.O. 11988 on Floodplain Management''. Applicants shall submit information regarding the project that is sufficient for the Corps to determine that the project is in compliance with the requirements of E.O. 11988 and ER 1165–2–26.

(b) Projects funded under this part will meet or exceed applicable State, local, tribal, and territorial standards for flood risk and floodplain management, as well as E.O. 11988.

(c) All projects under this part are considered Federal actions under E.O. 11988 and thus, project applicants shall determine whether the proposed project will occur in the floodplain. If the project is located within the floodplain, the applicant must determine whether the action is critical or not and what floodplain standard to follow. Further guidance on implementation of E.O. 11988 can be found in the Corps ER 1165–2–26 (30 March 1984).

§ 386.7 American iron and steel.

(a) All projects receiving credit assistance under this part for construction, alteration, maintenance, or repair of a project shall use only iron and steel products produced in the United States, unless waiver of the requirement in this paragraph (a) is granted by an official authorized to do so.

(b) Consistent with 33 U.S.C. 3914(b), ''iron and steel products'' means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete and construction materials. Equipment employed in construction that does not become part of the project is not an ''iron and steel product'' for the purpose of this section.

§ 386.8 Labor standards.

All laborers and mechanics employed by contractors or subcontractors on projects receiving credit assistance under this part shall be paid wages at rates not less than those prevailing for the same type of work on similar construction in the immediate locality, as determined by the Secretary of Labor.

§ 386.9 Investment-grade ratings.

(a) At the time a prospective borrower submits an application, the Corps shall require a preliminary rating opinion letter. The letter is a conditional credit assessment from a NRSRO that provides a preliminary indication of the project's overall creditworthiness and that specifically addresses the potential of the project's senior debt obligations, which may include, or be limited to, the Federal credit instrument to achieve an investment-grade rating, and address the rating of obligations similar to those proposed for the Federal credit instrument when the Federal credit instrument is not a senior debt obligation. The requirement of this paragraph (a) may be met, on a case-by-case basis, by accepting a recent credit rating of obligations that have a lien on the revenues pledged for repayment. This rating should be based on an unenhanced analysis of the underlying pledged source of repayment and not give any credit to any prospective loan guarantee provided by the U.S. Government.

(b) Consistent with 33 U.S.C. 3907(a)(D)(ii), the full funding of a Federal credit instrument shall be contingent on:

(1) The assignment of investment-grade ratings by NRSROs to all project obligations that have a lien on the pledged security senior to that of the Federal credit instrument on the pledged security; or

(2)(i) In the event that the Federal credit instrument is:

(A) A senior debt obligation;

(B) Pari passu with the senior project obligations; or

(C) A general obligation of the prospective borrower, to the Federal credit instrument.

(ii) The applicant must provide at least one final rating opinion letter which provides a credit rating on the direct loan or the unenhanced Federal credit instrument. This rating should be based on an unenhanced analysis of the underlying pledged source of repayment and not give any credit to the loan or loan guarantee provided by the U.S. Government.

(c) Neither the preliminary rating opinion letter nor the final ratings should reflect the effect of bond insurance, unless that insurance provides credit enhancement that secures WIFIA obligation.

§ 386.10 Threshold criteria.

(a) To be eligible to receive Federal credit assistance under this part, a project shall meet the following threshold criteria:

(1) The project and prospective borrower shall be creditworthy.

(2) A project shall have eligible project costs that are reasonably anticipated to equal or exceed $20 million.

(3) A Federal credit instrument:

(i) Shall be repayable, in whole or in part, from State or local taxes, user fees, or other dedicated revenue sources that also secure the senior project obligations of the project;

(ii) Shall include a rate covenant, coverage requirement, or similar security feature supporting the project obligations; and

(iii) May have a lien on revenues subject to any lien securing project obligations.

(4) In the case of a project that is undertaken by an entity that is not a State or local government or an agency or instrumentality of a State or local government, or a tribal government or consortium of tribal governments, the project that the entity is undertaking shall be publicly sponsored.

(5) The prospective borrower shall have developed an operations and maintenance plan that identifies adequate revenues to operate, maintain, and repair the project during its useful life. If the borrower is a State infrastructure financing authority, it shall have ensured and will ensure that its borrowers have a plan for the eligible projects they are undertaking that identifies adequate revenues to operate, maintain and repair such projects during the useful life of such projects. The requirement in this paragraph (a)(5) may be met through the development of a written plan or a financial model.

(b) With respect to paragraph (a)(3) of this section, the Secretary may accept general obligation pledges or general corporate promissory pledges and will determine the acceptability of other pledges and forms of collateral as dedicated revenue sources on a case-by-case basis. The Secretary shall not accept a pledge of Federal funds, regardless of source, as security for the Federal credit instrument.

(c) The provision at 33 U.S.C. 3907(c) provides that nothing in section 3907(c) (which includes eligibility requirements and selection criteria for projects and entities receiving WIFIA assistance) is intended to supersede the applicability of other requirements of Federal law, including regulations.

§ 386.11 Selection criteria.

The selection criteria in paragraphs (a) through (l) of this section will be used for evaluating and selecting among eligible projects to receive credit assistance:

(a) The extent to which the project is nationally or regionally significant, with respect to the generation of economic and public benefits, such as–

(1) The reduction of flood risk;

(2) The improvement of water quality and quantity, including aquifer recharge;

(3) The protection of drinking water, including source water protection;

(4) The support of domestic and international commerce; and

(5) The restoration of degraded aquatic ecosystem structures.

(b) The extent to which the project financing plan includes public or private financing, in addition to WIFIA credit assistance.

(c) The likelihood that WIFIA credit assistance would enable the project to proceed at an earlier date than the project would otherwise be able or likely to proceed.

(d) The extent to which the project uses new or innovative approaches.

(e) The amount of budget authority required to fund the WIFIA Federal credit instrument.

(f) The extent to which the project—

(1) Protects against an extreme weather event, such as a flood or hurricane; or

(2) Helps maintain or protect the environment.

(g) The extent to which a project serves regions with significant clean energy exploration development, or production areas.

(h) The extent to which a project serves regions with significant water resource challenges, including the need to address—

(1) Water quality concerns in areas of regional, national, or international significance;

(2) Water quantity concerns related to groundwater, surface water, or other water sources;

(3) Significant flood risk;

(4) Water resource challenges identified in existing regional, State, or multistate agreements; or

(5) Water resources with exceptional recreational value or ecological assistance.

(i) The extent to which the project addresses identified municipal, State, or regional priorities.

(j) The readiness of the project to proceed toward development, including a demonstration by the obligor that there is a reasonable expectation that the contracting process for construction of the project can commence not later than 90 days after the date on which a Federal credit instrument is obligated for the project under WIFIA.

(k) The extent to which WIFIA credit assistance reduces the overall Federal contributions to the project.

(l) The extent to which the project serves economically disadvantaged communities and spurs economic opportunity for, and minimally adversely impacts, economically disadvantaged communities and their populations.

§ 386.12 Term sheets and approvals.

(a) The Corps, after review and evaluation of an application, and all other required documents submitted by a prospective borrower, may offer to such prospective borrower a written term sheet and/or a credit agreement, including detailed terms and conditions that must be met.

(b) The issuance of a term sheet, upon execution by the Secretary, does not constitute a commitment by the Secretary to enter into the Loan Agreement or Loan Guarantee Agreement. Execution of the Loan Agreement or Loan Guarantee Agreement represents obligation by the Secretary.

§ 386.13 Closing on the Loan Agreement or Loan Guarantee Agreement.

(a) Only a Loan Agreement or Loan Guarantee Agreement executed by the Secretary can obligate the Corps to issue a loan or loan guarantee. The Corps is not bound by oral representations. Each Loan Agreement or Loan Guarantee Agreement shall contain the following requirements and conditions, and shall not be executed until the Corps determines that the following requirements and conditions are satisfied:

(1) Except if explicitly authorized by an Act of Congress, no Federal funds, proceeds of Federal loans, or proceeds of loans guaranteed by the Federal Government may be used by a borrower to pay for credit subsidy costs, administrative fees, or other fees charged by or paid to the Corps relating to the WIFIA program; however, proceeds of the Federal credit instrument may be used to pay for such administrative or other fees but may not be used to pay an ''Optional Credit Subsidy Fee''.

(2) At closing, the Corps will ensure that the following requirements and conditions are or will be satisfied pursuant to the credit agreement or otherwise:

(i) The project qualifies as an eligible project under WIFIA;

(ii) The face value of the credit agreement is limited to no more than 49 percent of reasonably anticipated eligible project costs, or if credit assistance in excess of 49 percent has been approved, no more than the percentage of eligible project costs agreed upon, not to exceed 80 percent of total project costs;

(iii) If the credit instrument is a loan guarantee, the loan guarantee does not finance, either directly or indirectly, tax exempt debt obligations, consistent with the requirements of section 149(b) of the Internal Revenue Code;

(iv) The amount of the credit agreement, when combined with other funds, will be sufficient to carry out the project, including adequate contingency funds;

(v) The borrower is pledging collateral and/or providing a general obligation pledge, determined by the Corps to be necessary to secure the repayment of the credit agreement;

(vi) The credit agreement and related documents include detailed terms and conditions necessary and appropriate to protect the interest of the United States in the case of default;

(vii) There is satisfactory evidence that the applicant is willing, competent, and capable of performing the terms and conditions of the credit agreement, and will diligently pursue the project;

(viii) The applicant has taken and is obligated to continue to take those actions necessary to perfect and maintain liens on assets which are pledged as security for the credit agreement, as allowed under State or local law;

(ix) The Corps or its representatives have access to the project site at all reasonable times in order to monitor the performance of the project;

(x) The Corps and the applicant agree as to the information that will be made available to the Corps and the information that will be made publicly available;

(xi) The applicant will file or has filed applications for or obtained any required regulatory approvals for the project and is in compliance, or promptly will be in compliance, where appropriate, with all Federal, State, and local regulatory requirements;

(xii) The applicant has no delinquent Federal debt, including tax liabilities, unless the delinquency has been resolved with the appropriate Federal agency in accordance with the standards of the Debt Collection Improvement Act of 1996;

(xiii) Loan proceeds provided under the agreement shall not be utilized by the applicant to provide cash contributions to the Corps for project

related costs, except for such fees as allowed by 33 U.S.C. 3908(b)(7), limited to the application, transaction processing, and servicing fees as described in § 386.15;

(xiv) Costs incurred with loan proceeds under the agreement shall not be eligible for reimbursement or for the transfer of credit toward the non-Federal cost share of another federally authorized project;

(xv) The credit agreement and related agreements contain such other terms and conditions as the Corps deems reasonable and necessary to protect the interests of the United States, including without limitation provisions for:

(A) Such collateral and other credit support for the credit agreement; and

(B) Such collateral sharing, priorities and voting rights among creditors and other intercreditor arrangements as, in each case, the Corps deems reasonable and necessary to protect the interests of the United States; and

(3) The credit agreement must contain audit provisions which provide, in substance, as follows:

(i) The applicant must keep such records concerning the project as are necessary to facilitate an effective and accurate audit and performance evaluation of the project; and

(ii) The Corps and the Inspector General, or their duly authorized representatives, must have access, for the purpose of audit and examination, to any pertinent books, documents, papers, and records of the applicant. Examination of records may be made during the regular business hours of the applicant, or at any other time mutually convenient.

(4) OMB has reviewed and approved the Corps calculation of the Credit Subsidy Cost of the Loan or Loan Guarantee.

(b) The Corps will set a closing date. By the closing date, the prospective borrower must have satisfied all of the detailed terms and conditions required by the Corps and all other contractual, statutory, and regulatory requirements. In addition, the prospective borrower must have provided at least one final rating opinion letter which provides a credit rating on the final negotiated direct loan or Loan Guarantee Agreement that does not take into account the full faith and credit of the United States of America. The prospective borrower must submit this final credit rating letter to the Corps prior to closing. If the prospective borrower has not satisfied all such terms and conditions by the closing date, the Secretary may set a new closing date or reject the application.

(c) The execution of a Loan Agreement or Loan Guarantee shall represent approval of the application for credit assistance and shall represent the legal obligation of budget authority.

§ 386.14 Reporting requirements.

The borrower will provide annual audited financial statements, a public benefits report, and other reports to the Corps in the form and manner agreed upon in the credit agreement. These other reports may include, but are not limited to, an updated financial model and construction reports. The Corps may conduct periodic financial and compliance reviews or audits of the borrower and its project, as determined necessary by the Corps.

§ 386.15 Fees.

(a) *Application fee.* The Corps will require a non-refundable application fee for each project applying for credit assistance under the WIFIA program. The application fee will be due upon submission of the application. For public applicants with projects serving small communities or economically disadvantaged communities, the total application fee will be $0. For all other applications, the total application fee will be $25,000. The total application fee will be credited to the transaction processing fee required under paragraph (b) of this section.

(b) *Transaction processing fee.* Except as otherwise provided in paragraph (f) of this section, the Corps will require an additional transaction processing fee for projects selected to receive WIFIA assistance upon closing, or if the project does not proceed to closing, *e.g.,* if the application is withdrawn or denied. The proceeds of any such fees will be used to pay the remaining portion of the Corps' cost of providing credit assistance and the costs of conducting engineering reviews and retaining expert firms, including financial and legal services, to assist in the underwriting of the Federal Credit instrument.

(c) *Servicing fee.* The Corps will require borrowers to pay a servicing fee for each credit instrument approved for funding. Separate fees may apply for each type of credit instrument (*e.g.,* a secured loan with a single disbursement, or a secured loan with multiple disbursements), depending upon the costs of servicing the credit instrument as determined by the Secretary. Such fees will be set at a level sufficient to enable the Corps to recover all or a portion of the costs to the Federal Government of servicing WIFIA credit instruments.

(d) *Optional credit subsidy fee.* If, in any given year, there is insufficient budget authority to fund the credit instrument for a qualified project that has been selected to receive assistance under WIFIA, the Corps and the approved applicant may agree upon a supplemental fee to be paid by or on behalf of the approved applicant at the time of execution of the term sheet to reduce the subsidy cost of that project. No such fee may be included among eligible project costs.

(e) *Reduced fees.* To the extent that Congress appropriates funds in any given year beyond those needed to cover internal administrative costs, the Corps may utilize such appropriated funds to reduce fees for a State or local governmental entity, agency, or instrumentality, a tribal government or consortium of tribal governments that would otherwise be charged under paragraph (c) of this section.

(f) *Enhanced monitoring fee.* The Corps may require payment in full by the borrower of additional fees, in an amount determined by the Corps, and of related fees and expenses of its independent consultants and outside counsel, to the extent that such fees and expenses are incurred by or on behalf of the Corps and to the extent such third parties are not paid directly by the borrower, in the event the borrower experiences difficultly relating to technical, financial, or legal matters or other events (*e.g.,* engineering failure or financial workouts) which require the Corps to incur time or expenses beyond standard monitoring. No such fee may be included among eligible project costs.

Approved by:

Michael L. Connor,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 2022–12050 Filed 6–9–22; 8:45 am]

BILLING CODE 3720–58–P

Notices

Federal Register
Vol. 87, No. 112
Friday, June 10, 2022

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by July 11, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

USDA Office of the Secretary

Title: USDA Generic Solution for Solicitation for Funding Opportunity Announcements

OMB Control Number: 0503–NEW.

Summary of Collection: The U.S. Department of Agriculture (USDA) conducts a pre-clearance consultation program to provide the public and Federal agencies an opportunity to comment on proposed, revised, and continuing information collections before submitting them to the Office of Management and Budget (OMB).

This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed. Periodically USDA solicits grant applications on *http://grants.gov* by issuing a Funding Opportunity Announcement, Request for Applications, Notice of Funding Announcement, Notice of Solicitation of Applications, *Grants.gov* announcement, or other funding announcement type. To ensure grants are awarded to the applicant(s) best suited to perform the functions of the grant, applicants are generally required to submit an application. The first part of USDA grant applications consists of submitting the application form(s), which includes the Standard Form 424, Application for Federal Assistance and may include additional standard grant application forms. The second part of a grant application usually requires a technical proposal demonstrating the applicant's capabilities in accordance with a statement of work or selection criteria and other related information as specified in the funding announcement. Following the grant award, the grant awardee may also be required to provide progress reports or additional documents.

Need and Use of the Information: The information collected in response to solicitations for grant applications has been and will be used by the USDA for issuing grants to the applicants most suited for fulfilling the mission of the grant.

Description of Respondents: State, Local, and Tribal Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

Number of Respondents: 10,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 400,000.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–12536 Filed 6–9–22; 8:45 am]

BILLING CODE 3410–90–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 7, 2022.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding: whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques and other forms of information technology.

Comments regarding this information collection received by July 11, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to

the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Forest Service

Title: Cooperative Wildland Fire Management and Stafford Act Response Agreements.

OMB Control Number: 0596–0242.

Summary of Collection: The primary authorities allowing for the agreements are the Reciprocal Fire Protection Act, 42 U.S.C 1856, and the Stafford Act, 42 U.S.C. 5121. The proposed Cooperative Wildland Fire Management and Stafford Act Response Agreement template will allow authorized agencies to streamline coordination with other Federal, State, local, and Tribal governments in wildland fire protection activities, and to document in an agreement the roles and responsibilities among the parties, ensuring maximum protection of resources.

Need and Use of the Information: To negotiate, develop, and administer Cooperative Wildland Fire Management and Stafford Act Response Agreements, the USDA Forest Service, DOI Bureau of Land Management, DOI Fish and Wildlife Service, DOI National Park Service, and DOI Bureau of Indian Affairs must collect information from willing State, local, and Tribal governments from the pre-agreement to the closeout stage via telephone calls, emails, postal mail, and person-to-person meetings. There are multiple means to communicate responses, which include forms, optional forms, templates, electronic documents, in person, telephone, and email. The scope of information collected includes the project type, project scope, financial plan, statement of work, and cooperator's business information. Without the collected information, authorized Federal agencies would not be able to negotiate, create, develop, and administer cooperative agreements with stakeholders for wildland fire protection, approved fire severity activities, and presidentially declared emergencies or disasters. Authorized Federal agencies would be unable to develop or monitor projects, make payments, or identify financial and accounting errors.

Description of Respondents: State, local and Tribal Governments.

Number of Respondents: 320.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 47,040.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–12551 Filed 6–9–22; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program Education and Obesity Prevention Grant (SNAP-Ed) National Program Evaluation and Reporting System (N–PEARS)

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This is a new collection to consolidate and improve SNAP-Ed data collecting and reporting, as required in the 2018 Farm Bill.

DATES: Written comments must be received on or before August 9, 2022.

ADDRESSES: Comments may be sent to: Maribelle Balbes, Food and Nutrition Service, U.S. Department of Agriculture, Supplemental Nutrition Assistance Program, 1320 Braddock Place, 5th Floor, Alexandria, VA 22314. Comments also may be submitted via email to *SNAP-Ed@usda.gov.* Comments also will be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Maribelle Balbes at 703–605–4272 or *SNAP-Ed@usda.gov.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Title: Supplemental Nutrition Assistance Program Education and Obesity Prevention Grant (SNAP-Ed) National Program Evaluation and Reporting System (N–PEARS)

Form Number: SNAP-Ed Annual Report (Form FNS–925A) and SNAP-Ed State Plan (Form FNS–925B).

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: New collection.

Abstract: This is a new information collection request. FNS administers the nutrition assistance programs of the U.S. Department of Agriculture (USDA), including the Supplemental Nutrition Assistance Program (SNAP). The SNAP Nutrition Education and Obesity Prevention Grant Program (referred to as SNAP-Ed), established by the Food and Nutrition Act of 2008, as amended (Pub. L. 115–334, ''The Act'') is the nutrition education and promotion component of SNAP. Under current SNAP regulations (7 CFR 272.2 (d)), State SNAP agencies have the option to provide, as part of their administrative operations, nutrition education for persons who are eligible to receive SNAP benefits and other means-tested Federal assistance programs. The goal of SNAP-Ed is to improve the likelihood that persons eligible for SNAP will make healthy food choices within a limited budget and choose physically active lifestyles consistent with the current Dietary Guidelines for Americans and the USDA food guidance. SNAP-Ed's target audience includes low-income individuals eligible to receive benefits under SNAP or other means-tested Federal assistance programs, and individuals residing in communities with a significant (50 percent or greater) low-income population. State SNAP agencies have the option of providing SNAP-Ed services to SNAP recipients as part of their SNAP operations. As of 2022, all 53 States and Territories implement some form of SNAP-Ed program. Participating States receive federally allocated grants every year that are used to cover States' SNAP-Ed expenses at a rate of 100 percent. Some State SNAP Agencies choose to implement their SNAP-Ed programs

themselves, while others contract with sub-grantees referred to as Implementing Agencies (IAs) to carry out SNAP-Ed programming. Implementing agencies are entities that contract with State SNAP agencies to provide SNAP-Ed services and include cooperative extension offices, universities, State departments of health or education, State-level nutrition networks, food banks, and other organizations. SNAP-Ed programming can comprise a wide range of evidence-based strategies, but common approaches include direct classroom or online education, community-level nutrition and health initiatives, and social marketing messaging. The annual SNAP-Ed Plan Guidance, available online (*https://snaped.fns.usda.gov/program-administration/snap-ed-plan-guidance-and-templates*) describes SNAP-Ed Programming options in detail.

Current Process

Currently, States submit their SNAP-Ed Nutrition Education Plans to FNS in electronic format via FNS PartnerWeb by August 15 of each year, as required at 7 CFR 272.2(d)(2). These State plans are prepared according to the SNAP-Ed Plan Guidance, which is updated annually and available online (*https://snaped.fns.usda.gov/program-administration/snap-ed-plan-guidance-and-templates*), and must include key features such as a needs assessment of the SNAP-Ed-eligible public, a description of the SNAP-Ed programming the State proposes to undertake, a budget, and a record of the States' consultation with partner and stakeholder groups. FNS Regional Offices review and approve State plans before States can use the year's SNAP-Ed funding. The burden associated with State plans is currently approved under OMB Control Number 0584–0083, expiration 08/21/2023. Additionally, 7 CFR 272.2(d)(2)(xiii) requires State agencies to submit an Annual Report on SNAP-Ed activities to FNS in two parts: the Education and Administrative Reporting System (EARS) form (FNS–759) is submitted by State agencies each December via the Food Program Reporting System (FPRS, currently approved under OMB Control No. 0584–0594, expiration 07/31/2023), and a SNAP-Ed Annual Narrative Report is submitted to FNS each January via email. The burden for these reports is also approved through OMB Control Number 0584–0083, included in the State Plan of Operations Update. There are no Individuals or Households directly impacted by this information collection and any burden associated with I/H is already covered in OMB Control Number: 0584–0064; Expiration date: 02/2024. The agency is not seeking to duplicate those estimates associated with I/H.

In States where SNAP-Ed activities are being conducted by implementing agencies, the IAs individually plan, track, and report their data, and then submit their plan and report materials to the State to be reviewed and combined for the submission of a single, statewide Annual Report. The information collected in the Annual Report is necessary to ensure that State agencies are maximizing the use of resources to identify target audiences; implementing interventions and strategies that meet the assessed nutrition, physical activity, and obesity prevention needs of the target population; and promoting the availability of SNAP-Ed activities in local communities. In addition, the information collected from State agencies is necessary to ensure integrity of funds, demonstrate program effectiveness, and track SNAP-Ed outcomes and impacts. The new N–PEARS system outlined in this notice will increase efficiency and reduce burden by providing all State and Implementing Agencies with a single streamlined, online tool for their plans and reports. It will simplify the review and submission process—both for States reviewing implementing agency data and for FNS staff approving State Plans—and provide better tools for FNS and the public to visualize and understand SNAP-Ed outcomes through data.

New Process—N–PEARS

As directed by the Agriculture Improvement Act of 2018 (''2018 Farm Bill'', Pub. L. 115–334), FNS has worked to improve the SNAP-Ed data reporting process by providing States with a robust electronic, online reporting system. FNS has entered into a cooperative agreement with the Kansas State University Research Foundation to develop and maintain new State Plan and Annual Report modules for their Program Evaluation and Reporting System (PEARS), an existing reporting system that many States have already elected to purchase to track and report SNAP-Ed data for their own needs. These new plan and annual report modules, referred to as the National Program Evaluation and Reporting System (N–PEARS), will still be housed inside the platform many States are already familiar with—not on a separate FNS website—and will require no additional paperwork or purchase by States. This system will allow States to submit their SNAP-Ed annual Nutrition Education Plans (SNAP-Ed State Plan) and a new, consolidated Annual Report. These newly developed annual plan and Annual Report systems (form FNS–925A, SNAP-Ed Annual Report, and form FNS–925B, SNAP-Ed State Plan) will provide FNS with data that are more consistent across State programs and, thus, facilitate data aggregation and evaluation of SNAP-Ed grants. This system will also streamline the annual plan and Annual Report submission and review process for States and FNS. There will be no change in submission deadlines, and the plan and report modules housed in N–PEARS will ease tracking and submission by walking users through the plan and report-writing process step-by-step, using autofill to avoid re-entering repeated data, and automatically skipping sections not needed for a particular State or IA's plan or report. The order and phrasing of the questions themselves have also been reworked for clarity and ease of use based on feedback from FNS and State staff. Once this collection is approved by OMB, the State Plan and Annual Report review process will also be streamlined for FNS staff, as State Plans previously submitted individually and often as long documents will now be housed in a centralized system and viewable in a single, streamlined format.

This new information collection covers the reporting and recordkeeping requirements associated with the SNAP-Ed State Plan and the new Annual Report forms. Upon the approval of this information collection and associated forms, using a change request memo, FNS will remove the burden associated with the SNAP-Ed Nutrition Education Plan annual updates (53 hours) from OMB Control Number 0584–0083. FNS also will remove the burden associated with the EARS Report (FNS Form-759; 2,808 hours) from OMB Control Number 0584–0594 and discontinue the form. While the new burden estimate presented here is higher than the burden hours removed from existing approved information collections, this is largely due to FNS' attempts to accurately capture the role that Implementing Agencies play in SNAP-Ed operations. The previous information collections referenced above accounted for SNAP-Ed plan and report activities only in terms of State and Territory respondents—whereas this collection includes burden down to the level of individual implementing agencies.

In developing the burden estimates for this information collection, FNS consulted with two States involved in the development and pre-testing of the new SNAP-Ed State Plan and the

Annual Report forms. In an effort to derive realistic averages of the time needed to complete the activities covered in the information collection, the two States consulted consisted of one ''small'' State and one ''large'' State, based on funding allocation. To further refine the time burdens associated with the new N–PEARS system, FNS intends to broaden its consultation efforts to no more than seven additional States (for a total of nine or fewer) during the 60-day comment period. As part of its consultation efforts, FNS also will seek information on how to account for implementing agency burden, given the diversity across States. In addition, through this notice, FNS seeks public comments on methods that can be used to account for implementing agency burden.

Affected Public: State agencies that elect to request Federal SNAP-Ed grant funds to conduct nutrition education and obesity prevention services, and SNAP-Ed implementing agencies.

Estimated Number of Respondents: 53 State agencies (50 U.S. States, District of Columbia, Guam, and the U.S. Virgin Islands) and 168 implementing agencies (97 State government agencies, 7 local government agencies, 12 Tribal government agencies, and 52 not-for-profit institutions).

Estimated Number of Responses per Respondent: 26 responses per respondent per year. This total number of responses includes: (1) submission of the SNAP-Ed State Plan form once a year by the State or Implementing Agency (1 response); (2) submission of the SNAP-Ed Annual Report form once a year by the State or Implementing Agency (1 response); (3) review of standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy once a month by the State or Implementing Agency (12 responses); and (4) State or Implementing Agency activities to meet FNS fiscal recordkeeping requirements once a month (12 responses).

Estimated Total Annual Responses: 5,746.

Estimated Time per Response: 14.234 hours.

Estimated Total Annual Burden on Respondents: 81,789 hours. See the table below for estimated total annual burden for each type of respondent.

SNAP-ED NATIONAL PROGRAM EVALUATION AND REPORTING SYSTEM (N–PEARS) ICR

Respondent type	Burden activity	Regulation at 7 CFR 272.2	Estimated number of respondents	Annual responses per respondent	Total annual responses	Estimated average number of hours per response	Estimated total hours	Previously approved burden hours	Change in burden hours due to an adjustment	Change in burden hours due to program change	Total difference in burden hours
Reporting											
State Agencies that Administer the Program.	Prepare and submit SNAP-Ed State Plan Form *(OMB Control No.: 0584–0083)*.	(d)(2), (d)(2)(ii) through (d)(2)(ix).	53	1	53	470	24,931	53	24,878	0	24,878
	Prepare and submit SNAP-Ed Annual Report Form *(OMB Control No.: 0584–0594) FNS 759.*	(d)(2)(xiii)	53	1	53	33	1,764	2,808	−1,044	0	−1,044
Subtotal for State Agencies that Administer the Program			*53*	*2*	*106*	*252*	*26,695*	*2,861*	*23,834*	*0*	*23,834*
Implementing Agencies—State Government.	Prepare and submit SNAP-Ed State Plan Form.	(d)(2), (d)(2)(ii) through (d)(2)(ix).	97	1	97	216	20,982	0	20,982	0	20,982
	Prepare and submit SNAP-Ed Annual Report Form.	(d)(2)(xiii)	97	1	97	176	17,098	0	17,098	0	17,098
Subtotal for Implementing Agencies—State Government			*97*	*2*	*194*	*196*	*38,080*	*0*	*38,080*	*0*	*38,080*
Implementing Agencies—Local Government.	Prepare and submit SNAP-Ed State Plan Form.	(d)(2), (d)(2)(ii) through (d)(2)(ix).	7	1	7	14	99	0	99	0	99
	Prepare and submit SNAP-Ed Annual Report Form.	(d)(2)(xiii)	7	1	7	10	70	0	70	0	70
Subtotal for Implementing Agencies—Local Government			*7*	*2*	*14*	*12*	*169*	*0*	*169*	*0*	*169*
Implementing Agencies—Tribal Government.	Prepare and submit SNAP-Ed State Plan Form.	(d)(2), (d)(2)(ii) through (d)(2)(ix).	12	1	12	28	338	0	338	0	338
	Prepare and submit SNAP-Ed Annual Report Form.	(d)(2)(xiii)	12	1	12	20	239	0	239	0	239
Subtotal for Implementing Agencies—Tribal Government			*12*	*2*	*24*	*24*	*577*	*0*	*577*	*0*	*577*
Total Estimated Reporting Burden for State/Local/Tribal Government Level.	169	2	338	194	65,521	2,861	62,660	0	62,660		

Implementing Agencies—Not-For-Profit Institution.	Prepare and submit SNAP-Ed State Plan Form.	(d)(2), (d)(2)(ii) through (d)(2)(ix).	52	1	52	118	6,119	0	6,119	0	6,119
	Prepare and submit SNAP-Ed Annual Report Form.	(d)(2)(xiii)	52	1	52	93	4,845	0	4,845	0	4,845
Subtotal for Implementing Agencies—Not-For-Profit Institution			*52*	*2*	*104*	*105*	*10,964*	*0*	*10,964*	*0*	*10,964*
Total Estimated Reporting Burden for Business Level.	52	2	104	105	10,964	0	10,964	0	10,964		
TOTAL ESTIMATED REPORTING BURDEN.	221	4	442	299	76,485	2,861	73,624	0	73,624		
Recordkeeping											
State Agencies that Administer the Program.	Review standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy.	(d)(2)(i)	53	12	636	1	636	0	636	0	636
	Meet FNS fiscal recordkeeping requirements.	(d)(2)(xi)	53	12	636	1	636	0	636	0	636
Subtotal for State Agencies that Administer the Program			*53*	*24*	*1,272*	*1*	*1,272*	*0*	*1,272*	*0*	*1,272*
Implementing Agencies—State Government.	Review standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy.	(d)(2)(i)	97	12	1,164	1	1,164	0	1,164	0	1,164
	Meet FNS fiscal recordkeeping requirements.	(d)(2)(xi)	97	12	1,164	1	1,164	0	1,164	0	1,164
Subtotal for Implementing Agencies—State Government			*97*	*24*	*2,328*	*1*	*2,328*	*0*	*2,328*	*0*	*2,328*
Implementing Agencies—Local Government.	Review standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy.	(d)(2)(i)	7	12	84	1	84	0	84	0	84
	Meet FNS fiscal recordkeeping requirements.	(d)(2)(xi)	7	12	84	1	84	0	84	0	84
Subtotal for Implementing Agencies—Local Government			*7*	*24*	*168*	*1*	*168*	*0*	*168*	*0*	*168*

SNAP-ED NATIONAL PROGRAM EVALUATION AND REPORTING SYSTEM (N–PEARS) ICR—Continued

Respondent type	Burden activity	Regulation at 7 CFR 272.2	Estimated number of respondents	Annual responses per respondent	Total annual responses	Estimated average number of hours per response	Estimated total hours	Previously approved burden hours	Change in burden hours due to an adjustment	Change in burden hours due to program change	Total difference in burden hours
Implementing Agencies—Tribal Government.	Review standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy.	(d)(2)(i)	12	12	144	1	144	0	144	0	144
	Meet FNS fiscal recordkeeping requirements.	(d)(2)(xi)	12	12	144	1	144	0	144	0	144
Subtotal for Implementing Agencies—Tribal Government			*12*	*24*	*288*	*1*	*288*	*0*	*288*	*0*	*288*
Total Estimated Recordkeeping Burden for State/Local/Tribal Government Level.	169	24	4,056	1	4,056	0	4,056	0	4,056		
Implementing Agencies—Not-For-Profit Institution.	Review standards established in the regulation, SNAP-Ed Plan Guidance, and other FNS policy.	(d)(2)(i)	52	12	624	1	624	0	624	0	624
	Meet FNS fiscal recordkeeping requirements.	(d)(2)(xi)	52	12	624	1	624	0	624	0	624
Subtotal for Implementing Agencies—Not-For-Profit Institution			*52*	*24*	*1,248*	*1*	*1,248*	*0*	*1,248*	*0*	*1,248*
Total Estimated Recordkeeping Burden for Business Level.	52	24	1,248	1	1,248	0	1,248	0	1,248		
TOTAL ESTIMATED RECORDKEEPING BURDEN.	221	48	5,304	2	5,304	0	5,304	0	5,304		
GRAND TOTAL FOR REPORTING AND RECORDKEEPING BURDEN.	221	52	5,746	14.234	81,789	2,861	78,928	0	78,928		

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–12504 Filed 6–9–22; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the North Carolina Advisory Committee to the U.S. Commission on Civil Rights

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of virtual business meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act, that the North Carolina Advisory Committee (Committee) to the U.S. Commission on Civil Rights will hold a virtual business meeting via Webex at 12:00 p.m. ET on Tuesday, June 21, 2022, to discuss their report on Legal Financial Obligations in the state.

DATES: The meeting will take place on Tuesday, June 21, 2022, from 12:00 p.m.–1:30 p.m. ET.

Link to Join (Audio/Visual): https://tinyurl.com/f4duk4tf.

Telephone (Audio Only): Dial (800) 360–9505 USA Toll Free; Access code: 2761 845 7469.

FOR FURTHER INFORMATION CONTACT: Victoria Moreno, DFO, at *vmoreno@usccr.gov* or (434) 515–0204.

SUPPLEMENTARY INFORMATION: Committee meetings are available to the public through the conference link above. Any interested member of the public may listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. If joining via phone, callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Individuals who are deaf, deafblind, and hard of hearing may also follow the proceedings by first calling the Federal Relay Service at (800) 877–8339 and providing the Service with the conference details found through registering at the web link above. To request additional accommodations, please email *vmoreno@usccr.gov* at least ten (10) days prior to the meeting.

Members of the public are also entitled to submit written comments; the comments must be received within 30 days following the meeting. Written comments may be emailed to Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Coordination Unit at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Coordination Unit, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, North Carolina Advisory Committee link. Persons interested in the work of this Committee are directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Coordination Unit at the above phone number.

Agenda

I. Welcome & Roll Call
II. Committee Discussion
III. Public Comment
IV. Next Steps
V. Adjournment

Dated: June 6, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–12480 Filed 6–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of the firms contributed importantly to the total or partial separation of the firms' workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

SUPPLEMENTARY INFORMATION:

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION OF ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[5/21/2022 through 6/5/2022]

Firm name	Firm address	Date accepted for investigation	Product(s)
American Manufacturing, Inc	2375 Dorr Street, Toledo, OH 43607	5/31/2022	The firm manufactures steel containers, racks, and pallets.
Zone Enterprises, LLC	2025 South Vandeventer Avenue, St. Louis, MO 63110.	6/1/2022	The firm manufactures gaskets and seals made of plastic.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice. These petitions are received pursuant to section 251 of the Trade Act of 1974, as amended.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.8 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Bryan Borlik,

Director.

[FR Doc. 2022–12535 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–068]

Forged Steel Fittings From the People's Republic of China: Final Results of Countervailing Duty Administrative Review; 2019

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) continues to determine that Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well), a producer and/or exporter of forged steel fittings from the People's Republic of China (China), received countervailable subsidies during the period of review (POR) January 1, 2019, through December 31, 2019.

DATES: Applicable June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Zachariah Hall or William Horn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–6261 or (202) 482–4868, respectively.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* of this administrative review in the **Federal Register** on December 7, 2021,[1] and invited interested parties to comment. On March 24, 2022, we received a case brief from the Bonney Forge Corporation and the United Steelworkers (collectively, the petitioners). On March 28, 2022, we received a rebuttal brief from Both-Well. For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[2]

Scope of the Order [3]

The product covered by the *Order* is forged steel fittings from the People's Republic of China (China). For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Verification

Commerce was unable to conduct on-site verification of the information relied upon for the final results of this review. However, we took additional steps in lieu of an on-site verification to verify certain information, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).[4]

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is attached as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our analysis of the case and rebuttal briefs and the evidence on the record, we made certain changes from the *Preliminary Results.* For a discussion of these changes, *see* the Issues and Decision Memorandum.

Methodology

Commerce is conducting this review in accordance with section 751(a)(1)(A) of the Act. For each of the subsidy programs found to be countervailable, we find that there is a subsidy, *i.e.,* a government-provided financial contribution that gives rise to a benefit to the recipient, and that the subsidy is specific.[5] The Issues and Decision Memorandum contains a full description of the methodology underlying Commerce's conclusions, including any determination that relied upon the use of adverse facts available pursuant to sections 776(a) and (b) of the Act.

Final Results of Administrative Review

In accordance with 19 CFR 351.221(b)(5), we calculated a final countervailable subsidy rate for the mandatory respondent, Both-Well. We find the countervailable subsidy rate for this producer/exporter under review to be as follows:

Producer/exporter	Subsidy rate (percent)
Both-Well (Taizhou) Steel Fittings Co., Ltd	13.48

Disclosure

We intend to disclose the calculations performed to interested parties in this proceeding under an Administrative Protective Order (APO) within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to 19 CFR 351.212(b)(2), Commerce will determine, and U.S. Customs and Border Protection (CBP) shall assess, countervailing duties on all appropriate entries of subject merchandise in accordance with the final results of this review, for the above-listed company at the applicable *ad valorem* assessment rate listed. We intend to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**, in accordance with 19 CFR 356.8(a). If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Instructions

In accordance with section 751(a)(2)(C) of the Act, Commerce also intends to instruct CBP to collect cash deposits of estimated countervailing duties in the amount shown for Both-Well on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits of estimated countervailing duties at the most recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, effective upon publication of these final results, shall remain in effect until further notice.

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[1] *See Forged Steel Fittings from the People's Republic of China: Preliminary Results of Countervailing Duty Administrative Review; 2019,* 86 FR 69224 (December 7, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Issues and Decision Memorandum for the Final Results of the 2019 Countervailing Duty Administrative Review of Forged Steel Fittings from the People's Republic of China,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[3] *See Forged Steel Fittings from the People's Republic of China: Countervailing Duty Order,* 83 FR 60396 (November 26, 2018) (*Order*).

[4] *See, e.g.,* Commerce's Letter, ''Forged Steel Fittings from the People's Republic of China: Export Buyer's Credit Verification Questionnaire,'' dated February 24, 2022.

[5] *See* sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

Notification to Interested Parties

We are issuing and publishing these final results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: June 3, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Issues and Decision Memorandum

[FR Doc. 2022–12496 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–106; C–570–107]

Wooden Cabinets and Vanities and Components Thereof From the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping and Countervailing Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from the American Kitchen Cabinet Alliance, (AKCA), a petitioner, the U.S. Department of Commerce (Commerce) is initiating two country-wide circumvention inquiries to determine whether: (1) U.S. imports from Vietnam of wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from the People's Republic of China (China), which are further processed in the Socialist Republic of Vietnam (Vietnam) and include Vietnamese components, are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on wooden cabinets and vanities from China; and (2) U.S. imports from Malaysia of wooden cabinets and vanities and components thereof (wooden cabinets and vanities) from China, which are further processed in Malaysia and include Malaysian components, are circumventing the AD and CVD orders on wooden cabinets and vanities from China.

DATES: Applicable June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Michael Romani or Richard Roberts, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0198 or (202) 482–3464, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 2022, pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.226(c), AKCA filed circumvention inquiry requests alleging that wooden cabinets and vanities from China, which are further processed in Vietnam or Malaysia, and which include Vietnamese or Malaysian components, respectively, are circumventing the *Orders* [1] and, accordingly, should be included within the scope of the *Orders*.[2] On May 13, 2022, Commerce asked AKCA to clarify the coverage of the products subject to the circumvention inquiry requests, and AKCA responded on May 17, 2022.[3]

From May 16 through 19, 2022, we received comments from certain exporters (collectively, DH Exporters) and America Home Furnishings Alliance (AHFA) concerning AKCA's request.[4] On May 19, 2022, we extended the deadline to initiate these circumvention inquiries by 15 days, in accordance with 19 CFR 351.226(d)(1).[5]

Scope of the Orders

The products covered by these *Orders* are wooden cabinets and vanities that are for permanent installation (including floor mounted, wall mounted, ceiling hung or by attachment of plumbing), and wooden components thereof. A full description of the scope of the *Orders* is provided in the Circumvention Initiation Memorandum.[6]

Merchandise Subject to the Circumvention Inquiries

(1) One circumvention inquiry covers wooden cabinets and vanities from China, which are further processed in

[1] *See Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Antidumping Duty Order,* 85 FR 22126 (April 21, 2020); and *Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Countervailing Duty Order,* 85 FR 22134 (April 21, 2020) (collectively, *Orders*).

[2] *See* AKCA's Letters, ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China—Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Malaysia,'' dated April 22, 2022 (Malaysia Circumvention Request); and ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China—Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Vietnam,'' dated April 22, 2022 (Vietnam Circumvention Request).

[3] *See* Commerce's Letters, ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China—Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Malaysia: Questionnaire,'' dated May 13, 2022; and ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China—Scope Ruling Application and Request for Circumvention Inquiry Concerning Imports of Wooden Cabinets and Vanities and Components Thereof from Vietnam: Questionnaire,'' dated May 13, 2022; *see also* AKCA's Letter, ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China—Response to Request for Additional Information,'' dated May 17, 2022 (Supplemental Questionnaire Response).

[4] *See* DH Exporters' Letters, ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Comments to Petitioner's Request for Scope/Anti-Circumvention Inquiry,'' dated May 16 and 17, 2022. The DH Exporters are Home Styler Furniture Sdn. Bhd.; Honsoar Jaycorp Cabinetry Sdn. Bhd.; Ly Furniture Sdn. Bhd.; and Artz Master Sdn. Bhd. (all for Malaysia); and Sanyang Vietnam Furniture Co., Ltd, Goldenland Vietnam Furniture Company LTD; Blue Valley Wood Co., Ltd; Xin Hong Company Limited; Advanced Cabinets Supply Viet Nam Company Limited; Eagle Wood (Viet Nam) Company Limited; Hong Sheng (Viet Nam) Industrial Company Limited; Fusion Vina Company Limited; Monogram Home Viet Nam Company Limited; Star Un Co., Ltd; GIAI MY P&B CO., LTD; Wissen Wood Vietnam Co. Ltd, VY KIET Company Co., Ltd; and Song Ngan Industrial Wood Company Limited (all for Vietnam); *see also* AHFA's Letter ''Antidumping and Countervailing Duty Orders on Wooden Cabinets and Vanities from the People's Republic of China: Pre-initiation Comments,'' dated May 19, 2022 (AHFA Letter).

[5] *See* Memorandum, ''Wooden Cabinets and Vanities: Extension of Time to Determine Whether to Initiate Anti-Circumvention Inquiry,'' dated May 19, 2022.

[6] *See* Memorandum, ''Wooden Cabinets and Vanities and Components Thereof from the People's Republic of China: Initiation of Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,'' dated concurrently with, and hereby adopted by, this notice (Circumvention Initiation Memorandum).

Vietnam and include Vietnamese components, and which are subsequently exported from Vietnam to the United States.

(2) The second circumvention inquiry covers wooden cabinets and vanities from China, which are further processed in Malaysia and include Malaysian components, and which are subsequently exported from Malaysia to the United States.

Initiation of Circumvention Inquiries

Section 351.226(d) of Commerce's regulations states that if Commerce determines that a request for a circumvention inquiry satisfies the requirements of 19 CFR 351.226(c), then Commerce ''will accept the request and initiate a circumvention inquiry.'' Section 351.226(c)(1) of Commerce's regulations, in turn, requires that each circumvention inquiry request allege ''that the elements necessary for a circumvention determination under section 781 of the Act exist'' and be ''accompanied by information reasonably available to the interested party supporting these allegations.'' AKCA alleged circumvention pursuant to section 781(b) of the Act (merchandise completed or assembled in other foreign countries).

Section 351.226(m)(2) of Commerce's regulations states, for companion AD and CVD duty proceedings, that ''the Secretary will initiate and conduct a single inquiry with respect to the product at issue for both orders only on the record of the antidumping proceeding.'' Further, once ''the Secretary issues a final circumvention determination on the record of the antidumping duty proceeding, the Secretary will include a copy of that determination on the record of the countervailing duty proceeding.'' Accordingly, once Commerce concludes these circumvention inquiries, Commerce intends to place its final circumvention determinations on the record of the companion CVD proceeding.

Section 781(b)(1) of the Act provides that Commerce may find circumvention of an order when merchandise of the same class or kind subject to the order is completed or assembled in a foreign country other than the country to which the order applies. In conducting a circumvention inquiry, under section 781(b)(1) of the Act, Commerce relies on the following criteria: (A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an AD or CVD order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which is subject to the order or is produced in the foreign country that is subject to the order; (C) the process of assembly or completion in the foreign country referred to in section (B) is minor or insignificant; (D) the value of the merchandise produced in the foreign country to which the AD or CVD order applies is a significant portion of the total value of the merchandise exported to the United States; and (E) the administering authority determines that action is appropriate to prevent evasion of such order.

In determining whether the process of assembly or completion in a foreign country is minor or insignificant under section 781(b)(1)(C) of the Act, section 781(b)(2) of the Act directs Commerce to consider: (A) the level of investment in the foreign country; (B) the level of research and development in the foreign country; (C) the nature of the production process in the foreign country; (D) the extent of production facilities in the foreign country; and (E) whether or not the value of processing performed in the foreign country represents a small proportion of the value of the merchandise imported into the United States. However, no single factor, by itself, controls Commerce's determination of whether the process of assembly or completion in a foreign country is minor or insignificant.[7] Accordingly, it is Commerce's practice to evaluate each of these five factors as they exist in the foreign country, depending on the totality of the circumstances of the particular circumvention inquiry.[8]

In addition, section 781(b)(3) of the Act sets forth additional factors to consider in determining whether to include merchandise assembled or completed in a foreign country within the scope of an AD or CVD order. Specifically, Commerce shall take into account such factors as: (A) the pattern of trade, including sourcing patterns; (B) whether the manufacturer or exporter of the merchandise that was shipped to the foreign country is affiliated with the person who, in the foreign country, uses the merchandise to complete or assemble the merchandise which is subsequently imported into the United States; and (C) whether imports of the merchandise into the foreign country have increased after the initiation of the investigation that resulted in the issuance of such order.

Based on our analysis of AKCA's circumvention requests, Commerce determines that AKCA has satisfied the criteria under 19 CFR 351.226(c) to warrant the initiation of circumvention inquiries of the *Orders.* For a full discussion of the basis for our decision to initiate these circumvention inquiries, *see* the Circumvention Initiation Memorandum. A list of topics discussed in the Circumvention Initiation Memorandum is included as the appendix to this notice. As explained in the Circumvention Initiation Memorandum, the information provided by domestic interested parties warrants initiating these circumvention inquiries on a country-wide basis. Commerce has taken this approach in prior circumvention inquiries, where the facts warranted initiation on a country-wide basis.[9]

Consistent with the approach in the prior circumvention inquiries that were initiated on a country-wide basis, Commerce intends to issue two questionnaires (one for Vietnam, and one for Malaysia) to solicit information from producers and exporters in Vietnam and Malaysia, respectively, concerning their shipments to the United States and the origin of any imported wooden cabinets and vanities-components being further processed into wooden cabinets and vanities. A company's failure to respond completely to Commerce's requests for information may result in the application of partial or total facts available, pursuant to section 776(a) of the Act, which may include adverse inferences, pursuant to section 776(b) of the Act.

Suspension of Liquidation

Pursuant to 19 CFR 351.226(l)(1), Commerce will notify U.S. Customs and

[7] *See* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, Vol. 1 (1994), at 893.

[8] *See Uncovered Innerspring Units from the People's Republic of China: Final Affirmative Determination of Circumvention of the Antidumping Duty Order,* 83 FR 65626 (December 21, 2018), and accompanying Issues and Decision Memorandum, at 4.

[9] *See, e.g., Certain Corrosion-Resistant Steel Products from the Republic of Korea and Taiwan: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 83 FR 37785 (August 2, 2018); *Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China: Initiation of Anti-Circumvention Inquiry on the Antidumping Duty Order,* 82 FR 40556, 40560 (August 25, 2017) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted); and *Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders,* 81 FR 79454, 79458 (November 14, 2016) (stating at initiation that Commerce would evaluate the extent to which a country-wide finding applicable to all exports might be warranted).

Border Protection (CBP) of the initiation of these circumvention inquiries and direct CBP to continue the suspension of liquidation of entries of products subject to the circumvention inquiries that were already subject to the suspension of liquidation under the *Orders* and to apply the cash deposit rate that would be applicable if the products were determined to be covered by the scope of the *Orders.* Should Commerce issue preliminary or final circumvention determinations, Commerce will follow the suspension of liquidation rules under 19 CFR 351.226(l)(2)–(4).

Notification to Interested Parties

In accordance with 19 CFR 351.226(d) and section 781(b) of the Act, Commerce determines that the AKCA's requests for these circumvention inquiries satisfies the requirements of 19 CFR 351.226(c). Accordingly, Commerce is notifying all interested parties of the initiation of these two circumvention inquiries to determine whether: (1) U.S. imports from Vietnam of wooden cabinets and vanities from China, which are further processed in Vietnam and include Vietnamese components, are circumventing the *Orders;* and (2) U.S. imports from Malaysia of wooden cabinets and vanities from China, which are further processed in Malaysia and include Malaysian components, are circumventing the *Orders.* In addition, we included a description of the products that are the subject of these inquiries, and an explanation of the reasons for Commerce's decision to initiate these inquiries as provided above and in the accompanying Circumvention Initiation Memorandum. In accordance with 19 CFR 351.226(e)(1), Commerce intends to issue its preliminary determination no later than 150 days from the date of publication of the notice of initiation of these circumvention inquiries in the **Federal Register**.

This notice is published in accordance with section 781(b) of the Act and 19 CFR 351.226(d)(1)(ii).

Dated: June 6, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Circumvention Initiation Memorandum

[FR Doc. 2022–12579 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–823, A–351–857, A–533–903, A–552–833]

Raw Honey From Argentina, Brazil, India, and the Socialist Republic of Vietnam: Antidumping Duty Orders

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: Based on affirmative final determinations by the U.S. Department of Commerce (Commerce) and the U.S. International Trade Commission (ITC), Commerce is issuing antidumping duty orders on raw honey from Argentina, Brazil, India, and the Socialist Republic of Vietnam (Vietnam).

DATES: Applicable June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Thomas Martin and Eva Kim (Argentina); Genevieve Coen (Brazil); Brittany Bauer and Benito Ballesteros (India); and Jonathan Hill and Paola Aleman Ordaz (Vietnam), AD/CVD Operations, Offices IV and V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3936, (202) 482–8283, (202) 482–3251, (202) 482–3860, (202) 482–7425, (202) 482–3518, or (202) 482–4031, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 14, 2022, Commerce published in the **Federal Register** its affirmative final determinations in the less-than-fair-value (LTFV) investigations of raw honey from Argentina, Brazil, India, and Vietnam.[1] On May 27, 2022, the ITC notified Commerce of its final determinations, pursuant to section 735(d) of the Tariff Act of 1930, as amended (the Act), that an industry in the United States is materially injured within the meaning of section 735(b)(1)(A)(i) of the Act by reason of LTFV imports of raw honey from Argentina, Brazil, India, and Vietnam, and of its determinations that critical circumstances exist with respect to dumped imports of raw honey from Vietnam and do not exist with respect to dumped imports of raw honey from Argentina.[2]

Scope of the Orders

The product covered by these orders is raw honey from Argentina, Brazil, India, and Vietnam. For a complete description of the scope of these orders, *see* the appendix to this notice.

Antidumping Duty Orders

On June 3, 2022, in accordance with section 735(d) of the Act, the ITC published in the **Federal Register** its final determinations in these investigations, in which it found that an industry in the United States is materially injured by reason of imports of raw honey from Argentina, Brazil, India, and Vietnam.[3] Therefore, in accordance with sections 735(c)(2) and 736 of the Act, Commerce is issuing these antidumping duty orders. Because the ITC determined that imports of raw honey from Argentina, Brazil, India, and Vietnam are materially injuring a U.S. industry, unliquidated entries of such merchandise from Argentina, Brazil, India, and Vietnam, entered or withdrawn from warehouse for consumption, are subject to the assessment of antidumping duties.

Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise, for all relevant entries of raw honey from Argentina, Brazil, India, and Vietnam. With the exception of entries occurring after the expiration of the provisional

[1] *See Raw Honey from Argentina: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 87 FR 22179 (April 14, 2022); *Raw Honey from Brazil: Final Determination of Sales at Less Than Fair Value,* 87 FR 22182 (April 14, 2022) (*Brazil Final Determination*); *Raw Honey from India: Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances,* 87 FR 22188 (April 14, 2022) (*India Final Determination*); and *Raw Honey from the Socialist Republic of Vietnam: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances,* 87 FR 22184 (April 14, 2022) (*Vietnam Final Determination*).

[2] *See* ITC's Letter, Investigation Nos. 731–TA–1560–1562 and 731–TA–1564 (Final), dated May 27, 2022.

[3] *See Raw Honey from Argentina, Brazil, India, and Vietnam,* 87 FR 33831 (June 3, 2022).

measures period and before publication of the ITC's final affirmative injury determinations, as further described below, antidumping duties will be assessed on unliquidated entries of raw honey from Argentina, Brazil, and India entered, or withdrawn from warehouse, for consumption, on or after November 23, 2021, the date of publication of the *Preliminary Determinations* in the **Federal Register**.[4] As further described below, antidumping duties will be assessed on unliquidated entries of raw honey from Vietnam entered, or withdrawn from warehouse, for consumption, on or after August 25, 2021, which is 90 days prior to the date of publication of the *Vietnam Preliminary Determination*.[5]

Critical Circumstances

With respect to the ITC's negative critical circumstances determination on imports of raw honey from Argentina, we will instruct CBP to lift suspension and to refund any cash deposits made to secure the payment of estimated antidumping duties with respect to entries of the subject merchandise from Argentina entered, or withdrawn from warehouse, for consumption on or after August 25, 2021 (*i.e.,* 90 days prior to the date of the publication of the *Argentina Preliminary Determination*), but before November 23, 2021 (*i.e.,* the date of publication of the *Preliminary Determinations*).

Regarding Vietnam, the ITC found that critical circumstances exist with respect to imports subject to Commerce's affirmative critical circumstances finding within the meaning of section 735(b)(4)(A) of the Act. As a result of Commerce's affirmative critical circumstances determination under section 735(a)(3) of the Act, and the ITC's affirmative critical circumstances determination under section 735(b)(4)(A) of the Act, retroactive duties will be applied to the relevant imports for a period of 90 days prior to the suspension of liquidation.[6] Therefore, in accordance with section 736(a)(1) of the Act, Commerce will direct CBP to assess, upon further instruction by Commerce, antidumping duties equal to the amount by which the normal value of the merchandise exceeds the export price (or constructed export price) of the merchandise for all relevant entries of raw honey from Vietnam. Antidumping duties will be assessed on unliquidated entries of raw honey from Vietnam for Ban Me Thuot Honeybee Joint Stock Company, Daklak Honeybee Joint Stock Company, the eligible separate rate companies, and the Vietnam-wide entity entered, or withdrawn from warehouse, for consumption on or after August 25, 2021, which is 90 days prior to the date of publication of the *Vietnam Preliminary Determination,* in accordance with the critical circumstances finding in the *Vietnam Final Determination.* Antidumping duties will not be assessed on any entries occurring after the expiration of the provisional measures period and before publication of the ITC's final affirmative injury determinations, as further described below.

Continuation of Suspension of Liquidation

Except as noted in the ''Provisional Measures'' section of this notice, in accordance with section 736 of the Act, Commerce will instruct CBP to continue to suspend liquidation on all relevant entries of raw honey from Argentina, Brazil, India, and Vietnam. These instructions suspending liquidation will remain in effect until further notice.

Commerce will also instruct CBP to require cash deposits equal to the estimated weighted-average dumping margins indicated in the tables below. Accordingly, effective on the date of publication in the **Federal Register** of the notice of the ITC's final affirmative injury determinations, CBP will require, at the same time as importers would normally deposit estimated duties on subject merchandise, a cash deposit equal to the rates listed below. For Argentina, Brazil, and India, the relevant all-others rate applies to all producers or exporters not specifically listed. For Vietnam, the Vietnam-wide entity rate listed below applies to all exporters not specifically listed.

Provisional Measures

Section 733(d) of the Act states that suspension of liquidation pursuant to an affirmative preliminary determination may not remain in effect for more than four months, except where exporters representing a significant proportion of exports of the subject merchandise request that Commerce extend the four-month period to no more than six months. At the request of exporters that account for a significant proportion of exports of raw honey from Argentina, Brazil, India, and Vietnam, Commerce extended the four-month period to six months in these investigations. Commerce published the *Preliminary Determinations* on November 23, 2021.[7]

The extended provisional measures period, beginning on the date of publication of the *Preliminary Determinations,* ended on May 21, 2022. Therefore, in accordance with section 733(d) of the Act and our practice,[8] Commerce will instruct CBP to terminate the suspension of liquidation and to liquidate, without regard to antidumping duties, unliquidated entries of raw honey from Argentina, Brazil, India, and Vietnam entered, or withdrawn from warehouse, for consumption after May 21, 2022, the final day on which the provisional measures were in effect, until and through the day preceding the date of publication of the ITC's final affirmative injury determinations in the **Federal Register**. Suspension of liquidation and the collection of cash deposits will resume on the date of publication of the ITC's final determinations in the **Federal Register**.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

[4] *See Raw Honey from Argentina: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Affirmative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 66531 (November 23, 2021) (*Argentina Preliminary Determination*); *Raw Honey from Brazil: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 66533 (November 23, 2021); and *Raw Honey from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Preliminary Negative Determination of Critical Circumstances, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 66528 (November 23, 2021) (collectively, *Preliminary Determinations*).

[5] *See Raw Honey from the Socialist Republic of Vietnam: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures,* 86 FR 66526 (November 23, 2021); *Raw Honey from the Socialistic Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances in the Less-Than-Fair-Value Investigation,* 87 FR 2127 (January 13, 2022); and *Raw Honey from the Socialistic Republic of Vietnam: Preliminary Affirmative Determination of Critical Circumstances in the Less-Than-Fair-Value Investigation; Correction,* 87 FR 7800 (February 10, 2022) (collectively, *Vietnam Preliminary Determination*).

[6] *See* section 735(c)(4) of the Act; *see also* Statement of Administrative Action Accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol. 1 (1994), at 876 (''If both agencies make affirmative critical circumstances determinations in their final investigations, retroactive duties will be applied for a period ninety days prior to suspension of liquidation.'').

[7] *See Preliminary Determinations.*

[8] *See, e.g., Certain Corrosion-Resistant Steel Products from India, India, the People's Republic of China, the Republic of Korea and Taiwan: Amended Final Affirmative Antidumping Determination for India and Taiwan, and Antidumping Duty Orders,* 81 FR 48390, 48392 (July 25, 2016).

Exporter/producer	Estimated weighted-average dumping margin (percent)
Argentina	
Asociación De Cooperativas Argentinas Cooperativa Limitada	24.67
NEXCO S.A	9.17
Industrias Haedo S.A	49.44
Compañía Inversora Platense S.A	49.44
All Others	16.92
Brazil	
Melbras Importadora E Exportadora Agroindustrial Ltda	7.89
Apiário Diamante Comercial Exportadora Ltda/Apiário Diamante Produção e Comercial de Mel Ltda (Supermel)[9]	83.72
All Others	7.89
India	
Allied Natural Product	6.24
Ambrosia Natural Products (India) Private Limited/Ambrosia Enterprise/Sunlite India Agro Producer Co. Ltd.[10]	5.52
All Others	5.87
Vietnam	
Ban Me Thuot Honeybee Joint Stock Company	61.27
Daklak Honeybee Joint Stock Company	58.74
Dak Nguyen Hong Exploitation of Honey Company Limited TA, Nguyen Hong Honey Co., LTDTA	60.03
Nhieu Loc Company Limited	60.03
Hoang Tri Honey Bee Company Limited (a.k.a. Hoang Tri Honey Bee Co., Ltd.), H. T Honey Co., Ltd	60.03
Viet Thanh Food Technology Development Investment Company Limited, Viet Thanh Food Co., Ltd	60.03
Dongnai HoneyBee Corporation	60.03
Sai Gon Bees Limited Company, Saigon Bees Co., Ltd., Sai Gon Bees Co., Ltd	60.03
Huong Rung Trading—Investment and Export Company, Huong Rung Co., Ltd	60.03
Hai Phong Honeybee Company Limited	60.03
Bao Nguyen Honeybee Co., Ltd	60.03
Southern Honey Bee Company LTD	60.03
Golden Bee Company Limited	60.03
Thanh Hao Bees Company Limited	60.03
Daisy Honey Bee Joint Stock Company, Daisy Honey Bee JSC, Daisy Honey Bee J.S.C	60.03
Bee Honey Corporation of Ho Chi Minh City, Bee Honey Corp. of Ho Chi Minh City, Behonex Corp	60.03
Phong Son Limited Company, Phong Son Co., Ltd	60.03
Hoa Viet Honeybee One Member Company Limited, Hoa Viet Honey Bee Co., Ltd., Hoa Viet Honeybee Co., Ltd	60.03
Vietnam-wide Entity	60.03

Establishment of the Annual Inquiry Service Lists

On September 20, 2021, Commerce published the final rule titled ''*Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws*'' in the **Federal Register**.[11] On September 27, 2021, Commerce also published the notice titled ''*Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions*'' in the **Federal Register**.[12] The *Final Rule* and *Procedural Guidance* provide that Commerce will maintain an annual inquiry service list for each order or suspended investigation, and any interested party submitting a scope ruling application or request for circumvention inquiry shall serve a copy of the application or request on the persons on the annual inquiry service list for that order, as well as any companion order covering the same merchandise from the same country of origin.[13]

In accordance with the *Procedural Guidance,* for orders published in the **Federal Register** after November 4, 2021, Commerce will create an annual inquiry service list segment in Commerce's online e-filing and document management system, Antidumping and Countervailing Duty Electronic Service System (ACCESS), available at *https://access.trade.gov,* within five business days of publication of the notice of the order. Each annual inquiry service list will be saved in ACCESS, under each case number, and under a specific segment type called ''AISL-Annual Inquiry Service List.''[14]

[9] For the final determination, Commerce found that these companies are affiliated within the meaning of section 771(33) of the Act and that they constitute a single entity pursuant to 19 CFR 351.401(f). *See Brazil Final Determination.*

[10] For the final determination, Commerce found that Ambrosia Natural Products (India) Private Limited is affiliated with two additional companies, Ambrosia Enterprise, and Sunlite India Agro Producer Co. Ltd., within the meaning of section 771(33) of the Act and, further, found that these companies should be treated as a single entity, pursuant to 19 CFR 35l.401(f). *See India Final Determination.*

[11] *See Regulations to Improve Administration and Enforcement of Antidumping and Countervailing Duty Laws,* 86 FR 52300 (September 20, 2021) (*Final Rule*).

[12] *See Scope Ruling Application; Annual Inquiry Service List; and Informational Sessions,* 86 FR 53205 (September 27, 2021) (*Procedural Guidance*).

[13] *Id.*

[14] This segment will be combined with the ACCESS Segment Specific Information (SSI) field which will display the month in which the notice of the order or suspended investigation was published in the **Federal Register**, also known as the anniversary month. For example, for an order under case number A–000–000 that was published in the **Federal Register** in January, the relevant segment and SSI combination will appear in ACCESS as ''AISL-January Anniversary.'' Note that there will be only one annual inquiry service list segment per case number, and the anniversary month will be pre-populated in ACCESS.

Interested parties who wish to be added to the annual inquiry service list for an order must submit an entry of appearance to the annual inquiry service list segment for the order in ACCESS within 30 days after the date of publication of the order. For ease of administration, Commerce requests that law firms with more than one attorney representing interested parties in an order designate a lead attorney to be included on the annual inquiry service list. Commerce will finalize the annual inquiry service list within five business days thereafter. As mentioned in the *Procedural Guidance,* the new annual inquiry service list will be in place until the following year, when the *Opportunity Notice* for the anniversary month of the order is published.

Commerce may update an annual inquiry service list at any time as needed based on interested parties' amendments to their entries of appearance to remove or otherwise modify their list of members and representatives, or to update contact information. Any changes or announcements pertaining to these procedures will be posted to the ACCESS website at *https://access.trade.gov.*

Special Instructions for Petitioners and Foreign Governments

In the *Final Rule,* Commerce stated that, ''after an initial request and placement on the annual inquiry service list, both petitioners and foreign governments will automatically be placed on the annual inquiry service list in the years that follow.'' [15] Accordingly, as stated above, the petitioners and foreign governments should submit their initial entry of appearance after publication of this notice in order to appear in the first annual inquiry service list for those orders for which they qualify as an interested party. Pursuant to 19 CFR 351.225(n)(3), the petitioners and foreign governments will not need to resubmit their entries of appearance each year to continue to be included on the annual inquiry service list. However, the petitioners and foreign governments are responsible for making amendments to their entries of appearance during the annual update to the annual inquiry service list in accordance with the procedures described above.

Notification to Interested Parties

This notice constitutes the antidumping duty orders with respect to raw honey from Argentina, Brazil, India, and Vietnam pursuant to section 736(a) of the Act. Interested parties can find a list of antidumping duty orders currently in effect at *https://enforcement.trade.gov/stats/iastats1.html.*

These antidumping duty orders are published in accordance with section 736(a) of the Act and 19 CFR 351.211(b).

Dated: June 6, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

Scope of the Orders

The product covered by these orders is raw honey. Raw honey is honey as it exists in the beehive or as obtained by extraction, settling and skimming, or coarse straining. Raw honey has not been filtered to a level that results in the removal of most or all of the pollen, *e.g.,* a level that removes pollen to below 25 microns. The subject products include all grades, floral sources and colors of raw honey and also include organic raw honey.

Excluded from the scope is any honey that is packaged for retail sale (*e.g.,* in bottles or other retail containers of five (5) lbs. or less).

The merchandise subject to these orders is currently classifiable under statistical subheading 0409.00.0005, 0409.00.0035, 0409.00.0045, 0409.00.0056, and 0409.00.0065 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these orders is dispositive.

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[15] *See Final Rule,* 86 FR at 52335.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–067]

Forged Steel Fittings From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2019–2020

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) determines that Both-Well (Taizhou) Steel Fittings Co., Ltd. (Both-Well), an exporter of forged steel fittings from the People's Republic of China (China), did not sell subject merchandise in the United States at prices below normal value (NV) during the period of review (POR) November 1, 2019, through October 31, 2020.

DATES: Applicable June 10, 2022.

FOR FURTHER INFORMATION CONTACT: Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0339.

SUPPLEMENTARY INFORMATION:

Background

Commerce published the *Preliminary Results* [1] on December 7, 2021, and invited interested parties to comment. On March 7, 2022, Commerce extended the deadline of the final

results of this administrative review by 58 days, until June 3, 2022.[2] For a complete description of the events that occurred since the *Preliminary Results, see* the Issues and Decision Memorandum.[3]

Scope of the Order [4]

The merchandise covered by the *Order* is forged steel fittings from China. For a complete description of the scope of the *Order, see* the Issues and Decision Memorandum.

Analysis of Comments Received

All issues raised in the parties' briefs are addressed in the Issues and Decision Memorandum. A list of the issues addressed is attached as the appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov.* In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at *https://access.trade.gov/public/FRNoticesListLayout.aspx.*

Changes Since the Preliminary Results

Based on our review of the record and comments received from interested parties regarding our *Preliminary Results,* we made a revision to the

[1] *See Forged Steel Fittings from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission; 2019–2020,* 86 FR 69222 (December 7, 2021) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[2] *See* Memorandum, ''Forged Steel Fittings from the People's Republic of China (China): Extension of Deadline for Final Results of Second Antidumping Duty Administrative Review,'' dated March 7, 2022.

[3] *See* Memorandum, ''Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Forged Steel Fittings from the People's Republic of China; 2019–2020,'' dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

[4] *See Forged Steel Fittings from Italy and the People's Republic of China: Antidumping Duty Orders,* 83 FR 60397, dated November 26, 2018 (*Order*).

margin calculations for Both-Well.[5] For a discussion of this change, *see* the Issues and Decision Memorandum.

Separate Rate

In the *Preliminary Results,* Commerce determined that Both-Well demonstrated its eligibility for a separate rate.[6] We received no comments or arguments since the issuance of the *Preliminary Results* that provide a basis for reconsideration of this separate rate determination. Therefore, for these final results, we continue to find that Both-Well is eligible for a separate rate.

The China-Wide Entity

Commerce's policy regarding conditional review of the China-wide entity applies to this administrative review.[7] Under this policy, the China-wide entity will not be under review unless a party specifically requests, or Commerce self-initiates, a review of the China-wide entity.[8] Because no party requested a review of the China-wide entity in this review, the China-wide entity is not under review and the China-wide entity's rate (*i.e.,* 142.72 percent) is not subject to change as a result of this review.[9]

Final Results of the Review

Commerce determines that the following weighted-average dumping margin exists for the POR:

Exporter	Weighted-average dumping margin (percent)
Both-Well (Taizhou) Steel Fittings Co., Ltd	0.00

Disclosure

We intend to disclose the calculations performed to interested parties in this proceeding under an Administrative Protective Order (APO) within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.212(b), Commerce has determined, and U.S Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of the final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Because the weighted-average dumping margin for Both-Well, the only respondent in this administrative review, is zero, Commerce will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[10]

For entries that were not reported in the U.S. sales data submitted by Both-Well during this review, Commerce will instruct CBP to liquidate such entries at the rate for the China-wide entity.[11]

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for Both-Well, the cash deposit rate will be zero; (2) for a previously examined Chinese and non-Chinese exporter not listed above that received a separate rate in a prior completed segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific cash deposit rate; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the China-wide entity (*i.e.,* 142.72 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter that supplied that non-Chinese exporter.

These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Notification Regarding APO

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

These final results and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(h) and 19 CFR 351.221(b)(5).

Dated: June 3, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Issues and Decision Memorandum

[5] *See* Memorandum, ''Antidumping Duty Administrative Review of Forged Steel Fittings from the People's Republic of China: Final Results Calculation Memorandum for Both-Well,'' dated concurrently with this notice.

[6] *See Preliminary Results,* 86 FR at 69222.

[7] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[8] *Id.*

[9] *See Order,* 83 FR at 60397.

[10] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[11] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR at 65694 (October 24, 2011), for a full discussion of this practice.

VI. Recommendation

[FR Doc. 2022–12474 Filed 6–9–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Northwest Region Federal Fisheries Permits

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of information collection, request for comment.

SUMMARY: The Department of Commerce, in accordance with the Paperwork Reduction Act of 1995 (PRA), invites the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. The purpose of this notice is to allow for 60 days of public comment preceding submission of the collection to OMB.

DATES: To ensure consideration, comments regarding this proposed information collection must be received on or before August 9, 2022.

ADDRESSES: Interested persons are invited to submit written comments to Adrienne Thomas, NOAA PRA Officer, at *NOAA.PRA@noaa.gov.* Please reference OMB Control Number 0648–0203 in the subject line of your comments. Do not submit Confidential Business Information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or specific questions related to collection activities should be directed to Matt Dunlap, Fishery Policy Analyst, NOAA Fisheries/West Coast Region, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, (206–316–7944), and *matthew.dunlap@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for extension of a currently approved information collection. The Magnuson-Stevens Act (16 U.S.C. 1801) provides that the Secretary of Commerce is responsible for the conservation and management of marine fisheries resources in Exclusive Economic Zone (3–200 miles) of the United States (U.S.). NOAA Fisheries manages the Pacific Coast Groundfish Fishery in the Exclusive Economic Zone (EEZ) off Washington, Oregon, and California under the Pacific Coast Groundfish Fishery Management Plan. The regulations implementing the Pacific Groundfish Fishery require that those vessels participating in the limited entry fishery be registered to a valid limited entry permit. Participation in the fishery and access to a limited entry permit has been restricted to control the overall harvest capacity.

NOAA Fisheries seeks comment on the extension of permit information collections required for: (1) renewal and transfer of Pacific Coast Groundfish limited entry permits; (2) implementation of certain provisions of the sablefish permit stacking program as provided for at 50 CFR 660.231 and 660.25; and (3) issuing and fulfilling the terms and conditions of certain exempted fishing permits (EFPs). The regulations implementing the limited entry program are found at 50 CFR part 660, subpart G.

In addition, NOAA Fisheries requires an information collection to implement certain aspects of the sablefish permit stacking program, which prevents excessive fleet consolidation. As part of the annual renewal process, NOAA Fisheries requires a corporation or partnership that owns or holds (as vessel owner) a sablefish endorsed permit to provide a complete ownership interest form listing all individuals with ownership interest in the entity. Similarly, any sablefish endorsed permit transfer involving registration of a business entity requires an ownership interest form if either the permit owner or vessel owner is a corporation or partnership. This information is used to determine if individuals own or hold sablefish permits in excess of the limit of three permits. Also, for transfer requests made during the sablefish primary season (April 1st through October 31st), the permit owner is required to report the remaining tier pounds not yet harvested on the sablefish endorsed permit at the time of transfer.

Applicants for an exempted fishing permit (EFP) must submit written information that allows NOAA Fisheries and the Pacific Fishery Management Council to evaluate the proposed exempted fishing project activities and weigh the benefits and costs of the proposed activities. The Council makes a recommendation on each EFP application and for successful applicants, NOAA Fisheries issues the EFPs that contains terms and conditions for the project including various reporting requirements. The information included in an application is specified at 50 CFR 600.745(b)(2) and the Council Operating Procedure #19. Permit holders are required to file preseason harvest plans, interim and/or final summary reports on the results of the project, and in some cases individual vessels and other permit holders are required to provide data reports (*i.e.,* logbooks and/or catch reports). The results of EFPs are commonly used to explore ways to reduce effort on depressed stocks, encourage innovation and efficiency in the fishery, provide access to constrained stocks by directly measuring the bycatch associated with such strategies, and evaluate/revise current and proposed management measures.

Letters of Authorization (LOAs) and Exempted Educational Activity Authorizations (EEAAs) were historically collected under OMB control number 0648–0309. LOAs and EEAAs were combined into this collection (0648–0203) in 2019.

NMFS may grant exemptions from fishery regulations for educational or other activities (*e.g.,* using non-regulation gear). An EEAA is a permit issued by the Regional Office to accredited educational institutions that authorize, for educational purposes, the target or incidental harvest of species managed under an FMP or fishery regulations that would otherwise be prohibited. EEAAs are generally of limited scope and duration, and authorize the take of the amount of fish necessary to demonstrate the lesson. Researchers are requested to submit reports of their scientific research activity after its completion.

LOAs are required under Section 101(a)(5)(A) of the Marine Mammal Protection Act (MMPA) of 1972 for the incidental take of marine mammals during fisheries surveys and related research activities conducted by the Northwest Fisheries Science Center (NWFSC), NMFS. Management of certain marine mammals falls under the jurisdiction of the NMFS under the MPA and Endangered Species Act (ESA) and mechanisms exist under both the ESA and MMPA to assess the effect of incidental takings and to authorize appropriate levels of take.

II. Method of Collection

Renewal forms are mailed to all permit owners. They can complete their renewals online, submit by mail, or in person. Ownership interest forms and permit transfer forms are available from the region's website but must be submitted to NOAA Fisheries by mail or in person. Applications for an exempted

fishing permit must be submitted in a written format. The exempted fishing permit data reports may be submitted in person, faxed, submitted by telephone or emailed by the monitor, plant manager, vessel owner or operator to NOAA Fisheries or the states of Washington, Oregon, or California.

III. Data

OMB Control Number: 0648–0203.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Individuals, Non-profit institutions, State, local, or tribal government; business or other for-profit organizations.

Estimated Number of Respondents: 539.

Estimated Time per Response: Permit renewals: 20 minutes; Permit transfers: 30 minutes; Sablefish ownership interest form: 10 minutes; EFP Applications: 32 hours; EFP Trip Notifications: 2 minutes; EFP Harvest Plans: 16 hours; EFP Data Reports: 2 hours; EFP Summary Reports: interim report, 4 hours; final report, 20 hours; Letters of Authorization: 6 hours; Exempted Educational Activities Authorizations, 6 hours.

Estimated Total Annual Burden Hours: 2,011 hours.

Estimated Total Annual Cost to Public: $56,468.

Respondent's Obligation: Required to Obtain Benefits.

Legal Authority: Magnuson-Stevens Act (16 U.S.C. 1801).

IV. Request for Comments

We are soliciting public comments to permit NOAA Fisheries to: (a) Evaluate whether the proposed information collection is necessary for the proper functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used; (c) Evaluate ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Comments that you submit in response to this notice are a matter of public record. We will include or summarize each comment in our request to OMB to approve this ICR. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–12592 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Solicitation for Applications for Advisory Councils Established Pursuant to the National Marine Sanctuaries Act and Executive Order

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of solicitation.

SUMMARY: Notice is hereby given that ONMS will solicit applications to fill non-governmental seats on its 15 established national marine sanctuary advisory councils and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council (advisory councils), under the National Marine Sanctuaries Act and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Executive Order, respectively. The list of 16 established advisory councils in the Contact Information for Each Site section includes the advisory council established for the Proposed Lake Ontario National Marine Sanctuary. Vacant seats, including positions (*i.e.,* primary and alternate), for each of the advisory councils will be advertised differently at each site in accordance with the information provided in this notice. This notice contains web page links and contact information for each site, as well as additional resources on advisory council vacancies and the application process.

DATES: Please visit individual site web pages, or reach out to a site as identified in this notice's **SUPPLEMENTARY INFORMATION** section on Contact Information for Each Site, regarding the timing and advertisement of vacant seats, including positions (*i.e.,* primary or alternate), for each of the advisory councils. Applications will only be accepted in response to current, open vacancies and in accordance with the deadlines and instructions included on each site's website.

ADDRESSES: Vacancies and applications are specific to each site's advisory council. Contact information for each site is contained in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For further information on a particular advisory council or available seats, please contact the site as identified in this notice's **SUPPLEMENTARY INFORMATION** section on Contact Information for Each Site, below. For general inquiries related to this notice or ONMS advisory councils established pursuant to the National Marine Sanctuaries Act or Executive Order 13178, contact Katie Denman, Office of National Marine Sanctuaries Policy and Planning Division (*katie.denman@noaa.gov;* 240–533–0702).

SUPPLEMENTARY INFORMATION: Section 315 of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1445A) authorizes the Secretary of Commerce to establish advisory councils to advise and make recommendations regarding the designation and management of national marine sanctuaries. Executive Order 13178 similarly established a Coral Reef Ecosystem Reserve Council pursuant to the NMSA for the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve. In this Supplementary Information section, NOAA provides details regarding the Office of National Marine Sanctuaries, the role of advisory councils, and contact information for each site.

Office of National Marine Sanctuaries (ONMS)

ONMS serves as the trustee for a network of underwater parks encompassing more than 620,000 square miles of marine and Great Lakes waters from Washington state to the Florida Keys, and from Lake Huron to American Samoa. The network includes a system of 15 national marine sanctuaries and Papahānaumokuākea and Rose Atoll marine national monuments. National marine sanctuaries protect our Nation's most vital coastal and marine natural and cultural resources through active research, management, and public engagement. These activities sustain healthy environments that are the foundation for thriving communities and local economies.

One of the many ways ONMS ensures public participation in the designation and management of national marine sanctuaries is by convening advisory

councils. Advisory councils are community-based advisory groups that advise ONMS on issues including management, science, service, and stewardship. Councils also serve as liaisons between their constituents in the community and the sanctuary. Pursuant to Section 315(a) of the National Marine Sanctuaries Act, 16 U.S.C. 1445A(a), advisory councils are exempt from the requirements of the Federal Advisory Committee Act. Additional information on ONMS and its advisory councils can be found at *http://sanctuaries.noaa.gov.*

Advisory Council Membership

Under Section 315 of the NMSA, advisory council members may be appointed from among: (1) persons employed by federal or state agencies with expertise in management of natural resources; (2) members of relevant regional fishery management councils; and (3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources. For the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council, Section 5(f) of Executive Order 13178 (as amended by Executive Order 13196) specifically identifies member and representative categories.

The charter for each advisory council defines the number and type of seats and positions on the council; however, as a general matter, available seats could include: conservation, education, research, fishing, whale watching, diving and other recreational activities, boating and shipping, tourism, harbors and ports, maritime business, agriculture, maritime heritage, and citizen-at-large.

NOAA selects council members from among applicants based on their expertise and experience in relation to the seat for which they are applying; community and professional affiliations; views on the protection and management of marine or Great Lakes resources; and possibly the length of residence in the area affected by the site. Applicants chosen as members or alternates should expect to serve two- or three-year terms, pursuant to the charter of the specific national marine sanctuary advisory council or Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council. More information on advisory council membership and processes, and materials related to the purpose, policies, and operational requirements for advisory councils can be found in the charter for a particular advisory council (*http://sanctuaries.noaa.gov/management/ac/council_charters.html*) and the *National Marine Sanctuary Advisory Council Implementation Handbook* (*http://sanctuaries.noaa.gov/management/ac/acref.html*).

Contact Information for Each Site

- Channel Islands National Marine Sanctuary Advisory Council: Channel Islands National Marine Sanctuary, University of California, Santa Barbara, Ocean Science Education Building 514, MC 6155, Santa Barbara, CA 93106; 805–893–6437; *https://channelislands.noaa.gov/sac/council_news.html.*
- Cordell Bank National Marine Sanctuary Advisory Council: Cordell Bank National Marine Sanctuary, P.O. Box 159, Olema, CA 94950; 415–464–5260; *http://cordellbank.noaa.gov/council/applicants.html.*
- Florida Keys National Marine Sanctuary Advisory Council: Florida Keys National Marine Sanctuary, 33 East Quay Road, Key West, FL 33040; 305–809–4700; *https://floridakeys.noaa.gov/sac/recruitment.html.*
- Flower Garden Banks National Marine Sanctuary Advisory Council: Flower Garden Banks National Marine Sanctuary, 4700 Avenue U, Building 216, Galveston, TX 77551; 409–621–5151; *http://flowergarden.noaa.gov/advisorycouncil/recruitment.html.*
- Gray's Reef National Marine Sanctuary Advisory Council: Gray's Reef National Marine Sanctuary, 10 Ocean Science Circle, Savannah, GA 31411; 912–598–2345; *http://graysreef.noaa.gov/management/sac/council_news.html.*
- Greater Farallones National Marine Sanctuary Advisory Council: Greater Farallones National Marine Sanctuary, 991 Marine Drive, The Presidio, San Francisco, CA 94129; 415–561–6622; *https://farallones.noaa.gov/manage/sac_recruitment.html.*
- Hawaiian Islands Humpback Whale National Marine Sanctuary Advisory Council: Hawaiian Islands Humpback Whale National Marine Sanctuary, NOAA Inouye Regional Center, NOS/ONMS/HIHWNMS, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818; 808–879–2818; *https://hawaiihumpbackwhale.noaa.gov/management/advisory/recruitment.html.*
- Mallows Bay—Potomac River National Marine Sanctuary Advisory Council: Mallows Bay—Potomac River National Marine Sanctuary, NOAA Chesapeake Bay Office, 200 Harry S Truman Parkway, Room 460, Annapolis, MD 21401; (240) 460–1978; *https://sanctuaries.noaa.gov/mallows-potomac/involved/recruitment.html.*
- Monitor National Marine Sanctuary Advisory Council: Monitor National Marine Sanctuary, 100 Museum Drive, Newport News, VA 23606; 757–599–3122; *https://monitor.noaa.gov/advisory/news.html.*
- Monterey Bay National Marine Sanctuary Advisory Council: Monterey Bay National Marine Sanctuary, 99 Pacific Street, Building 455A, Monterey, CA 93940; 831–647–4201; *http://montereybay.noaa.gov/sac/recruit.html.*
- National Marine Sanctuary of American Samoa Advisory Council: National Marine Sanctuary of American Samoa, Tauese P.F. Sunia Ocean Center, P.O. Box 4318, Pago Pago, American Samoa 96799; 684–633–6500; *https://americansamoa.noaa.gov/council/recruitment/.*
- Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve Advisory Council: NOAA Inouye Regional Center, NOS/ONMS/PMNM, 1845 Wasp Boulevard, Building 176, Honolulu, HI 96818; 808–725–5800; *http://www.papahanaumokuakea.gov/new-about/council/apply/.*
- Olympic Coast National Marine Sanctuary Advisory Council: Olympic Coast National Marine Sanctuary, 115 East Railroad Avenue, Suite 301, Port Angeles, WA 98362; 360–457–6622; *http://olympiccoast.noaa.gov/involved/sac/recruitment.html.*
- Proposed Lake Ontario Sanctuary Advisory Council; NOAA Office of National Marine Sanctuaries, 4840 South State Road, Ann Arbor, MI 48108; 734–741–2270; *https://sanctuaries.noaa.gov/lake-ontario/advisory/members.html.*
- Stellwagen Bank National Marine Sanctuary Advisory Council: Stellwagen Bank National Marine Sanctuary, 175 Edward Foster Road, Scituate, MA 02066; 781–545–8026; *http://stellwagen.noaa.gov/management/sac/recruitment.html.*
- Thunder Bay National Marine Sanctuary Advisory Council: Thunder Bay National Marine Sanctuary, 500 West Fletcher Street, Alpena, MI 49707; 989–356–8805; *https://thunderbay.noaa.gov/involved/recruitment.html.*

Paperwork Reduction Act

ONMS has a valid Office of Management and Budget (OMB) control number (0648–0397) for the collection of public information related to the processing of ONMS national marine sanctuary advisory council applications across the National Marine Sanctuary System. Soliciting applications for

sanctuary advisory councils fits within the estimated reporting burden under that control number. See *https://www.reginfo.gov/public/do/PRASearch* (Enter Control Number 0648–0397). Therefore, ONMS will not request an update to the reporting burden certified for OMB control number 0648–0397.

Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to: Office of National Marine Sanctuaries, 1305 East-West Highway, N/NMS, Silver Spring, Maryland 20910.

Notwithstanding any other provisions 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 Paperwork Reduction Act (PRA), *44 U.S.C. 3501 et seq.,* unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number is #0648–0397.

Authority: 16 U.S.C. 1431 *et seq.*

John Armor,

Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–12511 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Matching Fund Opportunity for Ocean and Coastal Mapping and Request for Partnership Proposals

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Announcement of matching fund program opportunity, request for proposals, and request for interest by September 30, 2022.

SUMMARY: By establishing selection criteria and requirements for the NOAA Rear Admiral Richard T. Brennan Ocean Mapping Matching Fund program, to be known as the Brennan Matching Fund, this notice invites non-Federal entities to partner with NOAA National Ocean Service's ocean and coastal mapping programs on jointly funded projects of mutual interest. NOAA would receive and match partner funds and rely on its existing contract arrangements to conduct the surveying and mapping activities in FY2024. Proposers benefit from this opportunity by leveraging NOAA's contracting expertise, including its pool of pre-qualified technical experts in surveying and mapping as well as data management to ensure that the mapping data are fit for purpose and are usable for a broad set of purposes. This program is subject to funding availability.

DATES: Proposals, including any optional GIS files of the proposed project areas, must be received via email by 5 p.m. ET on September 30, 2022. If an entity is unable to apply for this particular opportunity, but has an interest in participating in similar, future opportunities, NOAA requests a one-page statement of interest, also by September 30, 2022, to help gauge whether to offer the Brennan Matching Fund program in future years.

ADDRESSES: Proposals must be submitted via email to *iwgocm.staff@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Meredith Westington or Paul Turner, NOAA Integrated Ocean and Coastal Mapping, at *iwgocm.staff@noaa.gov,* or (505) 278–9851 and (302) 648–7612, respectively.

SUPPLEMENTARY INFORMATION:

I. Background

NOAA's Office of Coast Survey (OCS) and National Geodetic Survey (NGS) are responsible for conducting hydrographic surveys and coastal mapping for safe navigation, the conservation and management of coastal and ocean resources, and emergency response. NOAA is committed to meeting these missions as collaboratively as possible, adhering to the Integrated Ocean and Coastal Mapping (IOCM) principle of ''Map Once, Use Many Times.''

One of IOCM's strongest advocates, Rear Admiral Richard T. Brennan, developed an *Ocean Mapping Plan* for OCS in which IOCM plays a large role. Responsive to the June 2020 publications of the *National Strategy for Mapping, Exploring, and Characterizing the U.S. Exclusive Economic Zone* (NOMEC) and the *Alaska Coastal Mapping Strategy* (ACMS), the Coast Survey *Ocean Mapping Plan* includes a goal to map the full extent of waters subject to U.S. jurisdiction to modern standards (all three plans are available at *https://iocm.noaa.gov/about/strategic-plans.html*). Although we lost RDML Brennan tragically and unexpectedly in May 2021, we continue to implement his vision and passion for collaborative ocean mapping through this and other avenues.

The Coast Survey *Ocean Mapping Plan* describes a number of motivating forces for surveying and mapping waters subject to U.S. jurisdiction, including, but not limited to:

- Safe marine transportation;
- Coastal community resilience;
- A need to better understand the influence of the ocean's composition on related physical and ecosystem processes that affect climate, weather, and coastal and marine resources and infrastructure;
- Interest in capitalizing on the Blue Economy in growth areas like seafood production, tourism and recreation, marine transportation, and ocean exploration;
- The national prerogative to exercise U.S. sovereign rights to explore, manage, and conserve natural resources in waters subject to U.S. jurisdiction; and
- International commitments to map the global oceans by 2030.

Knowledge of the depth, shape, and composition of the seafloor has far-reaching benefits, including safer navigation, hazard mitigation for coastal resilience, preservation of marine habitats and heritage, and a deeper understanding of natural resources for sustainable ocean economies. However, the resources needed to fully achieve the goal of comprehensively mapping U.S. oceans and coasts currently exceed NOAA's capacity. Mapping the full extent of waters subject to U.S. jurisdiction means relying on partners to contribute to the effort.

Coast Survey has considerable hydrographic expertise, including cutting edge understanding of the science and related acoustic systems as well as data standards to ensure broad usability of that data. More detail on Coast Survey's surveying expertise and capabilities is available in the *NOAA Coast Survey Ocean Mapping Capabilities* report (*https://nauticalcharts.noaa.gov/about/docs/about/ocean-mapping-capabilities.pdf*). Information on the Hydrographic Services Contract Vehicle and the types of data and services available can be found at *https://www.nauticalcharts.noaa.gov/data/hydrographic-surveys-contract-vehicle.html.*

The NOAA Coastal Mapping Program under NGS, responsible for updating the shoreline and nearshore bathymetry for application to NOAA Nautical Charts and other coastal applications, relies in part on its NGS Shoreline Mapping Services contract. This contract also supports additional NGS geodetic and surveying missions in support of the National Spatial Reference System and

the Aeronautical Survey Program (more information at *https://geodesy.noaa.gov/ContractingOpportunities/*).

II. Description

This notice announces the Brennan Matching Fund, a program to match funds with NOAA for ocean and coastal survey and mapping partnerships using NOAA's geospatial contracting vehicles. NOAA will select proposals using the review process and criteria evaluation described in section IX of this notice.

The goal of this program is to leverage NOAA and non-Federal partner funds to acquire more ocean and coastal mapping data collected by qualified contract surveyors during FY 2024. If appropriated funds are available, NOAA will provide up to 70 percent of the total project cost, with the selected entity providing at least 30 percent of the total project cost. For example, if a project costs $1,000,000, the selected entity must provide at least $300,000 and NOAA would provide up to $700,000. Additional funding for a project exceeding $1 million may be provided at NOAA's discretion, *e.g.,* if the project aligns with a larger NOAA survey priority. NOAA will receive partner funds through memoranda of agreement using the authority granted to NOAA under the Coast and Geodetic Survey Act of 1947 to receive and expend funds for collaborative hydrographic surveys (33 U.S.C. 883e).

In addition to matching partner funds, NOAA offers its expertise to manage survey planning, quality-assure all data and products, provide the data and products to the partners on an agreed-upon timeframe, and handle data submission to the National Centers for Environmental Information for archiving and public accessibility. All ocean and coastal data and related products resulting from this program will be available to the public to the greatest extent allowed by applicable laws.

Specific value-added services NOAA will provide include:

- Assurance that the data are collected by qualified survey contractors to ensure broadest use and accessibility of the data;
- Project management and GIS-based task order planning, negotiation and award of necessary procurement contracts:
  - Tailored to meet the interests of matching fund partners
  - Managed on aerial, shipboard, and uncrewed vehicles;
- Managing survey compliance with applicable laws, such as the National Environmental Policy Act and National Historic Preservation Act;
- Data processing, quality assessment and review of all acquired hydrographic data; and
- Data management and stewardship through data archive at the National Centers for Environmental Information.

Data acquisition collection methods include, but are not limited to:

- Multibeam Echosounder
- Side Scan Sonar
- Lidar (topographic, bathymetric, mobile)
- Subsurface and airborne feature investigations
- Sediment sampling

Products acquired may include, but are not limited to:

- Bathymetric data (multibeam, single beam, lidar)
- Backscatter
- Water column (depth dependent)
- Side scan sonar imagery
- Feature detection reports
- Sensor/data corrections and calibrations (*e.g.,* conductivity, temperature and depth casts, horizontal/vertical position uncertainty)
- Survey and control services, including the installation, operation, and removal of water level and Global Positioning System stations
- High-resolution topographic/bathymetric product generation
- A final project report

More information on Coast Survey's Hydrographic Surveys Specifications and Deliverables publication can be found at *https://nauticalcharts.noaa.gov/publications/docs/standards-and-requirements/specs/HSSD_2022.pdf.* More information on NGS Specifications and Deliverables can be found at *https://geodesy.noaa.gov/ContractingOpportunities/cmp-sow-v15.pdf.* These specifications are based in part on the International Hydrographic Organization's Standards for Hydrographic Surveys, Special Publication 44 (*https://iho.int/uploads/user/pubs/standards/s-44/S-44_Edition_6.0.0_EN.pdf*). Background information, questions and answers, and slides that potential applicants might find useful from the expired FY 2023 matching fund program webinar are available at *https://iocm.noaa.gov/planning/contracts-grants-agreements.html.* Interested applicants may also contact NOAA by email at *iwgocm.staff@noaa.gov* for a rough order of magnitude cost estimation sheet to use in estimating acquisition costs for the matching program.

If an entity is unable to apply for this particular opportunity but has an interest in participating in similar, future opportunities, NOAA requests a one-page statement of interest by September 30, 2022, to use in evaluating whether to offer the Brennan Matching Fund program in future years.

III. Areas of Focus

For this opportunity, proposals will be considered that align with national priorities for climate and infrastructure, and the goals of the NOMEC, ACMS, the Coast Survey *Ocean Mapping Plan* (all available at *https://iocm.noaa.gov/about/strategic-plans.html*). Those goals include:

1. *Map the United States Exclusive Economic Zone (EEZ):* The goal is to completely map deep waters (≤ 40m) of the United States EEZ by 2030 and shallower waters by 2040. Completing this goal will give the United States unprecedented and detailed information about the depth, shape, and composition of the seafloor of the United States EEZ (NOMEC Goal 2).

2. *Expand Alaska Coastal Data Collection to Deliver the Priority Geospatial Products Stakeholders Require:* Mapping the Alaska coast is challenging. However, using targeted and coordinated data collections will potentially reduce overall costs and improve the cost-to-benefit ratio of expanded mapping activities (ACMS Goal 2).

3. *Map the full extent of waters subject to U.S. jurisdiction to modern standards:* Based on the January 2022 analysis of data holdings at NOAA's National Centers for Environmental Information, 52 percent of waters subject to U.S. jurisdiction are unmapped (*https://iocm.noaa.gov/seabed-2030-status.html*). Acquiring the best available data in poorly surveyed and gap areas means working with partners to contribute to the effort. By sharing its mapping expertise with others, Coast Survey can build depth in the ocean and coastal mapping community to increase the quantity and quality of seafloor data acquired overall (Ocean Mapping Plan Goal 2).

IV. Proposal Eligibility

This matching fund opportunity is available to non-Federal entities. Examples of non-Federal entities include state and local governments, tribal entities, universities, researchers and academia, the private sector, non-governmental organizations (NGOs), and philanthropic partners. Qualifying proposals must demonstrate the ability to provide at least 30 percent of the funds needed for the proposed project, which must be transferred to NOAA by September 2023 using a memorandum of agreement. A coalition of non-Federal

entities may assemble funds for the match and submit a proposal jointly. Use of other Federal agency funds as part of the non-Federal entities' match funds will be considered on a case-by-case basis and only as authorized by applicable laws. In-kind contributions are welcome to strengthen the proposal, but do not count toward the match and are not required.

V. Deadlines and Process Dates

All submissions, including the proposal in PDF format and any accompanying GIS files, must be emailed to *iwgocm.staff@noaa.gov*. Partner proposals are due by 5 p.m. ET on September 30, 2022 (see Section VIII. for details). Please include all required components of the proposal in one email. Incomplete and late submissions will not be considered.

- June 28, 2022: Informational Webinar at 2 p.m. ET; register at *https://attendee.gotowebinar.com/register/5547610530319292942*.
- September 14, 2022: Office hours opportunity for interested parties to validate their proposals with experts before submitting; register by emailing *iwgocm.staff@noaa.gov*.
- September 30, 2022: Due date for proposals and statements of interest.
- November 1, 2022: NOAA issues its decisions on proposals (subject to the availability of appropriations).
- November 2022–January 2023: NOAA works with selected partners to develop memoranda of agreement to facilitate the transfer of funds from the non-Federal partner to NOAA.
- February 2023: NOAA finalizes the memoranda of agreement with partners.
- June–September 2023: Non-Federal partners transfer matching funds to NOAA; funds must be available to NOAA for contracting in October 2023.
- January–September 2024: NOAA issues task orders to its survey contractors for NOAA/partner projects in FY 2024.

VI. Funding Availability

In the third year of this program, NOAA anticipates funding between two to five survey projects up to 70 percent, with a total cost of $1,000,000 per project. Additional funding for a project exceeding $1 million may be provided at NOAA's discretion. All projects are expected to have a FY 2024 project start date and NOAA must receive all non-Federal partner matching funds no later than September 2023. NOAA reserves the right to increase or decrease its funding match based on the quality and feasibility of proposals received. This notice is subject to the availability of appropriations.

VII. Project Period

NOAA intends to complete each selected project within two (2) years. However, the period to complete a project may be extended in coordination with the partner(s), if additional time is needed. NOAA will submit a final report to the non-Federal partner within 60 days of the conclusion of each project.

VIII. Submission Requirements

Project Proposal—To qualify, a proposal shall not exceed six (6) total pages and must include the following three components:

1. A project title; executive summary (3–5 sentences); and the names, affiliations, and roles of the project partners and any co-investigators, as well as the project lead that will serve as primary contact (1 page maximum).

2. A justification and statement of need; description and graphics of the proposed survey area, including relevance to the strategic areas of focus noted in Section III and degree of flexibility on timing of survey effort (4 pages maximum).

3. A project budget that lists the source(s) and amount(s) of funding that the partner would provide as its match to NOAA. Budget must confirm that partner funds can be transferred to NOAA by September 2023 (1 page maximum).

Proposals, as PDF format, must use 12-point, Times New Roman font, single spacing, and 1-inch margins. Failure to adhere to these requirements will result in the proposal being returned without review and eliminated from further consideration.

To facilitate a more detailed review of the second component of the proposal, NOAA welcomes the submission of GIS files of project areas. These ancillary GIS files must be in SHP format.

IX. Review Process and Evaluation Criteria

Proposals will be evaluated by the Brennan Matching Fund Program Management Team. Submissions will be ranked based on the following criteria:

1. Project justification (30 points)—This criterion ascertains whether there is intrinsic IOCM value in the proposed work and/or relevance to NOAA missions and priorities, including downstream partner proposals and uses. Use of, and reference to, national priorities on climate and infrastructure, NOMEC, ACMS and the Coast Survey Ocean Mapping Plan (all available at *https://iocm.noaa.gov/about/strategic-plans.html*); gap assessment tools such as the U.S. Bathymetry Gap Analysis (*https://iocm.noaa.gov/seabed-2030-bathymetry.html*); and the U.S. Interagency Elevation Inventory (*https://catalog.data.gov/dataset/united-states-interagency-elevation-inventory-usiei*), among others, are recommended. The U.S. Mapping Coordination site (*fedmap.seasketch.org*) shows current Coast Survey and NGS mapping plans as well as the latest in Federal mapping priorities and select regional mapping priorities; email *iwgocm.staff@noaa.gov* for assistance with the layers on this site, if needed.

2. Statement of need (10 points)—This criterion assesses clarity of project need, partner project funding alternatives if not selected, anticipated outcomes and public benefit.

3. Specified partner match (20 points)—The proposal identifies a point of contact for the entity submitting the proposal, as well as any partnering entities, a clear statement on partner matching funds provenance (*e.g.,* state appropriations, NGO funds, or other sources) and timing of funds availability. In-kind contributions are welcome to strengthen the proposal, but do not count toward the funding match and are not required.

4. Project costs (15 points)—This criterion evaluates whether the proposed budget is realistic and commensurate with the proposed project needs and timeframe. If needed, please contact *iwgocm.staff@noaa.gov* for a rough estimate of cost per square nautical mile for surveys in a particular region.

5. Project feasibility and flexibility (25 points)—This criterion assesses the likelihood that the proposal would succeed, using evaluations of survey conditions, project size, location, weather, NOAA analysis of environmental compliance implications, project flexibility and adaptability to existing NOAA plans and schedules, and other factors.

During the proposal review period, NOAA reserves the right to engage with proposal points of contact to ask questions and provide feedback on project costs and feasibility.

X. Management and Oversight

Once selections are made, NOAA will coordinate the development of the memoranda of agreement, funding transfers, project planning, environmental compliance, acquisition awards and quality assurance process. NOAA may bring in additional partners and/or funding (Federal and/or non-Federal) to expand a project further, if feasible. Projects will be reviewed by NOAA on an annual basis to ensure they are responsive to partner interests

and NOAA mission requirements, and to identify opportunities for outreach and education on the societal benefits of the work.

Authority: Coast and Geodetic Survey Act of 1947 (33 U.S.C. 883e).

RDML Benjamin K. Evans,

Director, Office of Coast Survey, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2022–12513 Filed 6–9–22; 8:45 am]

BILLING CODE 3510–JE–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds product(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes product(s) and service(s) from the Procurement List previously furnished by such agencies.

DATES: *Date added to and deleted from the Procurement List:* July 10, 2022

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION:

Additions

On 3/4/2022 (87 FR 12435), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed additions to the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the product(s) and impact of the additions on the current or most recent contractors, the Committee has determined that the product(s) and service(s) listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product(s) and service(s) to the Government.

2. The action will result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) proposed for addition to the Procurement List.

End of Certification

Accordingly, the following product(s) are added to the Procurement List:

Product(s)

NSN(s)—Product Name(s): MR 10825—Emergency Triangle Work Light, Includes Shipper 20825

Designated Source of Supply: Winston-Salem Industries for the Blind, Inc, Winston-Salem, NC

Contracting Activity: Military Resale-Defense Commissary Agency

Distribution: C-List

Mandatory for: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4

Deletions

On 6/10/2022, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed deletions from the Procurement List. This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3.

After consideration of the relevant matter presented, the Committee has determined that the product(s) and service(s) listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the product(s) and service(s) to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the product(s) and service(s) deleted from the Procurement List.

End of Certification

Accordingly, the following product(s) and service(s) are deleted from the Procurement List:

Product(s)

NSN(s)—Product Name(s):

8105–LL–S05–4103—Polyethylene Bag, Hazardous Waste, 36″x48″x.008, Transparent Orange

8105–LL–S05–4108—Polyethylene Bag, 16″x18″x.008, Transparent Green

8105–LL–S05–4110—Polyethylene Bag, 24″x36″x.008, Transparent Green

8105–LL–S05–4111—Polyethylene Bag, 36″x48″x.008, Transparent Green

8105–LL–S05–4113—Polyethylene Bag, Hazardous Waste, 24″x36″x.008, T

8105–LL–S05–4114—Polyethylene Bag, Hazardous Waste, 16″x18″x.008, Transparent Orange

8105–LL–S05–4142—Polyethylene Bag, 24″x10″x48,″ Transparent White

8105–LL–S05–4143—Polyethylene Bag, 24″x10″x36,″ Transparent White

8105–LL–S05–4107—Polyethylene Bag, 24″x48″x.008, Transparent Green

8105–LL–S05–4109—Polyethylene Bag, 14″x48″x.008, Transparent Green

8105–LL–S04–8618—Bag, Polyethylene, Landfill Controlled Waste, 36″W x 48″L, Opaque Green

8105–LL–S04–8619—Bag, Polyethylene, Landfill Controlled Waste, 24″W x 48″L, Opaque Green

8105–LL–S04–8620—Bag, Polyethylene, Landfill Controlled Waste, 14″W x 48″L, Opaque Green

8105–LL–S04–9831—Bag, Polyethylene, Landfill Controlled Waste, 24″W x 36″L, Opaque Green

8105–LL–S05–0760—Bag, Polyethylene, Landfill Controlled Waste, 16″W x 18″L, Opaque Green

Designated Source of Supply: Open Door Center, Valley City, ND

Contracting Activity: DLA MARITIME—PUGET SOUND, BREMERTON, WA

NSN(s)—Product Name(s):

MR 931—Refill, Roller Mop, Angled Head, 10.5″ Head

MR 1106—Bag, Storage, Vacuum Sealed, 2PG

Designated Source of Supply: Industries for the Blind and Visually Impaired, Inc., West Allis, WI

Contracting Activity: Military Resale-Defense Commissary Agency

Service(s)

Service Type: Water System Hydrant Maintenance

Mandatory for: U.S. Army, Joint Base Lewis-McChord, 2140 Liggett Avenue, Joint Base Lewis-McChord, WA

Designated Source of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–JB LEWIS–MC CHORD
Service Type: Document Management Service
Mandatory for: U.S. Army, Evans Army Community Hospital, 1650 Cochrane Circle, Fort Carson, CO
Designated Source of Supply: Goodwill Industrial Services Corporation, Colorado Springs, CO
Contracting Activity: DEPT OF THE ARMY, W6QM MICC–FT CARSON

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–12566 Filed 6–9–22; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to the Procurement List.

SUMMARY: The Committee is proposing to add product(s) and service(s) to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

DATES: *Comments must be received on or before:* July 10, 2022.

ADDRESSES: Committee for Purchase from People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: For further information or to submit comments contact: Michael R. Jurkowski, Telephone: (703) 785–6404, or email *CMTEFedReg@AbilityOne.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the product(s) and service(s) listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following product(s) and service(s) are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Product(s)

NSN(s)—Product Name(s):
MR 10840—Disney Marvel Toys, Includes Shipper 20840
MR 10836—Barbecue Grill Mat, Includes Shipper 20836
MR 10861—Soap Dispensing Sponge Holder, Includes Shipper 20861
MR 10860—Mosquito Repellent Spray, Includes Shipper 20860
MR 10852—Water Toy Tower, Includes Shipper 20852
Designated Source of Supply: Winston-Salem Industries for the Blind, Inc, Winston-Salem, NC
Contracting Activity: Military Resale-Defense Commissary Agency
Distribution: C-List
Mandatory for: The requirements of military commissaries and exchanges in accordance with the 41 CFR 51–6.4

NSN(s)—Product Name(s): 6930–01–692–1671—Set, Army Combat Fitness Equipment (ACFT)
Designated Source of Supply: Envision, Inc., Wichita, KS
Contracting Activity: DEFENSE LOGISTICS AGENCY, DLA TROOP SUPPORT
Distribution: C-List
Mandatory for: 100% of the requirements of the U.S. Army

Service(s)

Service Type: Postal Service
Mandatory for: U.S. Air Force, Travis Air Force Base, CA
Mandatory Source of Supply: Versability Resources, Inc., Hampton, VA
Contracting Activity: U.S. Air Force, FA 4427 60 CONS LGC

Michael R. Jurkowski,

Acting Director, Business Operations.

[FR Doc. 2022–12564 Filed 6–9–22; 8:45 am]

BILLING CODE 6353–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2022–0020]

Electronic Filing of Certain Certificate of Compliance Data: Announcement of PGA Message Set Test and Request for Participants

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: The U.S. Consumer Product Safety Commission (Commission or CPSC), in consultation with U.S. Customs and Border Protection (CBP), announce their joint intent to conduct a second test (a Beta Pilot) to assess the electronic filing of data from a certificate of compliance (certificate) for regulated consumer products under CPSC's jurisdiction. This electronic filing will be done via the Partner Government Agency (PGA) Message Set, to the CBP-authorized Electronic Data Interchange system known as the Automated Commercial Environment (ACE). In this notice, CPSC seeks Beta Pilot test participants. CPSC is also collecting comments on burden estimates for a proposed collection of information related to the Beta Pilot test, as required by the Paperwork Reduction Act of 1995.

DATES:

Beta Pilot Test Participation: Electronic requests to participate in the Beta Pilot test program and the Beta Pilot test IT project may be submitted on or before July 25, 2022. However, CPSC will consider applications to participate until reaching the Beta Pilot test capacity of no more than 50 participants.[1] Additionally, CPSC will consider applications to volunteer for a Beta Pilot test IT project until the capacity of nine participants is filled. The Beta Pilot test will run until terminated by announcement in the **Federal Register**. CPSC intends to run the Beta Pilot test for at least 6 months. CPSC asks that each Beta Pilot test participant electronically file CPSC PGA Message Set certificate data, as described here, for at least 6 months. Participants may have staggered start dates, to accommodate onboarding all participants.

Paperwork Reduction Act: Submit comments on the proposed collection of information by August 9, 2022 using the methods described below in the **ADDRESSES** section of this preamble.

ADDRESSES:

Beta Pilot Test Participation: Requests to participate in the Beta Pilot test and technical comments on CPSC's supplemental Customs and Trade Automated Interface Requirements (CATAIR) guideline (which will be made available on *CBP.gov*) should be submitted through electronic mail to: *efilingpilot@cpsc.gov*. Requests to participate in the Beta Pilot test should contain the subject heading: ''Beta Pilot: Application to participate in PGA Message Set Test.'' If you are also willing to volunteer to participate in the Beta Pilot test IT development project, described here, please indicate this in the application to participate in the Beta Pilot test. Technical comments on

[1] CPSC will select fewer participants than the 100 initially proposed by staff in the 2020 Commission-approved eFiling Plan, available at: *https://www.cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf.* Staff has determined, based on research on user-experience testing, that fewer participants of varying importer size are sufficient to test system capacity and to provide information to the Commission to implement a permanent eFiling requirement.

CPSC's supplemental CATAIR guideline should contain the subject heading: ''Beta Pilot CATAIR Technical Comments.''

Paperwork Reduction Act: You may submit comments, identified by Docket No. CPSC–2022–0020, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov*. Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (email), except through *https://www.regulations.gov*. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal, as described above.

Mail/Hand Delivery/Courier Written Submissions: Submit comments by mail/hand delivery/courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. Alternatively, as a temporary option during the COVID–19 pandemic, you can email such submissions to: *cpsc-os@cpsc.gov*.

Instructions: All submissions must include the agency name and docket number for this notice. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov*. Do not submit electronically: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2022–0020, into the ''Search'' box, and follow the prompts. A copy of the ''Supporting Statement'' for this burden estimate is available at: *https://www.regulations.gov* under Docket No. CPSC–2022–0020, Supporting and Related Material.

FOR FURTHER INFORMATION CONTACT: Questions regarding the Beta Pilot test, participation in the test, and the proposed collection of information should be directed to Arthur Laciak, eFiling Program Specialist, Office of Import Surveillance, U.S. Consumer Product Safety Commission, (301) 504–7516, *efilingpilot@cpsc.gov*. Questions sent by electronic mail should contain the subject heading: ''Beta Pilot: Question re PGA Message Set Test.'' For technical questions regarding ACE or Automated Broker Interface (ABI) transmissions, or the PGA message set data transmission, please contact your assigned CBP client representative. Interested parties without an assigned client representative should submit an email to Steven Zaccaro at: *steven.j.zaccaro@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

A. Beta Pilot Test Purpose and Goal [2]

Preventing products that are not in compliance with safety requirements from reaching American homes was a primary impetus for passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA) and remains a high priority of the CPSC. To improve the safety of imported consumer products, Congress mandated in the CPSIA that CPSC improve the targeting of violative imported products and enforcement of safety requirements, including by creating a Risk Assessment Methodology (RAM) and allowing CPSC to collect certificate data electronically up to 24 hours before arrival of an imported product. In furtherance of this mandate, in 2016, CPSC and CBP conducted a successful initial PGA Message Set test (the Alpha Pilot test) [3] to collect certain targeting/enforcement data from a certificate that CPSC collected and placed into CPSC's RAM system at the time of entry filing, or entry summary filing, if both entry and entry summary were filed together.

The Alpha Pilot test was a 6-month joint initiative between CPSC and CBP that assessed the infrastructure and processes necessary for electronic filing (eFiling) of data, and successfully demonstrated the ability of eight U.S. importers, their customs brokers, CBP, and CPSC to work together to gather and electronically file these data at import. The Alpha Pilot test was small, having eight volunteer importer participants and involving several consumer products classified within a limited set of Harmonized Tariff Schedule (HTS) codes. The purpose of the Alpha Pilot was to test the trade's ability to use a Product Registry and submit certificate data through ABI, CBP's ability to collect and transfer PGA Message Set data to CPSC, and CPSC's ability to receive the data into the RAM. Because of the limited number of participants and eligible HTS codes, it was not feasible for CPSC to create algorithms to detect noncompliant products, or to develop the necessary internal enforcement procedures and processes for a permanent program. However, the Alpha Pilot test successfully demonstrated CPSC's ability to collect and use certificate data at the ports for enforcement purposes.

To advance the Commission's consumer safety mission, on December 18, 2020, the Commission approved staff's recommended plan to implement a permanent eFiling program at CPSC. In anticipation of a rulemaking to implement a permanent eFiling requirement for regulated consumer products, CBP and CPSC will conduct a Beta Pilot test, using certificate data provided through a PGA Message Set. The purpose of the Beta Pilot test is to build upon the Alpha Pilot test, develop and test the IT infrastructure necessary to support a full-scale eFiling requirement, inform CPSC's potential rulemaking, and develop internal procedures to support enforcement. The Beta Pilot test also will advance the concept of a ''single window'' to facilitate electronic collection, processing, sharing, and reviewing of trade data and documents required by CPSC during the cargo import process, and will assist CPSC to target imports more accurately to facilitate the flow of legitimate trade and enhance targeting of noncompliant trade.

The Beta Pilot test also will assess CPSC and importer capabilities for electronically filing certificate data elements via the PGA Message Set and incorporating the data elements into CPSC's RAM to risk score and interdict noncompliant products. The Beta Pilot test will include more participants than the Alpha Pilot test (up to 50), add two additional data elements, and involve more varied consumer products under CPSC's jurisdiction, products classified under approximately 300 HTS codes.[4] Compared with the Alpha Pilot test, the Beta Pilot test will increase the number of test participants and entry lines,

[2] On June 1, 2022, the Commission voted 4–0 to issue this notice.

[3] *https://www.cpsc.gov/s3fs-public/eFiling_Alpha_Pilot_Evaluation_Report-May_24_2017.pdf?uK.UhjHabKD5yjQ.1w06tudrnvuuWIra,* published April 2017.

[4] The products classified under the approximately 300 HTS codes that participants should expect to be tested in the Beta Pilot, include, but are not limited to: ATVs; durable infant or toddler products, such as baby carriages, cribs, and safety gates; children's furniture, backpacks, and school supplies; bicycle helmets; bicycles and other electric-powered cycles; clothing (sleepwear, outerwear, infant articles, potentially flammable adult clothing articles); drywall; fireworks; children's jewelry; lighters; liquid nicotine; mattresses; pacifiers and rattles; rugs; and toys. CPSC intends to flag the approximately 300 HTS codes that may require filing certificate data during the Beta Pilot test.

allowing CPSC to develop, test, and implement processes and procedures for an eFiling requirement for all imported, regulated consumer products. CPSC plans to use the results from the Beta Pilot test to scale up IT systems to accept data for regulated consumer products; refine the required infrastructure for the real-time collection and use of data; develop internal and external procedures to supply, use, and maintain certificate data; and inform rulemaking that will require and make permanent eFiling certificate data.

Accordingly, CPSC anticipates that Beta Pilot test participants will help to develop, inform, and shape the permanent eFiling requirement for certificate data. CPSC seeks up to 50 importers of consumer products to participate in the Beta Pilot test, and a subset of up to nine Beta Pilot test participants to advise CPSC during the technology development (IT) phase of the project (Beta Pilot test IT volunteers), before the Beta Pilot test begins.

B. Background: CPSC's eFiling Initiative

CPSC's eFiling initiative began in or around 2013, when the Commission issued a notice of proposed rulemaking (NPR) to update certificate requirements in 16 CFR part 1110 and to implement electronic filing of certificates under section 14(g)(4) of the CPSA. 78 FR 28080 (May 14, 2013). The NPR proposed that importers of regulated consumer products be required to file certificates electronically with CBP at the time of entry filing, or at the time of entry summary filing, if both entry and entry summary are filed together. 78 FR at 28089, 28108. The Commission explained in the preamble to the 2013 NPR that the proposal would require data from a certificate to be filed electronically with CBP, and then transferred to CPSC's systems, to assist CPSC in enforcing the certificate requirement, and for use in targeting to identify potentially violative consumer products.

Since the 2013 NPR, CPSC staff engaged public and industry stakeholders regarding eFiling, including participating in work groups and meetings, developing and conducting an eFiling Alpha Pilot test, and completing a certificate study.[5] CPSC's eFiling initiatives, to date, suggest strong grounds for establishing a permanent eFiling program at CPSC. More than 12 years after the Commission first required certificates at import in 2009, staff continues to see a significant number of certificate violations with imported products. Data show that the lack of a timely certificate is a strong predictor of substantive violations in imported consumer products. Moreover, specific data on a certificate are associated with noncompliance.

After the Alpha Pilot test, in 2017 and 2018, CPSC staff also completed a Certificate of Compliance Study[6] to assess the correlation between the timing and availability of a certificate, as well as the specific data on a certificate, with finished product compliance. Staff found that a shipment was five times more likely to have a violation if a certificate was never provided to CPSC, and three times more likely to have a violation if a certificate was provided, but not within 24 hours of CPSC's request. The Certificate Study also identified which certificate data elements are most valuable for import targeting.

Building on the Alpha Pilot test and the Certificate Study, a Beta Pilot test will enable CPSC to develop RAM algorithms to triage the enormous amount of import data received from CBP to detect more effectively noncompliant consumer products arriving at ports of entry. The ability to use data and improved technology to detect noncompliant products is vital to focus CPSC's limited resources on effectively protecting consumers from noncompliant and hazardous consumer products. To that end, on September 23, 2020, CPSC staff submitted a briefing package titled, CPSC Plan to Create an eFiling Program for Imported Consumer Products (2020 eFiling Plan),[7] for Commission consideration. Staff explained that currently, import staff requests certificates once a shipment has already been stopped for physical examination; and thus, staff cannot use the lack of a certificate, or certificate data, for targeting stops. Based on 12 years of experience enforcing certificate requirements, testing, and study, CPSC staff concluded that an eFiling program is critical to the agency's ability to intercept noncompliant imported consumer products. Staff concluded that electronically collecting certificate data at the time of import can enhance identification of high-risk products, improve risk assessment, and facilitate legitimate trade.

Staff's 2020 eFiling Plan recommended a multiyear, four-phased approach: (1) create and fund an eFiling program, (2) conduct an eFiling Beta Pilot test, (3) initiate rulemaking, and (4) dedicate ongoing resources. As described in section I.A, the Alpha Pilot test successfully demonstrated CPSC's ability to collect data for targeting into the RAM at the time of entry but involved only eight participants and limited HTS codes. The small Alpha Pilot test did not assess a full-scale system capacity, develop and test algorithms to detect noncompliant consumer products, or develop internal enforcement procedures. Accordingly, staff's plan proposed a Beta Pilot test before the permanent rollout of an eFiling program. The Beta Pilot test would include approximately 300 HTS codes prioritized for import, all certificate fields with potential risk-targeting value, and the option for importers to use a Product Registry (as provided in the Alpha Pilot test). The Beta Pilot test would test eFiling on a larger scale, to allow CPSC staff to assess and develop IT infrastructure, refine importer data entry content and methods, develop and optimize RAM algorithms, and develop CPSC internal processes and procedures for use in enforcement programs.

On December 18, 2020, the Commission voted 4–0 to implement staff's recommended eFiling program as set forth in the 2020 eFiling Plan. Thus, the Commission approved the Beta Pilot test described in this notice, as well as staff's rulemaking efforts to make the eFiling program permanent.

[5] Since 2014, CPSC staff has engaged the public on CPSC's eFiling initiative many times, including: a public workshop on electronic filing of certificates, as included in proposed rule on Certificates of Compliance—September 18, 2014; webinars and meetings with CBP's Commercial Customs Operations Advisory Committee (COAC) Working Group—March 12, 2015, March 26, 2015, April 9, 2015, and May 13, 2015; Chairman Kaye Meeting with Members of the COAC 1USG Subcommittee-CPSC Working Group—April 28, 2015; webinar with the Border Interagency Executive Council (BIEC)—September 16, 2015; working meetings with the Trade Support Network (TSN)—September 16, 2015 and September 23, 2016; webinars to demonstrate the eFiling Product Registry—October 1, 2015 and February 25, 2016; kickoff meeting with eFiling Alpha Pilot participants—November 18, 2015; adult wearing apparel webinar on Enforcement Discretion Regarding GCCs for Adult Wearing Apparel Exempt from Testing with eFiling Alpha Pilot Participants—April 13, 2016; broker feedback meeting on eFiling with Bureau Veritas—August 4, 2016; public meeting for review and feedback on the eFiling Alpha Pilot with participants—January 26, 2017.

[6] *https://www.cpsc.gov/s3fs-public/eFiling-Certificate-Study-Evaluation-Report-FINAL.pdf?dP0Vwp55DJO.iSQIBsPqTg07umCLIcKr,* published August 2018.

[7] *https://cpsc.gov/s3fs-public/CPSC-Plan-to-Create-an-eFiling-Program-for-Imported-Consumer-Products.pdf?BYXOLX2gJmF4NaAN1LCMmqiXRISuaRkr=,* published December 2020.

C. The Automated Commercial Environment

CPSC will conduct the Beta Pilot test in coordination with CBP, using CBP's Automated Commercial Environment (ACE) system. ACE is CBP's automated electronic system through which it collects importation and entry data, streamlining business processes and ensuring cargo security and compliance with U.S. laws and regulations. CBP has developed ACE as the ''single window'' for the trade community to comply with the International Trade Data System (ITDS) requirement established by the SAFE Port Act of 2006. For trade filers to submit data to ACE, it requires the use of an electronic data interchange system (EDI). One such system is the Automated Broker Interface (ABI) is a software interface to ACE. Commercial trade participants, or their licensed customs brokers acting on their behalf, can file entries in ACE using ABI to electronically file required import data with CBP. ABI transfers trade-submitted data into ACE. A PGA Message Set allows the trade to enter agency-specific data in one location, through ABI, and for PGAs to receive this additional trade-related data along with entry data.

II. Beta Pilot Test: Certificate Data

Like the Alpha Pilot test, the Beta Pilot test will allow two different methods of filing certificate data using the PGA Message Set: (1) filing a minimum of seven data elements (Full PGA Message Set), or (2) filing only a reference to certificate data stored in a Product Registry maintained by CPSC (Reference PGA Message Set). Participants will submit certificate data for regulated finished products, either as the Full PGA Message Set or the Reference PGA Message Set, in ACE at the time of entry filing or entry summary filing if both entry and entry summary are filed together. CBP will then make available to CPSC the PGA Message Set data and its corresponding entry data, for CPSC's validation, risk assessment, and admissibility determinations at entry, thereby facilitating compliant trade as well as sharpening CPSC focus on noncompliant trade. CPSC will use the data to review consumer product entry requirements and allow for earlier risk-based admissibility decisions by CPSC staff. Additionally, because it is electronic, the PGA Message Set may eliminate the necessity for submission and subsequent handling of paper documents. Piloting electronic filing to transition away from paper-based filing is a priority initiative of the PGAs to meet the stated ''single window'' implementation timeline.

A. PGA Message Set

To file data electronically with CBP, participants will file information required for eligible consumer products in CBP's ACE system. The proposed PGA Message Set test will evaluate, at the minimum, the electronic filing of CPSC's seven certificate data elements listed below for regulated consumer products:

1. Identification of the finished product (may use reference to GTIN [8] data for this element);
2. Each consumer product safety rule to which the finished product has been certified;
3. Date when the finished product was manufactured;
4. Place where the finished product was manufactured, produced, or assembled, including the identity and address of the manufacturing party;
5. Date when the finished product was most recently tested for compliance with the consumer product safety rule cited above;
6. Parties on whose testing a certificate depends (meaning the name and contact information for the entity that conducted the testing); and
7. A check box indicating that a required certificate currently exists for the finished product, as required by Sections 14 and 17 of the CPSA.

These seven data elements from a certificate include all of the data elements tested in the Alpha Pilot, as well as two additional date fields, manufacture date and test date, which were not tested in the Alpha Pilot. Staff considers all seven data elements useful to improve the targeting of potentially violative products. Both individually and considered together, these data elements allow CPSC staff to create a unique set of rules in the RAM that can increase or decrease risk scores. Including, at the minimum, all seven data elements creates the most robust measures by which staff can interdict noncompliant products and also identify the lowest-risk importers and compliant products.[9]

[8] GTIN stands for Global Trade Item Number and is managed by Global Standards 1 (GS1).

[9] Two data elements required on a certificate that were not included in the Alpha Pilot test, the certifier and contact information, are also not included in the Beta Pilot test. These fields are duplicative because the certifier will always be the importer, and the name of the importer and the importer's (or broker's) contact information are already received from CBP on an entry form. Similarly, the Beta Pilot test will not include the place where a product is tested, because this information is already included in the name and contact information for a laboratory, information that is required in field 6.

CPSC is drafting a supplemental CATAIR guideline on filing certificate data through the PGA Message Set that describes the technical specifications for filing during the Beta Pilot test, as well as the Product Registry and Reference PGA Message Set (described in section II.B below). The supplemental CATAIR guideline will be made available before the initiation of the Beta Pilot test and will be posted on *http://www.cbp.gov/trade/ace/catair*. Technical comments on CPSC's supplemental CATAIR guideline should be submitted in accordance with the instructions in the **ADDRESSES** section at the beginning of this notice.

B. CPSC Product Registry and Reference PGA Message Set

The Product Registry concept arose out of discussions at CPSC staff's 2014 eFiling workshop and CPSC successfully tested this concept during the 2016 Alpha Pilot test. Other agencies have existing databases that can be referenced during the CBP entry process without having to re-enter repeatedly large amounts of data into ACE. Importers expressed concern about added costs and time to enter data for each regulated finished product with their entry, and the need for accurate data entry. Customs brokers also expressed concern about lack of access to the required data elements. For example, express carriers were concerned about meeting entry requirements during off-hour times when business personnel were unavailable for consultation. Stakeholders expressed concern that any requirement to re-enter large amounts of data, or lack of access to the required data, may slow the import process.

After considering stakeholder comments and concerns, CPSC included a Product Registry as one of two filing options in the Alpha Pilot test to inform the Commission whether this concept alleviates some of the concerns expressed at the 2014 eFiling workshop. CPSC received positive feedback during the Alpha Pilot test regarding the Product Registry reducing burden for participants. Instead of filing a Full PGA Message Set for certificate data in ACE with entry each time a product was imported, participants can pre-file information into a Product Registry, maintained by CPSC, before filing an entry with CBP and reference this certificate data each time the product was imported thereafter, reducing data entry time and potential errors. Similarly, Beta Pilot test participants will be able to use the Product Registry to enter certificate data and to manage

those data, and importers with established databases or processes can provide information for many products electronically in a batch upload into the Product Registry.

Once certificate data are filed in the Product Registry, filers will only need to provide a reference, or identifier, to the data using the PGA Message Set during the entry process, rather than entering all data multiple times for repeated importations of the same product. Participants who choose to use the Product Registry will need to provide their broker only with an identifier, and they will not need to provide all data elements for each product being imported. Based on the Alpha Pilot test experience, using the Product Registry should minimize data entry; reduce costs and filing time; and allow firms to manage, update, and re-use certificate data in the registry. The additional testing of the Product Registry should allow importers and CPSC to test the capacity of the Product Registry on a larger scale, including the ability to batch upload larger amounts of product data, a feature not tested in the Alpha Pilot test, as well as the entry and maintenance of two date fields. As in the Alpha Pilot test, use of the Product Registry in the Beta Pilot test will be voluntary.

III. Beta Pilot Test Participant Eligibility, Selection Criteria, and Responsibilities

This document announces CPSC's plan, in consultation with CBP, to conduct a Beta Pilot test for the electronic filing of certificate data with CBP for regulated consumer products within CPSC's jurisdiction that are imported into the United States. Beta Pilot test participants will work with CPSC and CBP to refine electronic filing of data through the PGA Message Set, by filing all data elements in the PGA Message Set, or by using the Product Registry, and filing a reference to certificate data through PGA Message Set. CBP and CPSC are seeking small, medium, and large U.S-based importers with an assortment of products under CPSC jurisdiction to participate in the Beta Pilot test.

To be eligible to apply as a test participant, the applicant must:

- Import regulated consumer products within the Commission's jurisdiction;
- File consumption entries and entry summaries in ACE, or have a broker who files in ACE;
- Use a software program that has completed ACE certification testing for the PGA Message Set;
- Be willing to participate in the Trade Support Network (TSN);
- Provide oral and written feedback on all aspects of the Beta Pilot test as requested by CPSC, including information on costs to build to the requirements and time necessary to file certificate data; and
- Work with CPSC and CBP to test electronic filing of data using ABI to file through the Message Set, or references to certificate data in the Product Registry.

Because the feedback on the Beta Pilot test will be used to inform a rulemaking related to eFiling certificate data, participant feedback will be publicly available.

CPSC, in consultation with CBP, will select approximately 30–50 participants based on the eligibility requirements, application date, the number and type of consumer products imported, how applicants would file certificate data (Full PGA Message Set or Reference PGA Message Set), and the goal of having a diverse cross section of the trade community participate. The number and selection of participants will be at the discretion of CPSC and CBP, to meet the information requirements of the Beta Pilot test. Additionally, CPSC and CBP seek a subset of Beta Pilot test participants, not to exceed nine, to advise CPSC and CBP earlier in the project, during the IT development portion of the Beta Pilot test.

CPSC anticipates that the benefits of participation in the Beta Pilot test may include, but will not necessarily be limited to:

- Opportunity to work directly with CBP and CPSC in the pre-implementation stage of the requirement to file certificate data;
- Ability to provide feedback and experience that will inform the ultimate e-Filing requirements; and
- Ability to trouble-shoot systems and procedures.

IV. Application Process

Any party seeking to participate in the test should email their company name, contact information, importer of record number(s), filer code, and an explanation of how they satisfy the requirements for participation to the address listed at the beginning of this notice on or before July 25, 2022. However, CPSC will consider applications to participate until reaching the Beta Pilot test capacity of 50 participants. Applicants interested in advising CPSC and CBP during the IT development portion of the Beta Pilot test should specify their interest in the email. Applicants may be contacted directly for additional information in connection with the selection process. Selected Beta Pilot test participants will be notified by email. Selected Beta Pilot test participants may have different starting dates. A firm providing incomplete information, or otherwise not meeting the participation requirements, will be notified by email and given the opportunity to resubmit the application. Applicants who are not selected also will be notified by email.

V. Test Duration

Upon selection into the Beta Pilot test, test participants will be expected to begin work promptly, when requested, to assist CBP and CPSC to define and refine requirements. The eFiling portion of the Beta Pilot test is expected to begin in October 2023, but participants will begin planning for participation, including data requirement discussions with CPSC and IT development, much earlier, in fall 2022. When the test begins, Beta Pilot test participants will spend the first several weeks of the Pilot onboarding. Once onboarding is complete for all test participants, the Beta Pilot test is expected to run for at least 6 months, and will run until terminated by announcement in the **Federal Register**.[10] Participants advising CPSC and CBP during the IT development will have the opportunity to onboard and test filing via the Full PGA Message Set and the Product Registry and Reference PGA Message Set before October 2023.

VI. Legal Authority

A. ITDS Goals and CBP's Authority To Conduct National Customs Automation Program Tests

The ITDS is an electronic data interchange system whose goals include eliminating redundant information requirements, efficiently regulating the flow of commerce, and effectively enforcing laws and regulations relating to international trade by establishing a single portal system, operated by CBP, for the collection and distribution of standard electronic import and export data required by participating federal agencies. All federal agencies that require documentation for clearance or licensing the importation of cargo are required to participate in the ITDS. The Customs Modernization provisions in the North American Free Trade Agreement Implementation Act provide

[10] The duration of the Beta Pilot test could be shorter than the 1 year approved in the 2020 eFiling Plan. Staff determined that a duration of 6 months may be sufficient to complete anticipated test metrics. Accordingly, the Beta Pilot test will run for at least 6 months until the test is completed via a **Federal Register** notice of termination.

the Commissioner of CBP with authority to conduct limited test programs or procedures designed to evaluate planned components of the National Customs Automation Program (NCAP), which includes ACE. The Beta Pilot PGA Message Set test described in this notice is in furtherance of the ITDS and NCAP goals.

B. CPSC and CBP Authority To Regulate the Importation of Consumer Products

Certificates are required to accompany shipments of regulated consumer products. Section 14(a) of the Consumer Product Safety Act (CPSA), as amended by section 102(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), Public Law 110–314, requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate of compliance (certificate) certifying such products as compliant with applicable laws and regulations before importation.[11] 15 U.S.C. 2063(a). Although section 14(g)(4) of the CPSA authorizes the Commission, in consultation with CBP, to require, by rule, electronic filing of certificates up to 24 hours before arrival of an imported consumer product, the Commission has not yet implemented this authority. To implement section 14(g)(4) of the CPSA, CPSC will conduct the Beta Pilot test and begin rulemaking to make permanent electronic filing of certificates at the time of entry filing, or at the time of entry summary filing, if both entry and entry summary are filed together.

In addition to its section 14 authority, the Commission has admissibility authority for imported consumer products and substances that are within the CPSC's jurisdiction under section 17 of the CPSA (15 U.S.C. 2066) and section 14 of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1273). Unless the Commission allows a product to be reconditioned for importation, section 17(a) of the CPSA requires refusal of admission and destruction of any product offered for import that, among other things, is not accompanied by a certificate required under section 14 of the CPSA, or is a product which is in violation of the inspection and recordkeeping requirements of section 16.

CPSC's authority to regulate the importation of consumer products is further derived from section 17(h)(1), which requires the Commission to ''establish and maintain a permanent product surveillance program, in cooperation with other appropriate Federal agencies, for the purpose of carrying out the Commission's responsibilities under this Act and the other Acts administered by the Commission and preventing the entry of unsafe consumer products into the commerce of the United States.'' 15 U.S.C. 2066(h)(1). Also, under section 222 of the CPSIA, the CPSC is required to develop a risk assessment methodology (RAM) for the identification of shipments of consumer products that are intended for import into the United States and are likely to violate consumer product safety statutes and regulations. An eFiling requirement to enhance targeting of noncompliant consumer products is consistent with the federal government's movement to the ''single window.''

Building on these authorities, CPSC works with CBP to review and inspect cargo and to clear compliant consumer products for importation into the United States. CPSC also works with CBP to enforce CPSC regulations and to destroy products that violate the law and cannot be reconditioned for importation. 15 U.S.C. 2066. CBP has the authority to seize and destroy products offered for importation under the Tariff Act, codified at 19 U.S.C. 1595a(c)(2)(A), where the importation or entry of such products is subject to any restriction or prohibition which is imposed by law relating to health, safety, or conservation and such products are not in compliance with the applicable rule, regulation, or statute. An admissibility determination may be deferred to allow an importer to recondition products for entry. 15 U.S.C. 2066(c). CPSC and CBP have authority to supervise the reconditioning of products for entry that are still under CBP's bond. 15 U.S.C. 2066(d). If these products cannot be reconditioned, they must be refused admission and destroyed, unless the Secretary of the Treasury permits export in lieu of destruction. 15 U.S.C. 2066(d) & (e).

Finally, the Commission has authority to implement requirements in the CPSIA and any amendments to the CPSA made by the CPSIA, including certificate requirements and implementing a RAM system, pursuant to section 3 of the CPSIA, which provides: ''[t]he Commission may issue regulations, as necessary, to implement this Act and the amendments made by this Act.'' Taken together, these authorities give CPSC a broad ability to monitor all consumer products within its jurisdiction at the ports, and to issue implementing regulations in furtherance of the agency's mission to protect consumers from unreasonably dangerous consumer products. Insights gained through this Best Pilot test will inform the infrastructure, processes, procedures, and rulemaking to implement a permanent eFiling program at CPSC.

VII. Paperwork Reduction Act

The Beta Pilot test contains information collection requirements that are subject to public comment and review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521). In this document, pursuant to 44 U.S.C. 3507(a)(1)(D), we set forth:

- a title for the collection of information;
- a summary of the collection of information;
- a brief description of the need for the information and the proposed use of the information;
- a description of the likely respondents and proposed frequency of response to the collection of information;
- an estimate of the burden that shall result from the collection of information; and
- notice that comments may be submitted to the OMB.

Title: Beta Pilot Test for eFiling Certificates of Compliance.

Description: During the Beta Pilot test of CBP's PGA Message Set abilities through ACE, up to 50 participating importers of regulated consumer products will electronically file the requested certificate data, comprised of 7 data elements, at the time of entry filing, or entry summary filing, if both entry and entry summary are filed together. Participants will have two ways to file certificate data during the Beta Pilot test: (1) filing certificate data in a CPSC-maintained Product Registry, and filing a reference number in ACE to this data set, through ABI, each time the product is imported thereafter (Reference PGA Message Set), or (2) filing all certificate data elements directly through ABI each time the product is imported (Full PGA Message Set). CPSC will receive the information from CBP through a real-time transfer of import data, and risk score the information in CPSC's Risk Assessment Methodology (RAM) system, to assist in

[11] On November 18, 2008, pursuant to section 14(a) of the CPSA, the Commission promulgated a final rule on ''certificates of compliance'' (73 FR 68328), which is codified at 16 CFR part 1110 (part 1110). The rule restates the statutory certificate requirements, limits the parties who must issue a certificate to the importer, for products manufactured outside the United States, and, in the case of domestically manufactured products, to the manufacturer, and allows certificates to be in hard copy or electronic form.

the interdiction of noncompliant consumer products.

As set forth in section VI.B of this preamble, the requirement to create and maintain certificates, including the data elements, is set forth in section 14 of the Consumer Product Safety Act (CPSA). Section 14(a) of the CPSA requires manufacturers (including importers) and private labelers of certain regulated consumer products manufactured outside the United States to test and issue a certificate certifying such products as compliant with applicable laws and regulations before importation. 15 U.S.C. 2063(a). Section 14(g)(1) of the CPSA describes the data required on a certificate. Section 14(g)(3) requires a certificate to accompany the applicable product or shipment of products covered by the certificate, and that certifiers furnish the certificate to each distributor or retailer of the product. Upon request, certificates must also be furnished to CPSC and CBP. Section 14(g)(4) provides that ''[i]n consultation with the Commissioner of Customs, the Commission may, by rule, provide for the electronic filing of certificates under this section up to 24 hours before arrival of an imported product.'' The Beta Pilot test described in this collection of information is in preparation for a rulemaking to implement section 14(g)(4) of the CPSA. 15 U.S.C. 2063(g)(4).

Because certificates are required by statute, this analysis focuses on the burden for CPSC to accept, and importers to provide, certificate data elements electronically at the time of entry filing, and not to collect and maintain certificate data more generally. Importer requirements in the Beta Pilot test for providing certificate data electronically at the time of entry filing fall within the definition of ''collection of information,'' as defined in 44 U.S.C. 3502(3).

Description of Respondents: Up to 50 importer participants who import regulated consumer products within CPSC's jurisdiction under the approximately 300 HTS codes included in the Beta Pilot test.

Estimated Burden: We estimate the burden of this collection of information as follows:

CPSC used information provided by Alpha Pilot test participants to inform the estimated burden for the Beta Pilot test. The burden from participating in the eFiling Beta Pilot test can be broken down into the burden of preparing for participation in the Pilot, the burden of maintaining the data elements separately, and, as compared to the Alpha Pilot test, the additional burden of including the dates of manufacturing and lab testing. Based on feedback from the Alpha Pilot test participants, we also assume that if we have 50 Beta Pilot test participants, many more participants (90%), approximately 45 respondents, will opt to exclusively use the Product Registry and Reference PGA Message Set, while 5 participants will opt to exclusively use the Full PGA Message Set.

For the 45 participants opting to exclusively use the Product Registry, we estimate that there will be approximately 8,764 burden hours to complete the information collection burden associated with Beta Pilot test participation, and maintain the data elements, including the dates of manufacturing and lab testing. Based on feedback from Alpha Pilot test participants, participant staff costs for this burden will be about $383,000 or approximately $44 per hour ($382,990/8,764).

TABLE 1—BETA PILOT TEST BURDEN ESTIMATES PRODUCT REGISTRY AND REFERENCE PGA MESSAGE SET

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost
Product registry only	(A)	(B)	C (= A × B)	(D)	E (= C × D)	(F)	G (= C × F)
Pilot Participation	45	1	45	91	4,095	$4,929	$221,805
Gathering and Submitting Data Elements	45	1	45	27	1,195	946	42,579
Survey	45	1	45	2.2	99	34.68	1,561
Filing Entry-Line	45	25,000	1,125,000	0.003	3,375	0.10	117,045
Total			1,125,135		8,764		382,990

Assumptions:
Appx. 10% of the 50 respondents will elect to use only the Full PGA message set.
Estimated response costs based on costs information from Alpha Pilot test participants.
Wage data for survey and filing entry-line data comes from U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' September 2021, Table 4, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*).

For the 5 participants opting to use the Full PGA Message Set, we estimate 452 hours to complete the pilot and maintain the data elements, including the dates of manufacture and lab testing per product. The estimated associated participant staff costs will be about $21,800, or approximately $48 per hour ($21,774/452 hours).

TABLE 2—BETA PILOT TEST BURDEN ESTIMATES

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost
Full PGA Message Set	(A)	(B)	C (= A × B)	(D)	E (= C × D)	(F)	G (= C × F)
Pilot Participation	5	1	5	30	150	$2,245	$11,225
Gathering and Submitting Data Elements	5	1	5	13	66	515	2,573
Survey	5	1	5	2.2	11	34.68	173
Filing Entry-Line	5	1,500	7,500	0.030	225	1.04	7,803
Total			7,515		452		21,774

Assumptions:
Appx. 10% of the 50 respondents will elect to use the Full PGA message set.
Estimated response cost for based on cost information from the Alpha Pilot test participants.

Wage data for survey and filing entry-line data comes from U.S. Bureau of Labor Statistics, ''Employer Costs for Employee Compensation,'' September 2021, Table 4, total compensation for all sales and office workers in goods-producing private industries: *http://www.bls.gov/ncs/*).

The estimated total burden for participation in the Beta Pilot test is 9,217 hours, with an estimated cost of $404,800, or $44 per hour ($404,764/9,217).

TABLE 3—TOTAL ESTIMATED BURDEN OR BETA PILOT TEST

Type of respondent	Number of respondents	Number of responses per respondent	Number of responses	Average burden per response (in hours)	Total annual burden (in hours)	Average cost per response	Total annual respondent cost
Total Burden	(A)	(B)	C (= A × B)	(D)	E (= C × D)	(F)	G (= C × F)
Pilot Participation	50	1	50	85	4,245	$4,661	$233,030
Gathering and Submitting Data Elements	50	1	50	25	1,262	903	45,152
Survey	50	1	50	2	110	35	1,734
Filing Entry-Line	50	22,650	1,132,500	0.003	3,600	0.11	124,848
Total			1,132,650		9,217		404,764

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), we have submitted the information collection requirements to the OMB for review. Pursuant to 44 U.S.C. 3506(c)(2)(A), we request comment on this burden estimate and the analysis, including:

- whether the collection of information is necessary for the proper performance of the CPSC's functions, including whether the information will have practical utility;
- the accuracy of the CPSC's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- ways to enhance the quality, utility, and clarity of the information to be collected; and
- ways to reduce the burden of the collection of information on respondents, including the use of automated collection techniques, when appropriate, and other forms of information technology.

VIII. Confidentiality

All data submitted and entered into ACE is subject to the Trade Secrets Act (18 U.S.C. 1905) and is considered confidential, except to the extent as otherwise provided by law. As stated in previous notices, participation in this or any of the previous ACE tests is not confidential and upon a written Freedom of Information Act (FOIA) request, a name(s) of an approved participant(s) will be disclosed by CPSC or CBP in accordance with 5 U.S.C. 552.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–12477 Filed 6–9–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2022–HQ–0013]

Proposed Collection; Comment Request

AGENCY: U.S. Army Corps of Engineers, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the U.S. Army Corps of Engineers 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 9, 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 U.S. Army Corps of Engineers Institute for Water Resources 7701 Telegraph Road, Alexandria, Virginia 22315, ATTN: Mr. Kevin Knight, or call 703–428–7250.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: U.S. Army Corps of Engineers Navigation Improvement Surveys; OMB Control Number 0710–NAVS.

Needs and Uses: The U.S. Army Corps of Engineers (USACE) operates, maintains, and improves much of the nation's navigation infrastructure. This includes inland navigation infrastructure (locks, dams and channels) and coastal infrastructure (major ports and ship channels). USACE conducts periodic navigation improvement studies to ensure continuity of operations now and into the future. To fully evaluate these studies, USACE needs data on the use of the Nation's waterways, the extent of navigation inefficiencies, and anticipated changes in vessel operations and sizes. This information is used in planning studies to formulate and

evaluate the projected benefits and impacts of alternatives. Navigation improvement studies conducted by USACE typically use empirical data provided by the USACE Waterborne Commerce Statistics Center; however, the impacts on waterway traffic of alternative capital and operations and maintenance investment strategies collected by these surveys complements the empirical data.

Affected Public: Businesses or other for-profit.

Annual Burden Hours: 666.67.

Number of Respondents: 1,000.

Responses per Respondent: 1.

Annual Responses: 1,000.

Average Burden per Response: 40 minutes.

Frequency: As required.

The surveys will be administered to shippers, carriers, liner service providers, and commercial fishers who rely on the navigation infrastructure. They will be conducted in-person, by phone, or by mail. The surveys will not be administered electronically. USACE staff or contractors working on navigation feasibility studies will administer the survey by contacting shippers, carriers, liner service providers, and commercial fishers directly by traveling to the study area and meeting workers on site. Phone and mail surveys will also be used sparingly as needed. Respondents of mailed surveys will complete the survey on paper and mail their responses back to USACE or the contractor acting on behalf of USACE.

Dated: June 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–12492 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of committee meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, the Department of Defense announces that the following Federal advisory committee meeting will take place.

DATES: The meeting will be held on Friday, July 1, 2022, Time 9:00 a.m.–12:00 p.m. Members of the public wishing to attend the meeting will be required to show a DoD government photo ID or submit to and pass a background check prior to entering West Point in order to gain access to the meeting location.

ADDRESSES: The meeting will be held in the Haig Room, Jefferson Hall, 758 Cullum Road, West Point, New York 10996.

FOR FURTHER INFORMATION CONTACT: Mrs. Deadra K. Ghostlaw, the Designated Federal Officer for the committee, in writing at: Secretary of the General Staff, ATTN: Deadra K. Ghostlaw, 646 Swift Road, West Point, NY 10996; by email at: *deadra.ghostlaw@westpoint.edu* or *BoV@westpoint.edu;* or by telephone at (845) 938–4200.

SUPPLEMENTARY INFORMATION: The committee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150. The USMA BoV provides independent advice and recommendations to the President of the United States on matters related to morale, discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and any other matters relating to the Academy that the Board decides to consider.

Purpose of the Meeting: This is the 2022 Summer Meeting of the USMA BoV. Members of the Board will be provided updates on Academy issues. Agenda: Introduction; Board Business; Superintendent Topics: Line of Effort (LOE) 1: Developing Leaders of Character—Military Program Update, Physical Program Update, Academic Program Update, Athletic Program Update; LOE 2: Culture of Character Growth—Character Growth Seminar (CGS)-100 Assessment, Comprehensive Prevention Update; LOE 3: Diverse and Effective Winning Teams—Admissions Update; US Military Academy Preparatory School (USMAPS) Update; and LOE 4: Modernize, Sustain and Secure—Facility Investment Plan Update

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165 and subject to the availability of space, this meeting is open to the public. Seating is on a first to arrive basis. Attendees are requested to submit their name, affiliation, and daytime phone number seven business days prior to the meeting to Mrs. Ghostlaw, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting, and members of the public attending the committee meeting will not be permitted to present questions from the floor or speak to any issue under consideration by the committee. Because the committee meeting will be held in a Federal Government facility on a military post, security screening is required. A DoD government photo ID is required to enter post. Without a DoD ID, members of the public must first go to the Visitor Control Center in the Visitor Center and undergo a background check before being allowed access to the installation. Members of the public then need to park in Buffalo Soldier Field parking lot and ride the north-bound Central Post Area (CPA) shuttle bus to Thayer Road, get off at the Thayer Road Extension and walk up the road to the Guard Station; a member of the USMA staff will meet members of the public wishing to attend the meeting at 8:30 a.m. and escort them to the meeting location. Please note that all vehicles and persons entering the installation are subject to search and/or an identification check. Any person or vehicle refusing to be searched will be denied access to the installation. Members of the public should allow at least an hour for security checks and the shuttle ride. The United States Military Academy, Jefferson Hall, is fully handicap accessible. Wheelchair access is available at the south entrance of the building. For additional information about public access procedures, contact Mrs. Ghostlaw, the committee's Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments or Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the committee, in response to the stated agenda of the open meeting or in regard to the committee's mission in general. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements should be submitted to Mrs. Ghostlaw, the committee Designated

Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Official at least seven business days prior to the meeting to be considered by the committee. The Designated Federal Official will review all timely submitted written comments or statements with the committee Chairperson and ensure the comments are provided to all members of the committee before the meeting. Written comments or statements received after this date may not be provided to the committee until its next meeting.

Pursuant to 41 CFR 102–3.140d, the committee is not obligated to allow a member of the public to speak or otherwise address the committee during the meeting. However, the committee Designated Federal Official and Chairperson may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer, in consultation with the committee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

James W. Satterwhite Jr.,

Army Federal Register Liaison Officer.

[FR Doc. 2022–12502 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0069]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense for Acquisition and Sustainment (OUSD(A&S)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Logistics Agency (DLA) 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 9, 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 Logistics Agency Energy, 8725 John J. Kingman Road, Fort Belvoir, Virginia 22060–6222, ATTN: Mr. Jeffrey Pokomo, or call 703–832–5480.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: DLA Energy Request for Customer QR Code; DLA Energy Form 2063; OMB Control Number 0704–DLQR.

Needs and Uses: DoD Manual 4140.25 authorizes customers to use several purchase media methods to buy fuel from DLA Energy. DLA Energy P–29 provides DLA Energy customers the use of one of these methods called a customer QR code. DLA Energy customers fill out DLA Energy Form 2063 and provide point of contact, delivery address, equipment billing and equipment attribute information needed to verify and create a Customer QR code.

Affected Public: Business or other for-profit.

Annual Burden Hours: 730.

Number of Respondents: 730.

Responses per Respondent: 1.

Annual Responses: 1.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: June 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–12489 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–HA–0070]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs (OASD(HA)), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Health Agency 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 9, 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 Health Agency, 7700 Arlington Blvd., Falls Church, VA 22042, Terry McDavid, 703–681–3645.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Consent for the Disclosure of Confidential Substance Use Information; DD Form 3130; OMB Control Number 0720–CSUF.

Needs and Uses: This collection is necessary for reporting issues at the local level when obtaining substance treatment information for overseas DoD clearances. Respondents are Active Duty Service members, retirees, and contractors receiving substance abuse services in DoD facilities. They may be responding to the information collection for continuity of care or to inform the security clearance process.

Affected Public: Individuals or households.

Annual Burden Hours: 8,671.5.

Number of Respondents: 173,430.

Responses per Respondent: 1.

Annual Responses: 173,430.

Average Burden per Response: 3 minutes.

Frequency: On occasion.

Dated: June 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–12490 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0068]

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 9, 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: Boren Scholarship and Fellowship Survey; OMB Control Number 0704–BSFS.

Needs and Uses: The Defense Language and National Security Education Office (DLNSEO) of the DoD is requesting Office of Management and Budget clearance for the Boren Scholarship and Fellowship Survey. DLNSEO has contracted with the RAND Corporation to conduct an evaluation of the Boren Scholarship and Fellowship Awards Program.

The Boren Awards program, established in 1991, was authorized under the David L. Boren National Security Education Act, as amended, Public Law 102–183. The Boren Awards provide funding for long-term, overseas, immersive study to U.S. undergraduate and graduate students who are committed to public service. Boren awardees study languages and cultures that are critical to U.S. national security as part of their degree programs; in exchange, they agree to use the skills within DoD or other federal agencies by seeking and securing federal employment for at least one year after completing their degrees.

The Boren Awards program was last evaluated in 2014 using a survey and interviews to determine how the program had affected the careers of those who had received Boren awards. Since the 2014 survey, more than 2,000 new Boren awardees have completed the federal employment service commitment, yielding an alumni base of more than 4,000. The OUSD(P&R) contracted with the RAND National Defense Research Institute to conduct a new program evaluation, which would include a web-based survey of alumni, discussions with key stakeholders, and comparison of past data with new data to be collected during this project. The findings will support the OUSD(P&R) in evaluating the outcomes of the program, enabling comparisons between past and more-recent outcomes, and ultimately enhancing the Boren Awards' effectiveness in building and sustaining a federal workforce of diverse, language and culture-enabled individuals.

Affected Public: Individuals or households.

Annual Burden Hours: 649.5 hours.

Number of Respondents: 1,299.

Responses per Respondent: 1.

Annual Responses: 1,299.

Average Burden per Response: 30 minutes.

Frequency: Once.

Dated: June 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–12491 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2022–HQ–0017]

Proposed Collection; Comment Request

AGENCY: Department of the Navy (DoN), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Naval Health Research Center 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 9, 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 Naval Health Research Center, 140 Sylvester Rd., San Diego, CA 92106, ATTN: Dr. Cynthia Thomsen, or call 619–553–6897.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: COVID–19 Behavioral Health Surveillance Survey; OMB Control Number 0703–BHSS.

Needs and Uses: Information about the impacts of the COVID–19 pandemic on service member health and readiness is urgently needed to inform the military's response to the pandemic and to ensure service member health and readiness. The proposed anonymous, web-based COVID–19 Behavioral Health Surveillance survey will provide unit-level and service-wide information about the effects of the pandemic on Sailors and Marines. Unit commanders will be provided with critical information about specific COVID–19 related challenges service members face so that they can employ strategies to mitigate the harms associated with the pandemic. The survey asks about a range of issues related to the COVID–19 pandemic, including its effects on service members' ability to effectively perform their duties, home life and relationships, preventative health behaviors, and mental/behavioral health and readiness.

Affected Public: Individuals or households.

Annual Burden Hours: 25,000.

Number of Respondents: 25,000.

Responses per Respondent: 2.

Annual Responses: 50,000.

Average Burden per Response: 30 minutes.

Frequency: Semi-annually.

The surveillance effort will involve an initial assessment, which may be followed by a 6-month follow-up assessment (which will be the same assessment). Importantly, because surveys will be anonymous, these surveys will not be able to be linked at the individual level, and individuals will not be re-contacted to complete a follow up survey. However, it will be possible to use data resulting from repeated surveillance to determine changes over time in unit-level health and readiness. The surveillance team may elect to add additional time points with approval and based on availability of funding as well as the potentially fluctuating challenges associated with the pandemic.

Dated: June 2, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–12493 Filed 6–9–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Authorization of Subgrants for the Congressionally Funded Community Projects for Fiscal Year 2022

AGENCY: Office of Elementary and Secondary Education, Office of Postsecondary Education, and Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: Pursuant to the Education Department General Administrative Regulations, the Department of Education (Department) authorizes grantees receiving awards under the Congressionally Funded Community Projects (Assistance Listing Numbers 84.116Z, 84.215K, 84.427A) to make subgrants, subject to the limitations described in this notice.

DATES: This authorization is effective June 10, 2022.

FOR FURTHER INFORMATION CONTACT:

For K–12 and Rehabilitative Services: Erin Shackel, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–6423. Email: *k12earmarks@ed.gov.*

For Higher Education: Tonya Hardin, U.S. Department of Education, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 453–7694. Email: *CongressionallyDirectedGrants-OPE@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:

Purpose of Program: Title III of Division H of the Consolidated Appropriations Act, 2022 (the Act) authorizes funding for Congressionally Funded Community Projects (CFCP). The funds will support identified organizations throughout the country to conduct community project activities. The list of identified organizations may be found in Book 4 of the March 9, 2022, issue of the Congressional Record of the House of Representatives.

Subgrant Authorization: The Department's regulations in 34 CFR 75.708(a) prohibit subgranting, in the absence of statutory authority, unless authorized by a notice in the **Federal Register**. The Department believes that, to effectively conduct some of the Congressionally Funded Community Projects subgrants may be an appropriate and necessary approach to meet the purposes of the program. Accordingly, through this notice, we authorize the identified organizations to

make CFCP subgrants on the terms outlined herein.

Under 34 CFR 75.708(b), if the grantee uses this subgranting authority, the grantee has the authority to award subgrants only to eligible entities, and the subgrants must be used only to directly carry out project activities described in the grantee's approved application and consistent with the purpose described in the Consolidated Appropriations Act, 2022. CFCP grantees may make subgrants to the following eligible entities: a local educational agency (LEA), an educational service agency, an institution of higher education, or a nonprofit organization, as defined in 34 CFR 77.1.

Further, under 34 CFR 75.708(d), grantees must ensure that: (1) subgrants are awarded on the basis of the approved budget that is consistent with the grantee's approved application and all applicable Federal statutory, regulatory, and other requirements; (2) every subgrant includes all conditions required by Federal statutes and Executive orders and their implementing regulations; and (3) subgrantees are aware of the requirements imposed upon them by Federal statutes and regulations, including the Federal anti-discrimination laws listed in 34 CFR 75.500, and enforced by the Department. Additionally, as is true with any expenditures incurred under the Department's grant programs, CFCP expenditures must satisfy the Federal cost principles in 2 CFR part 200, subpart E. Therefore, any subgrant and subgrantee expenditures must comply with the Federal cost principles and grantees, as pass-through entities, must comply with the procedures for making subawards described in 2 CFR 200.332.

Note: This notice does not solicit applications.

Program Authority: Title III of Division H of the Consolidated Appropriations Act, 2022 (Pub. L. 117–103).

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document 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 Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free on Adobe's website. 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 Ryder,

Deputy Assistant Secretary for Policy and Programs, Office of Elementary and Secondary Education.

Michelle Asha Cooper,

Acting Assistant Secretary for the Office of Postsecondary Education.

Katherine Neas,

Deputy Assistant Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2022–12529 Filed 6–9–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Applications for New Awards; State Personnel Development Grants

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) is issuing a notice inviting applications (NIA) for fiscal year (FY) 2022 for the State Personnel Development Grants (SPDG) program, Assistance Listing Number 84.323A. This notice relates to the approved information collection under OMB control number 1820–0028.

DATES:

Applications available: June 10, 2022.

Deadline for transmittal of applications: July 25, 2022.

Pre-application webinar information: No later than June 15, 2022, the Office of Special Education and Rehabilitative Services will post pre-recorded informational webinars designed to provide technical assistance to interested applicants. The webinars may be found at *www2.ed.gov/fund/grant/apply/osep/new-osep-grants.html.*

Deadline for intergovernmental review: September 23, 2022.

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 phaseout 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: Jennifer Coffey, U.S. Department of Education, 400 Maryland Avenue SW, Room 5161, Potomac Center Plaza, Washington, DC 20202–5076. Telephone: (202) 245–6673. Email: *jennifer.coffey@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 purpose of this program is to assist State educational agencies (SEAs) in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services in order to improve results for children with disabilities.

Priorities: This notice contains two absolute priorities and one competitive preference priority. In accordance with 34 CFR 75.105(b)(1), Absolute Priority 1 is from the notice of final priorities and definitions (NFP) published in the **Federal Register** on August 2, 2012 (77 FR 45944) (2012 NFP). In accordance with 34 CFR 75.105(b)(2)(iv), Absolute Priority 2 is from sections 651 through 655 of the Individuals with Disabilities Education Act (IDEA), as amended by the Every Student Succeeds Act (ESSA). The competitive preference priority is from the NFP for this program published elsewhere in this issue of the **Federal Register** (2022 NFP).

Absolute Priorities: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider

only applications that meet both Absolute Priorities 1 and 2.

These priorities are:

Absolute Priority 1: Effective and Efficient Delivery of Professional Development.

The Department establishes a priority to assist SEAs in reforming and improving their systems for personnel (as that term is defined in section 651(b) of IDEA) preparation and professional development of individuals providing early intervention, educational, and transition services in order to improve results for children with disabilities.

In order to meet this priority, an applicant must demonstrate in the SPDG State Plan it submits, as part of its application under section 653(a)(2) of IDEA, that its proposed project will—

(1) Use evidence-based (as defined in this notice) professional development practices that will increase implementation of evidence-based practices and result in improved outcomes for children with disabilities;

(2) Provide ongoing assistance to personnel receiving SPDG-supported professional development that supports the implementation of evidence-based practices with fidelity (as defined in this notice); and

(3) Use technology to more efficiently and effectively provide ongoing professional development to personnel, including to personnel in rural areas and to other populations, such as personnel in urban or high-need local educational agencies (LEAs) (as defined in this notice).

Absolute Priority 2: State Personnel Development Grants.

Statutory Requirements. To meet this priority, an applicant must meet the following statutory requirements:

1. State Personnel Development Plan.

An applicant must submit a State Personnel Development Plan that identifies and addresses the State and local needs for the personnel preparation and professional development of personnel, as well as individuals who provide direct supplementary aids and services to children with disabilities, and that—

(a) Is designed to enable the State to meet the requirements of section 612(a)(14) of IDEA, as amended by the ESSA and section 635(a)(8) and (9) of IDEA;

(b) Is based on an assessment of State and local needs that identifies critical aspects and areas in need of improvement related to the preparation, ongoing training, and professional development of personnel who serve infants, toddlers, preschoolers, and children with disabilities within the State, including—

(1) Current and anticipated personnel vacancies and shortages; and

(2) The number of preservice and inservice programs;

(c) Is integrated and aligned, to the maximum extent possible, with State plans and activities under the Elementary and Secondary Education Act of 1965, as amended (ESEA); the Rehabilitation Act of 1973, as amended; and the Higher Education Act of 1965, as amended (HEA);

(d) Describes a partnership agreement that is in effect for the period of the grant, which agreement must specify—

(1) The nature and extent of the partnership described in accordance with section 652(b) of IDEA and the respective roles of each member of the partnership, including, if applicable, an individual, entity, or agency other than the SEA that has the responsibility under State law for teacher preparation and certification; and

(2) How the SEA will work with other persons and organizations involved in, and concerned with, the education of children with disabilities, including the respective roles of each of the persons and organizations;

(e) Describes how the strategies and activities the SEA uses to address identified professional development and personnel needs will be coordinated with activities supported with other public resources (including funds provided under Part B and Part C of IDEA and retained for use at the State level for personnel and professional development purposes) and private resources;

(f) Describes how the SEA will align its personnel development plan with the plan and application submitted under sections 1111 and 2101(d), respectively, of the ESEA;

(g) Describes strategies the SEA will use to address the identified professional development and personnel needs and how such strategies will be implemented, including—

(1) A description of the programs and activities that will provide personnel with the knowledge and skills to meet the needs of, and improve the performance and achievement of, infants, toddlers, preschoolers, and children with disabilities; and

(2) How such strategies will be integrated, to the maximum extent possible, with other activities supported by grants funded under section 662 of IDEA, as amended by the ESSA;

(h) Provides an assurance that the SEA will provide technical assistance to LEAs to improve the quality of professional development available to meet the needs of personnel who serve children with disabilities;

(i) Provides an assurance that the SEA will provide technical assistance to entities that provide services to infants and toddlers with disabilities to improve the quality of professional development available to meet the needs of personnel serving those children;

(j) Describes how the SEA will recruit and retain teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, and other qualified personnel in geographic areas of greatest need;

(k) Describes the steps the SEA will take to ensure that economically disadvantaged and minority children are not taught at higher rates by teachers who do not meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA; and

(l) Describes how the SEA will assess, on a regular basis, the extent to which the strategies implemented have been effective in meeting the performance goals described in section 612(a)(15) of IDEA, as amended by the ESSA.

2. Partnerships.

(a) Required Partners.

Applicants must establish a partnership with LEAs and other State agencies involved in, or concerned with, the education of children with disabilities, including—

(1) Not less than one institution of higher education (IHE); and

(2) The State agencies responsible for administering Part C of IDEA, early education, childcare, and vocational rehabilitation programs.

(b) Other Partners.

An SEA must work in partnership with other persons and organizations involved in, and concerned with, the education of children with disabilities, which may include—

(1) The Governor;

(2) Parents of children with disabilities ages birth through 26;

(3) Parents of nondisabled children ages birth through 26;

(4) Individuals with disabilities;

(5) Parent training and information centers or community parent resource centers funded under sections 671 and 672 of IDEA, respectively;

(6) Community-based and other nonprofit organizations involved in the education and employment of individuals with disabilities;

(7) Personnel as defined in section 651(b) of IDEA;

(8) The State advisory panel established under Part B of IDEA;

(9) The State interagency coordinating council established under Part C of IDEA;

(10) Individuals knowledgeable about vocational education;

(11) The State agency for higher education;

(12) Public agencies with jurisdiction in the areas of health, mental health, social services, and juvenile justice;

(13) Other providers of professional development who work with infants, toddlers, preschoolers, and children with disabilities;

(14) Other individuals; and

(15) An individual, entity, or agency as a partner in accordance with section 652(b)(3) of IDEA, if State law assigns responsibility for teacher preparation and certification to an individual, entity, or agency other than the SEA.

3. Use of Funds.

(a) Professional Development Activities—Each SEA that receives a grant under this program must use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Carrying out programs that provide support to both special education and regular education teachers of children with disabilities and principals, such as programs that—

(i) Provide teacher mentoring, team teaching, reduced class schedules and caseloads, and intensive professional development;

(ii) Use standards or assessments for guiding beginning teachers that are consistent with challenging State academic achievement standards and with the requirements for professional development, as defined in section 8101 of the ESEA; and

(iii) Encourage collaborative and consultative models of providing early intervention, special education, and related services.

(2) Encouraging and supporting the training of special education and regular education teachers and administrators to effectively use and integrate technology—

(i) Into curricula and instruction, including training to improve the ability to collect, manage, and analyze data to improve teaching, decision making, school improvement efforts, and accountability;

(ii) To enhance learning by children with disabilities; and

(iii) To effectively communicate with parents.

(3) Providing professional development activities that—

(i) Improve the knowledge of special education and regular education teachers concerning—

(A) The academic and developmental or functional needs of students with disabilities; or

(B) Effective instructional strategies, methods, and skills, and the use of State academic content standards and student academic achievement standards, and State assessments, to improve teaching practices and student academic achievement;

(ii) Improve the knowledge of special education and regular education teachers and principals and, in appropriate cases, paraprofessionals, concerning effective instructional practices, and that—

(A) Provide training in how to teach and address the needs of children with different learning styles and children who are English learners;

(B) Involve collaborative groups of teachers, administrators, and, in appropriate cases, related services personnel;

(C) Provide training in methods of—

(*1*) Positive behavioral interventions and supports to improve student behavior in the classroom;

(*2*) Scientifically based reading instruction, including early literacy instruction;

(*3*) Early and appropriate interventions to identify and help children with disabilities;

(*4*) Effective instruction for children with low-incidence disabilities;

(*5*) Successful transitioning to postsecondary opportunities; and

(*6*) Using classroom-based techniques to assist children prior to referral for special education;

(D) Provide training to enable personnel to work with and involve parents in their child's education, including parents of low income and children with disabilities who are English learners;

(E) Provide training for special education personnel and regular education personnel in planning, developing, and implementing effective and appropriate individualized education programs (IEPs); and

(F) Provide training to meet the needs of students with significant health, mobility, or behavioral needs prior to serving those students;

(iii) Train administrators, principals, and other relevant school personnel in conducting effective IEP meetings; and

(iv) Train early intervention, preschool, and related services providers, and other relevant school personnel in conducting effective individualized family service plan (IFSP) meetings.

(4) Developing and implementing initiatives to promote the recruitment and retention of special education teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, particularly initiatives that have proven effective in recruiting and retaining teachers who meet those qualifications, described in section 612(a)(14)(C) of IDEA, as amended by the ESSA, including programs that provide—

(i) Teacher mentoring from exemplary special education teachers, principals, or superintendents;

(ii) Induction and support for special education teachers during their first three years of employment as teachers; or

(iii) Incentives, including financial incentives, to retain special education teachers who have a record of success in helping students with disabilities.

(5) Carrying out programs and activities that are designed to improve the quality of personnel who serve children with disabilities, such as—

(i) Innovative professional development programs (which may be provided through partnerships with IHEs), including programs that train teachers and principals to integrate technology into curricula and instruction to improve teaching, learning, and technology literacy and that are consistent with the definition of professional development in section 8101 of the ESEA; and

(ii) The development and use of proven, cost effective strategies for the implementation of professional development activities, such as through the use of technology and distance learning.

(6) Carrying out programs and activities that are designed to improve the quality of early intervention personnel, including paraprofessionals and primary referral sources, such as—

(i) Professional development programs to improve the delivery of early intervention services;

(ii) Initiatives to promote the recruitment and retention of early intervention personnel; and

(iii) Interagency activities to ensure that early intervention personnel are adequately prepared and trained.

(b) Other Activities—Each SEA that receives a grant under this program must use the grant funds to support activities in accordance with the State's Personnel Development Plan, including one or more of the following:

(1) Reforming special education and regular education teacher certification (including re-certification) or licensing requirements to ensure that—

(i) Special education and regular education teachers have—

(A) The training and information necessary to address the full range of needs of children with disabilities across disability categories; and

(B) The necessary subject matter knowledge and teaching skills in the academic subjects that the teachers teach;

(ii) Special education and regular education teacher certification (including re-certification) or licensing requirements are aligned with challenging State academic content standards; and

(iii) Special education and regular education teachers have the subject matter knowledge and teaching skills, including technology literacy, necessary to help students with disabilities meet challenging State student academic achievement standards.

(2) Programs that establish, expand, or improve alternative routes for State certification of special education teachers for individuals with a baccalaureate or master's degree who meet the qualifications described in section 612(a)(14)(C)of IDEA, as amended by the ESSA, including mid-career professionals from other occupations, paraprofessionals, and recent college or university graduates with records of academic distinction who demonstrate the potential to become highly effective special education teachers.

(3) Teacher advancement initiatives for special education teachers that promote professional growth and emphasize multiple career paths (such as paths to becoming a career teacher, mentor teacher, or exemplary teacher) and pay differentiation.

(4) Developing and implementing mechanisms to assist LEAs and schools in effectively recruiting and retaining special education teachers who meet the qualifications described in section 612(a)(14)(C) of IDEA, as amended by the ESSA.

(5) Reforming tenure systems, implementing teacher testing for subject matter knowledge, and implementing teacher testing for State certification or licensure, consistent with title II of the HEA (20 U.S.C. 1021 *et seq.*).

(6) Funding projects to promote reciprocity of teacher certification or licensing between or among States for special education teachers, except that no reciprocity agreement developed under this absolute priority may lead to the weakening of any State teacher certification or licensing requirement.

(7) Assisting LEAs to serve children with disabilities through the development and use of proven, innovative strategies to deliver intensive professional development programs that are both cost effective and easily accessible, such as strategies that involve delivery through the use of technology, peer networks, and distance learning.

(8) Developing, or assisting LEAs in developing, merit-based performance systems and strategies that provide differential and bonus pay for special education teachers.

(9) Supporting activities that ensure that teachers are able to use challenging State academic content standards and student academic achievement standards, and State assessments for all children with disabilities, to improve instructional practices and improve the academic achievement of children with disabilities.

(10) When applicable, coordinating with, and expanding centers established under section 2113(c)(18) of the ESEA, as amended by the No Child Left Behind Act of 2002, to benefit special education teachers.

(c) Contracts and Subgrants—An SEA that receives a grant under this program—

(1) Must award contracts or subgrants to LEAs, IHEs, parent training and information centers, or community parent resource centers, as appropriate, to carry out the State Personnel Development Plan; and

(2) May award contracts and subgrants to other public and private entities, including the State lead agency (LA) (as defined in this notice) under Part C of IDEA, to carry out the State plan.

(d) Use of Funds for Professional Development—An SEA that receives a grant under this program must use—

(1) Not less than 90 percent of the funds the SEA receives under the grant for any fiscal year for the Professional Development Activities described in paragraph (a); and

(2) Not more than 10 percent of the funds the SEA receives under the grant for any fiscal year for the Other Activities described in paragraph (b).

Competitive Preference 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 a competitive preference priority. Under 34 CFR 75.105(C)(2)(i), we award an additional 3 points to an application that meets the competitive preference priority.

This priority is:

Supporting an IDEA Part C Comprehensive System of Personnel Development (0 or 3 points).

The purpose of this priority is to fund projects designed to enable the State to meet the CSPD Comprehensive System of Personnel Development (CSPD) requirements of section 635(a)(8) and (9) of the IDEA. In order to be considered for a grant under this priority, if the SEA is not the State LA for IDEA Part C, an SEA must establish a partnership, consistent with IDEA section 652(b)(1)(B), with the State LA responsible for administering IDEA Part C. Consistent with IDEA section 635(a)(8) this priority will help improve the capacity of States' IDEA Part C personnel development, including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. The CSPD must include, consistent with 34 CFR 303.118(a): (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of early education service providers; (2) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program. The IDEA Part C CSPD may also include, consistent with 34 CFR 303.118(b): (1) Training personnel to work in rural and urban areas; (2) Training personnel in the social and emotional development of young children; and (3) Training personnel to support families in participating fully in the development and implementation of the child's Individualized Family Service Plan; and (4) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and Care established under the Head Start Act, if applicable. The SEA must include in its State plan how it will partner with the State LA, if the SEA is not the State LA for IDEA Part C, to implement these aspects of the CSPD. The description of the partnership must indicate the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. The description must also describe the extent to which funds will be used on activities to increase and train personnel

working with infants and toddlers and their families that have historically been underserved by Part C.

Note: To carry out the State plan under section 653 of IDEA, as described in its application, the SEA also may award contracts, subgrants, or both to other public and private entities, including, if appropriate, the State LA under Part C of IDEA.

Program Requirements: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following program requirements apply.

Projects funded under this program must—

(a) Budget for a three-day project directors' meeting in Washington, DC, during each year of the project;

(b) Budget $4,000 annually for support of the SPDG program website currently administered by the University of Oregon (*www.signetwork.org*); and

(c) If a project receiving assistance under this program authority maintains a website, include relevant information and documents in a form that meets a government or industry-recognized standard for accessibility.

Definitions: For FY 2022 and any subsequent year in which we make awards from the list of unfunded applications from this competition, the following definitions apply to this competition. We provide the source of the definitions in parentheses.

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. (34 CFR 77.1)

Evidence-based means, for purposes of Absolute Priority 1, practices for which there is strong evidence or moderate evidence of effectiveness (2012 NFP); and for purposes of Absolute Priority 2, the proposed project component is supported by one or more of strong evidence, moderate evidence, promising evidence, or evidence that demonstrates a rationale (34 CFR 77.1).

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:

(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. (34 CFR 77.1)

Fidelity means the delivery of instruction in the way in which it was designed to be delivered. (2012 NFP)

High-need LEA means, in accordance with section 2102(3) of the ESEA, an LEA—

(a) That serves not fewer than 10,000 children from families with incomes below the poverty line (as that term is defined in section 8101(41) of the ESEA), or for which not less than 20 percent of the children served by the LEA are from families with incomes below the poverty line; and

(b) For which there is (1) a high percentage of teachers not teaching in the academic subjects or grade levels that the teachers were trained to teach, or (2) a high percentage of teachers with emergency, provisional, or temporary certification or licensing. (2012 NFP)

Lead agency means the agency designated by the State's Governor under section 635(a)(10) of IDEA and 34 CFR 303.120 that receives funds under section 643 of IDEA to administer the State's responsibilities under part C of IDEA. (34 CFR 303.22)

Local educational agency (LEA) 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 for such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools. (Section 602(19) of IDEA (20 U.S.C. 1401(19)))

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. (34 CFR 77.1)

Moderate evidence means that there is evidence of effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations or settings proposed to receive that component, based on a relevant finding from one of the following:

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''strong evidence base'' or ''moderate evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks reporting a ''positive effect'' or ''potentially positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study or quasi-experimental design study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks, or otherwise assessed by the Department using version 4.1 of the WWC Handbooks, as appropriate, and that—

(A) Meets WWC standards with or without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbooks; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy the requirement in this paragraph (iii)(D). (34 CFR 77.1)

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). (34 CFR 77.1)

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. (34 CFR 77.1)

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. (34 CFR 77.1)

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. (34 CFR 77.1)

State educational agency means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary schools and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law. (Section 602(32) of IDEA (20 U.S.C. 1401(32)))

Strong evidence means that there is evidence of the effectiveness of a key project component in improving a relevant outcome for a sample that overlaps with the populations and settings proposed to receive that component, based on a relevant finding from one of the following—

(i) A practice guide prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook reporting a ''strong evidence base'' for the corresponding practice guide recommendation;

(ii) An intervention report prepared by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook reporting a ''positive effect'' on a relevant outcome based on a ''medium to large'' extent of evidence, with no reporting of a ''negative effect'' or ''potentially negative effect'' on a relevant outcome; or

(iii) A single experimental study reviewed and reported by the WWC using version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook, or otherwise assessed by the Department using version 4.1 of the WWC Handbook, as appropriate, and that—

(A) Meets WWC standards without reservations;

(B) Includes at least one statistically significant and positive (*i.e.,* favorable) effect on a relevant outcome;

(C) Includes no overriding statistically significant and negative effects on relevant outcomes reported in the study or in a corresponding WWC intervention report prepared under version 2.1, 3.0, 4.0, or 4.1 of the WWC Handbook; and

(D) Is based on a sample from more than one site (*e.g.,* State, county, city, school district, or postsecondary campus) and includes at least 350 students or other individuals across sites. Multiple studies of the same project component that each meet requirements in paragraphs (iii)(A), (B), and (C) of this definition may together satisfy this requirement. (34 CFR 77.1)

What Works Clearinghouse (WWC) 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. (34 CFR 77.1)

Program Authority: 20 U.S.C. 1451–1455.

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 2012 NFP. (e) The 2022 NFP.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $21,666,664.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2023 from the list of unfunded applications from this competition.

Estimated Range of Awards: $500,000–$2,100,000 (for the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico). In the case of outlying areas (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), awards will be not less than $80,000.

Note: We will set the amount of each award after considering—

(1) The amount of funds available for making the grants;

(2) The relative population of the State or outlying area;

(3) The types of activities proposed by the State or outlying area;

(4) The alignment of proposed activities with section 612(a)(14) of IDEA, as amended by the ESSA;

(5) The alignment of proposed activities with State plans and applications submitted under sections 1111 and 2101(d), respectively, of the ESEA; and

(6) The use, as appropriate, of research and instruction supported by evidence.

Using the same considerations, the Secretary funded these selected applications for FY 2021 at the following levels:

State	FY 2021 funding amount
Colorado	$1,216,211
Maine	500,000
Rhode Island	519,691
Maryland	1,099,979

Estimated Average Size of Awards: $900,000 excluding the outlying areas.

Estimated Number of Awards: 18.

Note: The Department is not bound by any estimates in this notice.

Project Period: Not less than one year and not more than five years.

III. Eligibility Information

1. *Eligible Applicants:* An SEA of one of the 50 States, the District of Columbia, or the Commonwealth of Puerto Rico or an outlying area (United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands).

Note: Public Law 95–134, which permits the consolidation of grants to the outlying areas, does not apply to funds received under this competition.

2. a. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

b. *Indirect Cost Rate Information:* This program uses an unrestricted 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.*

c. *Administrative Cost Limitation:* This program 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 must award contracts and subgrants as described in Absolute Priority 2 (paragraph (3)(C) under Statutory Requirements, Use of Funds). See section 654(c) of the IDEA.

4. *Other General Requirements:*

(a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Applicants for, and recipients of, funding must, with respect to the aspects of their proposed project relating to Absolute Priorities 1 and 2 and the competitive preference priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

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 (84 FR 73264), and available at *www.federalregister.gov/d/2021-27979,* which contain requirements and information on how to submit an application.

2. *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.

3. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

4. *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 70 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, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.
- Use a font that is 12 point or larger.
- 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 abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the recommended page limit does apply to all of the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance (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 extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(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 likelihood that the proposed project will result in system change or improvement.

(b) *Quality of the project design (25 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 goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(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.

(iv) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(v) The extent to which the proposed project will establish linkages with other appropriate agencies and organizations providing services to the target population.

(c) *Quality of the project personnel (10 points).*

(1) The Secretary considers the quality of the personnel who will carry out the proposed project.

(2) In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons 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 qualifications, including

relevant training and experience, of key project personnel.

(d) *Adequacy of resources and management plan (20 points).*

(1) The Secretary considers the adequacy of resources and management plan for the proposed project.

(2) In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(i) The relevance and demonstrated commitment of each partner in the proposed project to the implementation and success of the project.

(ii) The extent to which the budget is adequate to support the proposed project.

(iii) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(iv) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(v) The potential for continued support of the project after Federal funding ends, including, as appropriate, the demonstrated commitment of appropriate entities to such support.

(e) *Quality of the project evaluation (25 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 extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

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. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *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.

5. *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.

6. *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, we have established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the SPDG program. These measures assess the extent to which—

- Projects use professional development practices supported by evidence to support the attainment of identified competencies;
- Participants in SPDG professional development demonstrate improvement in implementation of SPDG-supported practices over time;
- Projects use SPDG professional development funds to provide activities designed to sustain the use of SPDG-supported practices; and
- Projects improve outcomes for children with disabilities.

Each grantee funded under this competition must collect and annually report data related to its performance on these measures in the project's annual and final performance report to the Department in accordance with section 653(d) of IDEA and 34 CFR 75.590. Applicants should discuss in the application narrative how they propose to collect performance data for these measures.

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.

Katherine Neas,

Deputy Assistant Secretary. Delegated the authority to perform the functions and duties of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

[FR Doc. 2022–12713 Filed 6–8–22; 4:15 pm]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0074]

Agency Information Collection Activities; Comment Request; DC School Choice Incentive Program

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before August 9, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *https://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0074. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *https://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland

Ave. SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Yeh, 202–205–5798.

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: DC School Choice Incentive Program.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 3,000.

Total Estimated Number of Annual Burden Hours: 1,000.

Abstract: The DC Opportunity Scholarship Program, authorized by the Consolidated Appropriations Act of 2004, and reauthorized in 2017 by the Scholarships for Opportunity and Results (SOAR) Reauthorization Act, awarded a grant to Serving Our Children in order to administer scholarships to students who reside in the District of Columbia and come from households whose incomes do not exceed 185% of the poverty line. To assist in the student selection and assignment process, the information collected is used to determine the eligibility of those students who are interested in the available scholarships. Also, since the authorizing statute requires an evaluation, we are proposing to collect certain family demographic information because they are important predictors of school success. Finally, we are asking to collect information about parental participation and satisfaction because these are key topics that the statute requires the evaluation to address. This request makes two small changes to the questions previously approved by OMB. One is to add a question about how the families heard of Opportunity Scholarship Program (OSP). The other is to add a check box in section 9 (relating to students with disabilities) pursuant to the competitive grant application instructions.

Previously this information collection was approved under OMB #1855–0015. This program and the associated collection were moved to the Office of Elementary and Secondary Education within the Department. As such, it requires a new OMB number that corresponds with the OMB numbers for collections from the Office of Elementary and Secondary Education. For that reason, we are requesting a new information collection and will discontinue 1855–0015 when this request is approved.

Dated: June 7, 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. 2022–12562 Filed 6–9–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0081]

Agency Information Collection Activities; Comment Request; Consolidated State Performance Report Renewal (Part 1 and Part 2)

AGENCY: Office of Elementary and Secondary Education (OESE), 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 August 9, 2022.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2022–SCC–0081. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, ED will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave SW, LBJ, Room 6W208D, Washington, DC 20202–8240.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Sarah Newman, 202–453–6956.

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: Consolidated State Performance Report Renewal (Part 1 and Part 2).

OMB Control Number: 1810–0724.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 14,653.

Total Estimated Number of Annual Burden Hours: 16,481.

Abstract: The Consolidated State Performance Report (CSPR) is the required annual reporting tool for each State, the Bureau of Indian Education, District of Columbia, and Puerto Rico as authorized under Section 8303 of the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act (ESSA). The CSPR collects data on programs authorized by: Title I, Part A; Title I, Part C; Title I, Part D; Title II, Part A; Title III, Part A; Title IV Part A; Title V, Part A; Title V, Part B, Subparts 1 and 2; and The McKinney-Vento Act. The information in this collection relate to the performance and monitoring activities of the aforementioned programs under ESSA and the McKinney-Vento Act. These data are needed for reporting on Government Performance and Results Act (GPRA) as well as other reporting requirements under ESSA. This submission is a request to update the currently-approved CSPR collection (OMB 1810–0724) for school years 2022–23, 2023–24, and 2024–25. There are three substantive changes to the collection since it was last approved. First, we propose revising the structure and standardizing the language of the CSPR across sections to create consistent language, remove duplication or redundancies in the guidance, and to reduce text that will be added to technical assistance documents. Second, we propose reducing the number of tables containing Title I, Part A, Title I, Part C, and McKinney-Vento Act data. Third, we propose moving the State Report Cards section from CSPR Part I to CSPR Part II.

Dated: June 7, 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. 2022–12531 Filed 6–9–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Request for Information To Inform the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization

AGENCY: National Energy Technology Laboratory (NETL), U.S. Department of Energy (DOE).

ACTION: Request for information (RFI).

SUMMARY: NETL, a DOE National Laboratory, provides coordination support on behalf of DOE for the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (Interagency Working Group). NETL is requesting information to help inform the efforts of the Interagency Working Group

DATES: Interested persons are invited to submit responses by August 9, 2022.

ADDRESSES: Comments can be submitted via the internet at: *https://energycommunities.gov/comment.*

FOR FURTHER INFORMATION CONTACT: Dr. Briggs White, Deputy Executive Director, Energy Communities IWG, Telephone: (412) 386–7546. Questions may be addressed to *briggswhite@energycommunities.gov.*

SUPPLEMENTARY INFORMATION: On January 27, 2021, President Biden signed Executive Order 14008, ''Tackling the Climate Crisis at Home and Abroad,'' which established the Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization (''Interagency Working Group''). The Interagency Working Group's mandate is to ''coordinate the identification and delivery of federal resources to revitalize the economies of coal, oil and gas, and power plant communities.''

The Interagency Working Group is co-chaired by the Director of the National Economic Council (NEC) and the National Climate Advisor, and administered by the Secretary of Energy. The members of the Interagency Working Group include the Secretary of Treasury, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Transportation, the Secretary of Energy, the Secretary of Education, the Administrator of the Environmental Protection Agency (EPA), the Director of the Office of Management and Budget, the Director of the Domestic Policy Council, and the federal Co-Chair of the Appalachian Regional Commission (ARC). NETL, a DOE National Laboratory, provides coordination support on behalf of DOE for the Interagency Working Group. The Director of NETL, Brian J. Anderson, Ph.D., was named as the Executive Director of the Interagency Working Group. In this role, he strategically leverages national laboratory resources and expertise to help ensure the shift to a clean energy economy creates good-paying union jobs, spurs economic revitalization, remediates environmental degradation and supports energy workers in coal, oil and gas, and power plant communities.

Executive Order 14008 tasked the Interagency Working Group with preparing an Initial Report describing ''mechanisms, consistent with applicable law, to prioritize grantmaking, federal loan programs, technical assistance, financing, procurement, or other existing programs to support and revitalize the economies of coal and power plant communities.''

In the Initial Report, the Interagency Working Group identified 25 priority geographies hard-hit by declines in coal production and consumption. These geographies are also vulnerable to further economic distress as the remaining coal mines and coal power plants close.

The Interagency Working Group also identified the following six guiding principles:

- Creating good-paying jobs
- Providing federal investment to catalyze economic revitalization
- Supporting energy workers by securing benefits and providing opportunity
- Prioritizing pollution mitigation and remediation
- Adopting a government-wide approach
- Formalizing stakeholder engagement efforts

A copy of the Initial Report from the Interagency Working Group and additional information on the priority geographic areas, the guiding principles, near term goals and other Interagency Working Group activities can be found at: *https://energycommunities.gov.*

This RFI seeks input from the public on the challenges facing energy communities, measures to address those needs, and recommendations for the Federal Government to consider. Comments can address, but are not limited to:

Integrated Support

- Methods the Federal Government can take to reduce or eliminate barriers that prevent some energy communities from effectively accessing available funding and program support.

• Informational and technical assistance resources needed by energy communities to more easily access federal support.

• Models and examples the Interagency Working Group can consider as it works to establish a one-stop shop for energy communities to access the range of federal investments that can support community revitalization, job creation and energy workers.

Investments

• Areas where federal investments, focused on energy communities, are most important, such as job creation, economic development, education, environmental remediation, and healthcare.

• Examples of federal programs that are working well to support energy workers and community revitalization and what specifically makes those programs successful.

• Gaps where new or additional federal funding would be beneficial.

Policy

• In addition to funding and technical assistance, where can the Federal Government better support energy workers and their communities as the nation transitions its energy mix.

• Specific policy recommendations for the Interagency Working Group to consider.

Other

• Other recommendations for the Interagency Working Group consider.

Signing Authority

This document of the Department of Energy was signed on June 6, 2022, by Brian J. Anderson, Ph.D., Executive Director, Interagency Working Group on Coal and Power Plant Communities and Economic Revitalization and Director, National Energy Technology Laboratory (NETL), 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 June 7, 2022.

Treena V. Garrett,

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

[FR Doc. 2022–12524 Filed 6–9–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14861–002]

FFP Project 101, LLC; Notice of Intent To Prepare an Environmental Impact Statement

On June 23, 2020, Rye Development on behalf of FFP Project 101, LLC (FFP) filed an application for an original major license to construct and operate its proposed 1,200-megawatt Goldendale Energy Storage Project (Goldendale Project; FERC No. 14861). The project would be located approximately 8 miles southeast of the City of Goldendale, Klickitat County, Washington, with transmission facilities extending into Sherman County, Oregon. The project would occupy 18.1 acres of land owned by the U.S. Army Corps of Engineers and administered by the Bonneville Power Administration.

On October 29, 2020, Commission staff issued Scoping Document 1, initiating the scoping process for the project in accordance with the National Environmental Policy Act (NEPA) and Commission regulations. On March 30, 2021, Commission staff issued a revised scoping document (Scoping Document 2). In accordance with the Commission's regulations, on March 24, 2022, Commission staff issued a notice that the project was ready for environmental analysis (REA Notice). Based on the information in the record, including comments filed during scoping and in response to the REA Notice, staff has determined that licensing the project may constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare an Environmental Impact Statement (EIS) for the Goldendale Project.

A draft EIS will be issued and circulated for review by all interested parties. All comments filed in response to the REA notice, and on the draft EIS will be analyzed by staff and considered in the Commission's final licensing decision. The staff's conclusions and recommendations will be available for the Commission's consideration in reaching its final licensing decision.

The application will be processed according to the following schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Issue draft EIS	January 2023.
Draft EIS Public Meeting	March 2023.
Comments on draft EIS due	March 2023.
Commission issues final EIS	October 2023.[1]

Any questions regarding this notice may be directed to Michael Tust at (202) 502–6522 or *michael.tust@ferc.gov.*

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12548 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2146–265]

Alabama Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No:* P–2146–265.

c. *Date Filed:* May 24, 2022.

d. *Applicant:* Alabama Power Company (Alabama Power).

e. *Name of Project:* Coosa River Project.

f. *Location:* The project is located on the Coosa River, in Coosa, Chilton, Talladega and Shelby counties, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* Alan L. Peeples, Alabama Power Company, 600 North 18th Street P.O. Box 2641, Birmingham, AL 35291–8180, (205) 257–1401.

i. *FERC Contact:* Zeena Aljibury, (202) 502–6065, *zeena.aljibury@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance date of this notice by the Commission.

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(2) require that a Record of Decision be completed within 2 years of the federal action agency's decision to prepare an EIS. This notice establishes the Commission's intent to prepare a draft and final EIS for the Goldendale Project. Therefore, in accordance with CEQ's regulations, the Commission must reach a licensing decision within two years of the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2146–265. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* Alabama Power requests approval to modify Unit 2 at the Lay Development to address significant maintenance needs and to improve power and efficiency. The proposed scope of work for Unit 2 includes complete turbine replacement, wicket gate replacement, wicket gate stem bushings installation, turbine, and generator bearing upgrades, and related component replacement. Alabama Power states the turbine replacement is not expected to result in an increase to the total rated capacity or the maximum discharge of the unit at rated conditions. Alabama Power notes that project operations will not change, and refurbishment will not include any structural changes to the project facilities.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12543 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2028–000]

SR Hazlehurst, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of SR Hazlehurst, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number

field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–12516 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10691–011]

Elba Hydroelectric Power Inc.; Notice of Application for Surrender of Exemption, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Application for surrender of exemption.

b. *Project No:* 10691–011.

c. *Date Filed:* March 31, 2022, as supplemented on May 31, 2022.

d. *Applicant:* Elba Hydroelectric Power Inc.

e. *Name of Project:* Elba Hydroelectric Project.

f. *Location:* The project is located on the Pea River approximately five miles downstream of the town of Elba, in Coffee County, Alabama. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Ms. Leslie Goodwin, 1387A Grove Way, Concord, California 94518, (925) 381–2930, *Lesliegoodwin@hydroinsure.com.*

i. *FERC Contact:* Chris Chaney, (202) 502–6778, *christopher.chaney@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 6, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–10691–011. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The applicant proposes to surrender its exemption for the project. The applicant states a flood in December 2015 caused the dam to collapse and damaged the project's generating equipment, and rebuilding the dam and replacing the generating equipment would be uneconomical. The applicant states the transmission lines have been disconnected, and all other equipment, facilities, and works would be left in place. The applicant does not propose any ground-disturbing activities. The applicant has been working with The Nature Conservancy, U.S. Fish and Wildlife Service, Alabama Department of Environmental Management, Alabama Department of Conservation and Natural Resources, and the Alabama State Historic Preservation Officer to develop its surrender application. Following surrender of the project, the applicant would donate the project lands and works to The Nature Conservancy, and has an Options Agreement with The Nature Conservancy for this donation.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12552 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4784–106]

Topsham Hydro Partners Limited Partnership (L.P.); Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380, the Office of Energy Projects has reviewed the application for license for the Pejepscot Hydroelectric Project, located on the Androscoggin River in Sagadahoc, Cumberland, and Androscoggin Counties in the village of Pejepscot and the town of Topsham, Maine and has prepared a Draft Environmental Assessment (DEA) for the project. No federal land is occupied by project works or located within the project boundary.

The DEA contains staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

The Commission provides all interested persons with an opportunity to view and/or print the EA via the internet through the Commission's Home Page (*http://www.ferc.gov/*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* or toll-free at (866) 208–3676, or for TTY, (202) 502–8659.

You may also register online at *https://ferconline.ferc.gov/eSubscription.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice.

The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number P–4784–106.

Any questions regarding this notice may be directed to Ryan Hansen at (202) 502–8074 or *ryan.hansen@ferc.gov.*

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12544 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2736–045]

Idaho Power Company; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Non-Capacity Amendment of License.

b. *Project No.:* 2736–045.

c. *Date Filed:* April 15, 2022, and supplemented on May 26, 2022.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* American Falls Hydroelectric Project.

f. *Location:* The project is located at the U.S. Bureau of Reclamation's American Falls Replacement Dam on the Snake River, near the city of American Falls in Power County, Idaho.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Nathan Gardiner, Senior Counsel, Idaho Power Company, 1221 West Idaho Street, Boise, ID 83702; (208) 388–2975; *ngardiner@idahopower.com.*

i. *FERC Contact:* Linda Stewart, (202) 502–8184, *linda.stewart@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 6, 2022.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include the docket number P–2736–045. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, it must also serve a copy of the document on that resource agency.

k. *Description of Request:* Idaho Power Company (licensee) proposes to refurbish the three turbine generating units sequentially over the course of approximately three years. Under its proposed schedule to perform the maintenance work, the licensee would take turbine generating unit 1 offline in October 2022. Anticipating that the maintenance work for each turbine generating unit would take approximately one year to complete, the licensee plans to take turbine generating units 2 and 3 offline for refurbishment in October 2023 and October 2024, respectively. All proposed activity would occur in the powerhouse, with no ground disturbing activity or in water work necessary. A single turbine generating unit would be offline

periodically during the refurbishment period. Therefore, the proposal may result in an increased flow over the spillway while the work is being done, depending on whether the inflow to the project exceeds the hydraulic capacity of the two online units. Under the proposal, the total authorized capacity of the project would remain at 90,000 horsepower (67,500 kilowatts) as defined by current section 11.1 of the Commission's regulations, and the hydraulic capacity would increase from 13,704 to 14,115 cubic feet per second.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting, or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12547 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–467–000]

Texas Gas Transmission, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 27, 2022, Texas Gas Transmission, LLC (Texas Gas), 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, filed in the above referenced docket, a prior notice request pursuant to sections 157.205 and 157.216(b) of the Commission's regulations under the Natural Gas Act (NGA), and Texas Gas' blanket certificate issued in Docket No. CP82–407–000, for authorization to (i) plug and abandon Injection/Withdrawal Well Number (I/W Well No.) 16949 and I/W Well No. 17040 located within Texas Gas' existing Midland Storage Field, (ii) plug and abandon I/W Well No. 15875 located within Texas Gas' existing West Greenville Storage Field, (iii) abandon by removal the surface components associated with each well, and (iv) abandon in place a combined total of approximately 1,630 feet of 4.5-inch diameter storage well lateral lines, all located in Muhlenberg County, Kentucky.

Texas Gas also states that the plugging and abandonment of these wells will have no effect on the certificated physical parameters, including total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity (including injection and withdrawal capacity) of either storage field, all as more fully set forth in the application, which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this prior notice request should be directed to J. Kyle Stephens, Vice President, Regulatory Affairs, Texas Gas Transmission, LLC, 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, at (713) 479–3480, or by email to *Kyle.Stephens@bwpipelines.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on August 5, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is August 5, 2022. A protest may also serve as a motion to intervene so long as the

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is August 5, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before August 5, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–467–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's *eFiling* feature, which is located on the Commission's website (*www.ferc.gov*) under the link to *Documents and Filings.* New eFiling users must first create an account by clicking on ''*eRegister.*'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP22–467–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: 9 Greenway Plaza, Suite 2800, Houston, Texas 77046, or email (with a link to the document) at: *Kyle.Stephens@bwpipelines.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12542 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–1828–004.
Applicants: PacifiCorp.
Description: Compliance filing: OATT Order 864 Compliance Filing—June 2022 to be effective 1/27/2020.
Filed Date: 6/6/22.
Accession Number: 20220606–5193.
Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–1003–002.
Applicants: Southwestern Public Service Company.
Description: Tariff Amendment: LPL Second Amended PR Agreement Amendment to be effective 2/9/2022.
Filed Date: 6/6/22.
Accession Number: 20220606–5036.
Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–1361–000.
Applicants: Georgia-Pacific Toledo LLC.
Description: Refund Report: Refund Report to be effective N/A.
Filed Date: 6/6/22.
Accession Number: 20220606–5114.
Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–1566–001.
Applicants: Guernsey Power Station LLC.
Description: Guernsey Power Station LLC submits request for the Market-Based Rate Tariff to have an effective date of May 16, 2022 and request a waiver of the Commission's prior notice requirements set forth in 18 CFR 35.3 and 35.11 (2021).
Filed Date: 5/25/22.
Accession Number: 20220525–5287.
Comment Date: 5 p.m. ET 6/15/22.

Docket Numbers: ER22–1571–002.

Applicants: NextEra Energy Transmission New York, Inc., New York Independent System Operator, Inc.

Description: Tariff Amendment: NextEra Energy Transmission New York, Inc. submits tariff filing per 35.17(b): NEET NY Second Amendment to Formula Rate Revisions to be effective 6/1/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5070.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2029–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revisions to PJM's FTR Credit Requirement to be effective 8/3/2022.

Filed Date: 6/3/22.

Accession Number: 20220603–5207.

Comment Date: 5 p.m. ET 6/24/22.

Docket Numbers: ER22–2030–000.

Applicants: Sonoran West Solar Holdings, LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 6/4/2022.

Filed Date: 6/3/22.

Accession Number: 20220603–5211.

Comment Date: 5 p.m. ET 6/24/22.

Docket Numbers: ER22–2031–000.

Applicants: Sonoran West Solar Holdings 2, LLC.

Description: Baseline eTariff Filing: Baseline new to be effective 6/4/2022.

Filed Date: 6/3/22.

Accession Number: 20220603–5214.

Comment Date: 5 p.m. ET 6/24/22.

Docket Numbers: ER22–2032–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii: NYISO-National Grid joint 205 Amended & Restated SGIA2554 Albany County 1 Solar to be effective 5/20/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5091.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2033–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Revised ISA, Service Agreement No. 5861; Queue Nos. AF2–305/AG1–398 to be effective 5/13/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5093.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2034–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–06–06_SA 3372 Entergy Louisiana-Oak Ridge Solar 1st Rev GIA (J697 J1436) to be effective 5/20/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5127.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2035–000.

Applicants: Arizona Public Service Company.

Description: § 205(d) Rate Filing: Service Agreement No. 400, CAWCD LGIA to be effective 5/12/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5134.

Comment Date: 5 p.m. ET 6/27/22

Docket Numbers: ER22–2036–000.

Applicants: Niagara Mohawk Power Corporation, New York Independent System Operator, Inc.

Description: § 205(d) Rate Filing: Niagara Mohawk Power Corporation submits tariff filing per 35.13(a)(2)(iii: NYISO-National Grid joint 205 SGIA2555 Albany County 2 Solar to be effective 5/20/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5151.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2037–000.

Applicants: States Edge Wind I Holdings LLC.

Description: Tariff Amendment: Notice of Cancellation of Market-Based Rate Tariff to be effective 8/6/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5167.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2038–000.

Applicants: New England Power Company.

Description: § 205(d) Rate Filing: 2022–06–06 Interconnection Agreement Between NEP and Narragansett Electric Co. to be effective 5/25/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5169.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: ER22–2039–000.

Applicants: The Narragansett Electric Company.

Description: § 205(d) Rate Filing: 2022–06–06 Interconnection Agreement Between Narragansett Electric Co. and NEP to be effective 5/25/2022.

Filed Date: 6/6/22.

Accession Number: 20220606–5179.

Comment Date: 5 p.m. ET 6/27/22.

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: June 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–12519 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP21–465–000; CP21–465–001; CP21–465–002]

Driftwood Pipeline LLC; Notice of Draft Environmental Impact Statement Comment Meetings for the Line 200 and Line 300 Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) invites you to attend one of the virtual public comment meetings it will conduct by telephone on the Line 200 and Line 300 Project draft environmental impact statement. These virtual comment meetings will be held as follows:

Line 200 and Line 300 Project, Draft Environmental Impact Statement, Public Comment Meetings, Date, Time, and Call-in Information.

Tuesday, June 14, 2022, 5:30 p.m. (CST), Call in number: 800–779–8625, Participant passcode: 3472916.

Thursday, June 16, 2022, 5:30 p.m. (CST), Call in number: 800–779–8625, Participant passcode: 3472916.

Note that the comment meetings will start at 5:30 p.m. (CST) and will terminate once all participants wishing to comment have had the opportunity to do so, or at 7:30 p.m. (CST), whichever comes first. The primary goal of these comment meetings is to have you identify the specific environmental issues and concerns that should be considered in the final environmental impact statement. Individual oral comments will be taken on a one-on-one basis with a court reporter present on the line. This format is designed to receive the maximum amount of oral comments, in a convenient way during the timeframe allotted, and is in response to the ongoing COVID–19 pandemic.

There will be a brief introduction by Commission staff when the session

opens. Important information about the FERC process will be provided, so please make every attempt to call in at the beginning of the meeting. All participants will be able to hear the one-on-one comments provided by other participants; however, all lines will remain closed during the comments of others and then opened one at a time for providing comments.

Your oral comments will be recorded by the court reporter (with FERC staff or representative present) and become part of the public record for this proceeding. Transcripts will be publicly available on FERC's eLibrary system. If a significant number of people are interested in providing oral comments in the one-on-one settings, a time limit of 5 minutes may be implemented for each commentor. It is important to note that oral comments hold the same weight as written or electronically submitted comments.

As a reminder, the Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's website (*www.ferc.gov*) under the link to FERC Online. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; and

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP21–465–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue Rockville, Maryland 20852.

This notice is being sent to the Commission's current environmental mailing list for the Project. Public sessions or site visits will be posted on the Commission's calendar located at *https://www.ferc.gov/news-events/events* along with other related information. Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website (*www.ferc.gov*) using the eLibrary link.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12545 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Privacy Act of 1974; System of Records

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of modified system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Federal Energy Regulatory Commission (FERC) is modifying the systems of records listed in this notice to incorporate two new routine uses related to the breach of personally identifiable information (PII) pursuant to the Office of Management and Budget (OMB) Memorandum M–17–12. The first routine use deals with the breach of FERC's records, and the second addresses the disclosure of FERC's records to assist other agencies in their efforts to respond to a breach of their own records.

DATES: Please submit comments on or before July 11, 2022. These new routine uses are effective July 11, 2022.

ADDRESSES: Any person interested in commenting on the establishment of these Privacy Act Breach Routine Uses may do so by submitting comments electronically to: *Privacy@ferc.gov* (include a reference to ''Privacy Act Breach Routine Uses'' in the subject line of the message.)

FOR FURTHER INFORMATION CONTACT: Mittal Desai, Chief Information Officer & Senior Agency Official for Privacy, Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6432.

SUPPLEMENTARY INFORMATION: On January 3, 2017, the Office of Management and Budget issued Memorandum 17–12, *Preparing for and Responding to a Breach of Personally Identifiable Information,* to the heads of all executive departments and agencies. Among other things, this memorandum requires the addition of routine uses to ensure that agencies are able to disclose records or information in their systems of records in response to an actual or suspected breach of its own records or to assist other agencies in their efforts to respond to a breach of their own records. FERC is, therefore, proposing the addition of two new routine uses. Unless this or other published notice expressly provides otherwise, these two routines uses apply to all FERC Privacy Act system of records listed in this notice. These routine uses supplement but do not replace any routine uses that are separately published in the specific individual System of Records Notice (SORN). These proposed routine uses are compatible with the purpose for which each of the records or information was collected.

SYSTEM NAME AND NUMBER:

First, the systems of records to be modified by including the two new routine uses described in this Notice are set forth below. As these two routine uses are additional new routine uses, please refer to the specific individual SORN for other routine uses unchanged by this notice. Second, please refer to the specific individual SORN for additional governing elements unchanged by this notice. Finally, please note that FERC SORNs omitted from this table have already incorporated the two new routine uses described in this notice.

SORN No.	SORN name	Federal Register cites
FERC–6	Biographical Material on FERC Commissioners and Key Staff Members	65 FR 21743.*
FERC–15	Commission Labor and Employee Relations Case Files	65 FR 21743.*
FERC–16	Commission Death Cases File	65 FR 21744.*
FERC–17	Commission Disability Retirements File	65 FR 21744.*

SORN No.	SORN name	Federal Register cites
FERC–18	Commission Discontinued Service Retirements File	65 FR 21745.*
FERC–19	Commission Equal Employment Opportunity (EEO) Discrimination Complaints File	65 FR 21745.*
FERC–20	Commission Employee Suggestions File	65 FR 21746.*
FERC–21	Commission Training Records	65 FR 21746.*
FERC–22	Commission Indebtedness Cases Files	65 FR 21747.*
FERC–23	Commission Leave Without Pay Requests File	65 FR 21747.*
FERC–25	Commission Office of Workers Compensation Program (OWCP) Claims File	65 FR 21748.*
FERC–27	Commission Reconsideration of Retirement Refund Decisions File	65 FR 21749.*
FERC–28	Commission Restoration of Annual Leave Requests File	65 FR 21750.*
FERC–29	Commission Unemployment Compensation File	65 FR 21750.*
FERC–30	Commission Within-Grade Increase (WGI) Denials and Reconsideration File	65 FR 21750.*
FERC–32	Commission Fitness Center Records	65 FR 21751.*
FERC–35	Commission Security Investigations Records	65 FR 21752.*
FERC–36	Management, Administrative, and Payroll System (MAPS)	65 FR 21753.*
FERC–37	Commission Voluntary Leave Transfer Files	65 FR 21753.*
FERC–38	Commission Employee Performance Files	65 FR 21754.*
FERC–39	Commission Temporary Work-at-Home Program	65 FR 21754.*
FERC–40	Commission Family Medical Leave Act (FMLA) Request Files	65 FR 21755.*
FERC–42	Commission Headquarters Security Access and Control Records	65 FR 21756.*
FERC–43	Commission Travel Records	65 FR 21756.*
FERC–46	Commission Freedom of Information Act and Privacy Act Request Files	81 FR 61682.*
FERC–47	Commission Office of Finance, Accounting and Operations' Recruitment Records	65 FR 21758.*
FERC–48	Department of Energy (DOE) Inspector General Investigative Records Relating to the Federal Energy Regulatory Commission.	65 FR 21759.*
FERC–49	Commission Telecommunications Records	65 FR 21760.*
FERC–50	Commission Accounting System Records	65 FR 21760.*
FERC–51	Commission Congressional Correspondence, State Files and Constituent Records	65 FR 21761.*
FERC–52	Commission Supervisor-Maintained Personnel Records	65 FR 21761.*
FERC–53	Information Technology System Log Records	79 FR 17529.*
FERC–54	Commission Employee Assistance Program Records	65 FR 21763.*
FERC–55	Personal Identity Verification (PIV) Records	70 FR 61612.*
FERC–57	Federal Personnel Payroll System (FPPS)	74 FR 57308.*
FERC–58	Critical Energy Infrastructure Information (CEII) Records	79 FR 17530.*
FERC–59	Enforcement Investigation Records	79 FR 17531.*
FERC–60	Hotline Records	79 FR 17532.*
FERC–61	Requests for Commission Publications and Information	79 FR 17532.*
FERC–62	Public Information Requests	79 FR 17534.*
FERC–63	Company Registration Records	79 FR 17534.*
FERC–64	Individual Registration Records	79 FR 17534.*

An asterisk (*) designates the last full **Federal Register** notice that includes all of the elements that are required to be in a System of Records Notice.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

The applicable program executive is identified in each notice.

SYSTEM MANAGER(S):

The applicable system manager(s) is identified in each notice.

* * * * *

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, information maintained in this system may be disclosed to authorized entities outside FERC for purposes determined to be relevant and necessary as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

• To appropriate agencies, entities, and persons when (1) FERC suspects or has confirmed that there has been a breach of the system of records; (2) FERC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (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 Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

• To another Federal agency or Federal entity, when FERC 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.

HISTORY:

See System Name and Number above.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12546 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2445–028]

Green Mountain Power Corporation; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2445–028.

c. *Date Filed:* December 23, 2021.

d. *Applicant:* Green Mountain Power Corporation (GMP).

e. *Name of Project:* Center Rutland Hydroelectric Project (project).

f. *Location:* On Otter Creek in Rutland County, Vermont. The project does not occupy any federal land.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. John Greenan, P.E., Green Mountain Power Corporation, 2152 Post Road, Rutland, VT 05701; Phone at (802) 770–2195, or email at *John.Greenan@greenmountainpower.com.*

i. *FERC Contact:* Taconya D. Goar at (202) 502–8394, or *Taconya.Goar@ferc.gov.*

j. *Deadline for Filing Scoping Comments:* July 6, 2022.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's eFiling system at *https://ferconline.ferc.gov/FERCOnline.aspx.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *https://ferconline.ferc.gov/QuickComment.aspx.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. All filings must clearly identify the project name and docket number on the first page: Center Rutland Hydroelectric Project (P–2445–028).

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The application is not ready for environmental analysis at this time.

l. *The existing Center Rutland Hydroelectric Project consists of:* (1) a 190-foot-long, 14-foot-high concrete and stone masonry gravity dam that includes: (a) a 174-foot-long spillway section with a crest elevation of 504.8 feet National Geodetic Vertical Datum of 1929 (NGVD 29); and (b) a 16-foot-long non-overflow section; (2) an impoundment with a surface area of 13 acres and a storage capacity of 30 acre-feet at an elevation of 507.4 feet NGVD 29; (3) a 13-foot-long, 7- to 30-foot-wide forebay; (4) a 39.58-foot-wide, 18-foot-high concrete and marble masonry intake structure with a 6.7-foot-wide, 6.5-foot-high steel headgate and a 30-foot-wide, 12-foot-high trashrack with 9/16-inch clear bar spacing; (5) a 6-foot-diameter, 75-foot-long steel penstock; (6) a 40-foot-long, 33-foot-wide stone and marble masonry powerhouse containing one 275-kilowatt horizontal-shaft turbine-generator; (7) a 480-volt/12.47-kilovolt (kv) transformer and 80-foot-long, 12.47-kV transmission line that interconnects with the local distribution grid; (8) a 0.35-mile-long fiber optic cable for smart grid communications with the electric system; and (9) appurtenant facilities.

The current license requires: (1) run-of-river operation, such that outflow from the project approximates inflow to the impoundment; (2) a minimum bypassed reach flow of 80 cubic feet per second (cfs) or inflow to the impoundment, whichever is less, from June 1 through October 15; and (3) a minimum flow release of 154 cfs or 90 percent of inflow to the impoundment, whichever is less, downstream of the powerhouse when refilling the impoundment following a drawdown for maintenance or emergencies.

The applicant proposes to: (1) continue operating the project in a run-of-river mode; (2) continue releasing a minimum bypassed reach flow of 80 cfs or inflow, whichever is less, from June 1 through October 15; (3) release a minimum bypassed reach flow of 40 cfs or inflow, whichever is less, from October 16 through May 31; (4) implement a seasonal clearing restriction from April 15 through October 31, for trees that are 4 inches in diameter or greater, to protect the federally threatened northern long-eared bat; (5) develop and implement a flow management and monitoring plan; and (6) develop and implement a historic properties management plan. In addition, the applicant proposes to reinstall the 2.3-foot-high flashboards, and develop a water quality monitoring study to test the release of the minimum bypassed reach flows after installing the flashboards.

m. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TYY, (202) 502–8659.

n. You may also register online at *https://ferconline.ferc.gov/FERCOnline.aspx* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. *Scoping Process:* Commission staff will prepare either an environmental assessment (EA) or an Environmental Impact Statement (EIS) that describes and evaluates the probable effects of the licensee's proposed action and alternatives. The EA or EIS will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action. The Commission's scoping process will help determine the required level of analysis and satisfy the National Environmental Policy Act (NEPA) scoping requirements, irrespective of whether the Commission prepares an EA or an EIS.

At this time, we do not anticipate holding on-site scoping meetings. Instead, we are soliciting written comments and suggestions on the preliminary list of issues and alternatives to be addressed in the NEPA document, as described in scoping document 1 (SD1), issued June 6, 2022.

Copies of the SD1 outlining the subject areas to be addressed in the NEPA document were distributed to the parties on the Commission's mailing list and the applicant's distribution list. Copies of SD1 may be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12541 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–465–000]

Florida Gas Transmission Company, LLC; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on May 27, 2022, Florida Gas Transmission Company, LLC (Florida Gas), 1300 Main Street, Houston, Texas 77002, filed in the above referenced docket a prior notice request pursuant to sections 157.205, 157.208, 157.210, and 157.211 of the Commission's regulations under the Natural Gas Act (NGA), and Florida Gas' blanket certificate issued in Docket No. CP82–533–000, for authorization to: (i) construct one new back pressure regulation station and install appurtenant facilities in DeSoto County, Florida; (ii) add one new regulation station and make minor auxiliary facility modifications to Florida Gas' existing Fort Myers Regulation Station in Lee County, Florida; (iii) and upgrade the existing Florida Power and Light (FPL) Fort Myers Meter Station delivery point and install appurtenant facilities in Lee County, Florida (FPL Fort Myers Project). The project will enable Florida Gas to increase hourly flow capabilities at the FPL Fort Myers delivery point from 15.4 million British thermal units per hour (MMBtu/h) to 20.0 MMBtu/h, while maintaining sufficient delivery pressure. There will be no increase in the daily capacity of the mainline or to the daily delivery obligation to the FPL Fort Myers Plant delivery point. The project will allow the FPL Fort Myers power generation plant to more closely match electric generation requirements needed for FPL's customers. The project will also enhance the suction control into Florida Gas' Compressor Station 29 in Highlands County, Florida to better manage gas deliveries on Florida Gas' West Leg mainline. The estimated cost for the project is $12.5 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*https://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this prior notice request should be directed to Blair Lichtenwalter, Senior Director of Certificates, Florida Gas Transmission Company, LLC, 1300 Main Street, Houston, Texas 77002, by phone (713) 989–2605, or fax (713) 989–1205, or via email at *Blair.Lichtenwalter@energytransfer.com.*

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on August 5, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[1] any person [2] or the Commission's staff may file a protest to the request. If no protest is filed within the time allowed or if a protest is filed and then withdrawn within 30 days after the allowed time for filing a protest, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request for authorization will be considered by the Commission.

Protests must comply with the requirements specified in section 157.205(e) of the Commission's regulations,[3] and must be submitted by the protest deadline, which is August 5, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

[1] 18 CFR 157.205.

[2] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[3] 18 CFR 157.205(e).

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is August 5, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before August 5, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–465–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [6]

(2) You can file a paper copy of your submission by mailing it to the address below.[7] Your submission must reference the Project docket number CP22–465–000.

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: 1300 Main Street, P.O. Box 4967, Houston, Texas 77210, or *Blair.Lichtenwalter@energytransfer.com.* Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

[6] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[7] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: June 6, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–12553 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD22–8–000]

Transmission Planning and Cost Management; Notice Extending Nominations for Technical Conference

As announced in the Notice of Technical Conference issued in this proceeding on April 21, 2022, the Federal Energy Regulatory Commission (Commission) will convene a Commissioner-led technical conference regarding transmission planning and cost management for transmission facilities developed through local or regional transmission planning processes in the above-captioned proceeding on October 6, 2022, from approximately 9:00 a.m. to 5:00 p.m. Eastern Time. In the Notice of Technical Conference, individuals interested in participating as panelists were instructed to submit a self-nomination email by 5:00 p.m. Eastern Time on June 16, 2022.

In this supplemental notice we extend the date for individuals interested in participating as panelists to submit a self-nomination by 45 days. Individuals interested in participating as panelists should submit a self-nomination email by 5:00 p.m. Eastern Time on August 1, 2022, to *john.riehl@ferc.gov.* Each nomination should state the proposed panelist's name, contact information, organizational affiliation, and what topics the proposed panelist would speak on. A separate notice will be issued to establish technical conference topics and details.

For more information about this technical conference, please contact John Riehl at *john.riehl@ferc.gov* or (202) 502–6026. For information related to logistics, please contact Sarah McKinley at *sarah.mckinley@ferc.gov or* (202) 502–8368.

Dated: June 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–12517 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2031–000]

Sonoran West Solar Holdings 2, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sonoran West Solar Holdings 2, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human

Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–12518 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2030–000]

Sonoran West Solar Holdings, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sonoran West Solar Holdings, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 27, 2022.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Dated: June 6, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–12515 Filed 6–9–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL OP–OFA–019]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information 202–564–5632 or *https://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EIS)

Filed May 27, 2022 10 a.m. EST

Through June 6, 2022 10 a.m. EST

Pursuant to 40 CFR 1506.9.

Notice: Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20220074, Final, CHSRA, CA, California High-Speed Rail Authority San Francisco to San Jose Project Section Final Environmental Impact Report/Environmental Impact Statement, Review Period Ends: 07/11/2022, Contact: Scott Rothenberg 916–403–6936.

EIS No. 20220075, Final, USCG, PRO, Offshore Patrol Cutter Acquisition Program, Review Period Ends: 07/11/2022, Contact: Andrew Haley 202–372–1821.

EIS No. 20220076, Draft, USACE, TX, Proposed Corpus Christi Ship Channel Deepening Project, Comment Period Ends: 07/25/2022, Contact: Jayson M Hudson 409–766–3108.

EIS No. 20220077, Draft, USFS, CA, Meeks Bay Restoration, Comment Period Ends: 08/09/2022, Contact: Ashley Sibr 530–543–2615.

Dated: June 6, 2022.

Cindy S. Barger,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2022–12537 Filed 6–9–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0010; FR ID 90628]

Information Collection Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it can further reduce the information collection burden for small business concerns with fewer than 25 employees.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 11, 2022.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0010.

Title: Ownership Report for Commercial Broadcast Stations, FCC Form 323; Section 73.3615, Ownership Reports; Section 74.797, Biennial Ownership Reports.

Form Number: FCC Form 323.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local, or Tribal Governments.

Number of Respondents: 4,340 respondents; 4,340 responses.

Estimated Time per Response: 1.5 to 2.5 hours.

Frequency of Response: On occasion reporting requirement; biennial reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in 47 U.S.C. 151, 152(a), 154(i), 257, 303(r), 307, 309, and 310.

Total Annual Burden: 9,620 hours.

Total Annual Cost: $10,220,980.

Needs and Uses: On January 20, 2016, the Commission released a Report and Order, Second Report and Order, and Order on Reconsideration in MB Docket Nos. 07–294, 10–103, and MD Docket No. 10–234 (Second Report and Order). The Second Report and Order refines the collection of data reported on FCC Form 323, Ownership Report for Commercial Broadcast Stations, and FCC Form 323–E, Ownership Report for Noncommercial Broadcast Stations. Specifically, the Second Report and Order implements a Restricted Use FRN (RUFRN) within the Commission's Registration System (CORES) that individuals may use solely for the purpose of broadcast ownership report filings; eliminates the availability of the Special Use FRN (SUFRN) for broadcast station ownership reports, except in very limited circumstances; prescribes revisions to Form 323–E that conform the reporting requirements for noncommercial educational (NCE) broadcast stations more closely to those for commercial stations; and makes a number of significant changes to the Commission's reporting requirements that reduce the filing burdens on broadcasters, streamline the process, and improve data quality. These enhancements enable the Commission to obtain data reflecting a useful, accurate, and thorough assessment of minority and female broadcast station ownership in the United States while reducing certain filing burdens.

Currently, Form 323, Section II–A/II–B, Question 2.c asks ''Does the Respondent or any interest holder reported in response to Question 2(a) hold an attributable interest in any newspaper entities in the same market as any station for which this report is filed, as defined in *47 CFR 73.3555*?'' This question was relevant to the Commission's Newspaper/Broadcast Cross-Ownership Rule, which prohibited common ownership of a full-power broadcast station and a daily newspaper if the station's contour (defined separately by type of station) completely encompassed the newspaper's city of publication and the station and newspaper were in the same relevant Nielsen market. On November 20, 2017, the Commission released an Order on Reconsideration and Notice of Proposed Rulemaking in MB Docket Nos. 04–256, 07–294, 09–182, 14–50, and 17–289 (Order on Reconsideration). Among other things, the Order on Reconsideration repealed the Newspaper/Broadcast Cross-Ownership Rule. Accordingly, Section II–A/II–B, Question 2.c will be eliminated from Form 323.

Licensees of commercial AM, FM, and full power television broadcast stations, as well as licensees of Class A and Low Power Television stations, must file FCC Form 323 every two years. Biennial Ownership Reports shall provide information accurate as of October 1 of the year in which the Report is filed. Form 323 shall be filed by December 1 in all odd-numbered years.

In addition, Licensees and Permittees of commercial AM, FM, and full power television stations must file Form 323 following the consummation of a transfer of control or an assignment of a commercial AM, FM, or full power television station license or construction permit; a Permittee of a new commercial AM, FM, or full power television station must file Form 323 within 30 days after the grant of the construction permit; and a Permittee of a new commercial AM, FM, or full power television broadcast station must file Form 323 to update the initial report or to certify the continuing accuracy and completeness of the previously filed report on the date that

the Permittee applies for a license to cover the construction permit. In the case of organizational structures that include holding companies or other forms of indirect ownership, a separate Form 323 must be filed for each entity in the organizational structure that has an attributable interest in the Licensee or Permittee.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–12533 Filed 6–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 88631]

Federal Advisory Committee Act; Communications Security, Reliability, and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons that the Federal Communications Commission's (Commission) Communications Security, Reliability, and Interoperability Council (CSRIC) VIII will hold its fourth meeting on June 15, 2022 at 1:00 p.m. EDT.

DATES: June 15, 2022.

ADDRESSES: The Meeting will be held via conference call and available to the public via WebEx at *http://www.fcc.gov/live.*

FOR FURTHER INFORMATION CONTACT: Suzon Cameron, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–1916 or email: *suzon.cameron@fcc.gov,* or Kurian Jacob, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418–2040 or email: *kurian.jacob@fcc.gov.*

SUPPLEMENTARY INFORMATION: While the notice of this meeting will not publish in the **Federal Register** in time to meet the 15-day requirement for advance publication, exceptional circumstances warrant proceeding with the June 15, 2022, CSRIC VIII meeting. CSRIC VIII members were informed of the June 15th meeting at the March 30, 2022, public meeting of the Council, and have been informed informally of the June meeting date on more than one occasion both before and since then. In addition, the meeting date has been posted on the CSRIC VIII website for several months. A significant number of Council members have made plans in accordance with this schedule, and there is no date within one month of the planned date that will accommodate Council members' schedules. The meeting on June 15, 2022, at 1:00 p.m. EDT, will be held electronically only and may be viewed live, by the public, at *http://www.fcc.gov/live.* Any questions that arise during the meeting should be sent to *CSRIC@fcc.gov* and will be answered at a later date. The meeting is being held in a wholly electronic format in light of travel and gathering restrictions related to COVID–19 in place in Washington, DC, and the larger U.S., which affect members of CSRIC and the Commission.

The CSRIC is a Federal Advisory Committee that will provide recommendations to the Commission to improve the security, reliability, and interoperability of communications systems. On June 30, 2021, the Commission, pursuant to the Federal Advisory Committee Act, renewed the charter for CSRIC VII for a period of two years through June 29, 2023. The meeting on June 15, 2022, will be the fourth meeting of CSRIC VIII under the current charter.

The Commission will provide audio and/or video coverage of the meeting over the internet from the FCC's web page at *http://www.fcc.gov/live.* The public may submit written comments before the meeting to Suzon Cameron, CSRIC VIII Designated Federal Officer, by email to *CSRIC@fcc.gov.*

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty). Such requests should include a detailed description of the accommodation needed. In addition, please include a way the Commission can contact you if it needs more information. Please allow at least five days' advance notice; last-minute requests will be accepted but may be impossible to fill.

Federal Communications Commission.

Sheryl Todd,

Deputy Secretary, Office of the Secretary.

[FR Doc. 2022–12475 Filed 6–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 90827]

Information Collection Requirement Being Submitted to the Office of Management and Budget for Emergency Review and Approval

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The Commission may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 11, 2022.

ADDRESSES: Comments should be sent to *http://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the information collection to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as

shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Commission invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

The Commission is requesting emergency OMB processing of the information collection requirement(s) contained in this notice and has requested OMB approval no later than 37 days after the collection is received at OMB. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of Commission ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the Commission's submission to OMB will be displayed.

OMB Control Number: 3060–XXXX.

Title: Advanced Methods to Target and Eliminate Unlawful Robocalls, Sixth Report and Order, CG Docket No. 17–59, Call Authentication Trust Anchor, Fifth Report and Order, WC Docket No. 17–97, FCC 22–37.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Estimated Number of Respondents and Responses: 6,493 respondents and 311,664 responses.

Estimated Time per Response: .25 hours.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 4(i), 4(j), 201, 202, 217, 227, 227b 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403.

Estimated Total Annual Burden: 77,916 hours.

Total Annual Costs: No cost.

Needs and Uses: This notice and request for comments seeks to establish a new information collection as it pertains to the Advanced Methods to Target and Eliminate Unlawful Robocalls Sixth Report and Order and Call Authentication Trust Anchor Fifth Report and Order (''Gateway Provider Report and Order''). Unwanted and illegal robocalls have long been the Federal Communication Commission's (''Commission'') top source of consumer complaints and one of the Commission's top consumer protection priorities. Foreign-originated robocalls represent a significant portion of illegal robocalls, and gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers. In the Gateway Provider Report and Order, the Commission took steps to prevent these foreign-originated illegal robocalls from reaching consumers and to help track these calls back to the source. Along with further extension of the Commission's caller ID authentication requirements and Robocall Mitigation Database filing requirements, the Commission adopted several robocall mitigation requirements, including a requirement for gateway providers to respond to traceback within 24 hours, mandatory blocking requirements, a ''know your upstream provider'' requirement, and a general mitigation requirement.

Gateway Provider Report and Order, FCC 22–37, Paras. 65–71, 47 CFR 64.1200(n)(1)

A voice service provider must: . . . Upon receipt of a traceback request from the Commission, civil law enforcement, criminal law enforcement, or the industry traceback consortium:

(i) If the provider is an originating, terminating, or non-gateway intermediate provider for all calls specified in the traceback request, the provider must respond fully and in a timely manner;

(ii) If the provider receiving a traceback request is the gateway provider for any calls specified in the traceback request, the provider must fully respond to the traceback request within 24 hours of receipt of the request. The 24-hour clock does not start outside of business hours, and requests received during that time are deemed received at 8:00 a.m. on the next business day. If the 24-hour response period would end on a non-business day, either a weekend or a federal legal holiday, the 24-hour clock does not run for the weekend or holiday in question, and restarts at 12:01 a.m. on the next business day following when the request would otherwise be due. For example, a request received at 3:00 p.m. on a Friday will be due at 3:00 p.m. on the following Monday, assuming that Monday is not a federal legal holiday. For purposes of this rule, ''business day'' is defined as Monday through Friday, excluding federal legal holidays, and ''business hours'' is defined as 8:00 a.m. to 5:30 p.m. on a business day. For purposes of this rule, all times are local time for the office that is required to respond to the request.

The first portion of the new information collection for which OMB approval is sought comes from the requirement adopted in the Gateway Provider Report and Order that all voice service providers respond to traceback ''fully and in in a timely manner'' and gateway providers must respond within 24 hours. All voice service providers, including gateway providers are required to respond to traceback requests from the Commission, civil and criminal law enforcement, and the Industry Traceback Consortium. Traceback is a key enforcement tool in the fight against illegal calls, allowing the Commission or law enforcement to identify the caller and bring enforcement actions or otherwise stop future calls before they reach consumers. Any unnecessary delay in the process can increase the risk that this essential information may become impossible to obtain. While traceback is

not a new process, some providers have historically been reluctant to respond, or have simply ignored requests. This requirement ensures that all providers are on notice that a response is required, and allows real consequences for refusal.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–12563 Filed 6–9–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0895, OMB 3060–1155, OMB 3060–1223; FR ID 90750]

Information Collections Being Submitted for Review and Approval to Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Pursuant to the Small Business Paperwork Relief Act of 2002, the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments and recommendations for the proposed information collection should be submitted on or before July 11, 2022.

ADDRESSES: Comments should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Your comment must be submitted into *www.reginfo.gov* per the above instructions for it to be considered. In addition to submitting in *www.reginfo.gov* also send a copy of your comment on the proposed information collection to Nicole Ongele, FCC, via email to *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) go to the web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the Title of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the FCC invited the general public and other Federal Agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the FCC seeks specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

OMB Control Number: 3060–0895.

Title: Numbering Resource Optimization.

Form Number: FCC Form 502.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and State, Local, or Tribal Government.

Number of Respondents and Responses: 8,415 respondents; 74,172 responses.

Estimated Time per Response: 1 hour–44.4 hours.

Frequency of Response: On occasion and semi-annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 153, 154, 201–205 and Section 251 of the Communications Act of 1934.

Total Annual Burden: 290,637 hours.

Total Annual Cost: $4,747,499.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Disaggregated, carrier-specific forecast and utilization data will be treated as confidential and will be exempt from public disclosure under 5 U.S.C. 552(b)(4).

Needs and Uses: The data collected on FCC Form 502 helps the Commission manage the ten-digit North American Numbering Plan (NANP), which is currently being used by the United States and 19 other countries. Under the Communications Act of 1934, as amended, the Commission was given ''exclusive jurisdiction over those portions of the North American Numbering Plan that pertains to the United States.'' Pursuant to that authority, the Commission conducted a rulemaking in March 2000 that the Commission found that mandatory data collection is necessary to efficiently monitor and manage numbering use. The Commission received OMB approval for this requirement and the following:

(1) Utilization/Forecast Report;

(2) Application for initial numbering resource;

(3) Application for growth numbering resources;

(4) Recordkeeping requirement;

(5) Notifications by state commissions;

(6) Demonstration to state commission; and

(7) Petitions for additional delegation of numbering authority.

The data from this information collection is used by the FCC, state regulatory commissions, and the NANPA to monitor numbering resource utilization by all carriers using the resource and to project the dates of area code and NANP exhaust.

OMB Control Number: 3060–1155.

Title: Sections 15.709, 15.713, 15.714, 15.715 15.717, 27.1320, TV White Space Broadcast Bands.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,510 respondents; 3,500 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 4(i), 201, 302, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 302a, 303.

Total Annual Burden: 7,000 hours.

Total Annual Cost: $151,000.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission. Respondents may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission is submitting this information collection as a revision to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance.

On January 25, 2022, the Commission adopted a Second Order on Reconsideration, Further Notice of Proposed Rulemaking, and Order in ET Docket Nos. 14–165, 20–36, 04–186 and GN Docket No. 12–268, FCC 22–6, that made changes to the requirements for how white space devices must interact with the white space database. The white space database determines which frequencies are available for unlicensed devices and is the primary means to prevent white space devices from causing harmful interference to TV reception and other protected services. The Commission eliminated the requirement for white space database administrators to ''push'' changes in channel availability information to white space devices. It instead requires fixed and Mode II personal/portable white space devices, other than narrowband devices, to re-check the white space database once per hour rather than once per day. The Commission retained a daily re-check requirement for mobile and narrowband devices but sought comment on whether to apply an hourly re-check requirement to these types of devices. The Commission also retained the requirement for white space database administrators to share licensed wireless microphone registration information with other database administrators within ten minutes after it is received, but moved this requirement to a different rule section.

The modified database administrator requirements, Section 15.715(l) are as follows:

§ 15.715 White space database administrator.

(l) If more than one database is developed, the database administrators shall cooperate to develop a standardized process for providing on a daily basis or more often, as appropriate, the data collected for the facilities listed in § 15.713(b)(2) to all other white space databases to ensure consistency in the records of protected facilities. In response to a request for immediate access to a channel by a licensed wireless microphone user, white space database administrators are required to share the licensed microphone channel registration information to all other white space database administrators within 10 minutes of receiving each wireless microphone registration.

On October 27, 2020, the Commission adopted a Report and Order and Notice of Proposed Rulemaking in ET Docket No. 20–36, FCC 20–156, that made targeted changes to the Part 15 rules for unlicensed white space devices in the TV bands to provide improved broadband coverage that will benefit American consumers in rural and underserved areas as well as to provide improved access to narrowband IoT applications while still protecting broadcast television stations from harmful interference. Specifically, the Commission permits higher EIRP and higher antenna HAAT for fixed white space devices in ''less congested'' geographic areas. In addition, the Commission permits higher power mobile operation within ''geo-fenced'' areas in ''less congested'' areas. The Order revised Section 15.709(g)(1)(ii) to increase the maximum permissible antenna height above average terrain for fixed white space devices on TV channels 2–35 in ''less congested'' areas from 250 meters to 500 meters.

The white space rules as amended by the 2020 White Spaces R&O require that fixed white space devices and installing parties comply with the following requirements with respect to the antenna height above average terrain:

15.709 General technical requirements.

(g) Antenna requirements—

(1) Fixed white space devices—

(ii) *Height above average terrain (HAAT).* For devices operating in the TV bands below 602 MHz, the transmit antenna shall not be located where its height above average terrain exceeds 250 meters generally, or 500 meters in less congested areas. For devices operating in all other bands the transmit antenna shall not be located where its height above average terrain exceeds 250 meters. The HAAT is to be calculated by the white space database using the methodology in § 73.684(d) of this chapter. For HAAT greater than 250 meters the following procedures are required:

(A) The installing party must contact a white space database and identify all TV broadcast station contours that would be potentially affected by operation at the planned HAAT and EIRP. A potentially affected TV station is one where the protected service contour is within the applicable separation distance for the white space device operating at an assumed HAAT of 50 meters above the planned height at the proposed power level.

(B) The installing party must notify each of these licensees and provide the geographic coordinates of the white space device, relevant technical parameters of the proposed deployment, and contact information.

(C) No earlier than four calendar days after this notification, the installing party may commence operations.

(D) Upon request, the installing party must provide each potentially affected licensee with information on the time periods of operations.

(E) If the installing party seeks to modify its operations by increasing its power level, by moving more than 100 meters horizontally from its location, or by making an increase in the HAAT or EIRP of the white space device that results in an increase in the minimum required separation distances from co-channel or adjacent channel TV station contours, it must conduct a new notification.

(F) All notifications required by this section must be in written form (including email). In all cases, the names of persons contacted, and dates of contact should be kept by the white space device operator for its records and supplied to the Commission upon request.

OMB Control Number: 3060–1223.

Title: Payment Instructions from the Eligible Entity Seeking Reimbursement from the TV Broadcaster Relocation Fund.

Form Number: FCC Form 1876.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, Not-for-profit institutions and State, Local or Tribal Government.

Number of Respondents and Responses: 350 respondents; 350 responses.

Estimated Time per Response: 5 hours.

Frequency of Response: One-time reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) section 6403(a)(1) and Repack Airwaves Yielding Better Access for Users of Modern Services Act of 2018, Public Law 115–141, Div. P, (RAY BAUM'S Act) section 1452.

Total Annual Burden: 1,750 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: The information collection includes information identifying bank accounts and providing account and routing numbers to access those accounts. FCC considers that information to be records not routinely available for public inspection under 47 CFR 0.457, and exempt from disclosure under FOIA exemption 4 (5 U.S.C. 552(b)(4)).

Needs and Uses: The Commission is requesting Office of Management and Budget (OMB) approval for a three-year extension of this information collection.

The Spectrum Act requires the Commission to reimburse broadcast television licensees for costs ''reasonably incurred'' in relocating to new channels assigned in the repacking process and Multichannel Video Programming Distributors (MVPDs) for costs reasonably incurred in order to continue to carry the signals of stations relocating to new channels as a result of the repacking process or a winning reverse auction bid.[1]

The Commission decided through notice-and-comment rulemaking that it will issue all eligible broadcasters and MVPDs an initial allocation of funds based on estimated costs, which will be available for draw down (from individual accounts in the U.S. Treasury) as the entities incur expenses, followed by a subsequent allocation to the extent necessary. The reason for allowing eligible entities to draw down funds as they incur expenses is to reduce the chance that entities will be unable to finance necessary relocation changes.[2]

The information collection for which we are requesting approval is necessary for eligible entities to instruct the Commission on how to pay the amounts the entities draw down, and for the entities to make certifications that reduce the risk of waste, fraud, abuse and improper payments.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2022–12532 Filed 6–9–22; 8:45 am]

BILLING CODE 6712–01–P

[1] Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96 (Spectrum Act) § 6403(b)(4)(A)(i), (ii).

[2] Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12–268, Report and Order, 29 FCC Rcd 6567 (2014) (''Incentive Auction R&O'') at 609.

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0960; FR ID 90619]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before August 9, 2022. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email to *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0960.

Title: 47 CFR 76.122, Satellite Network Non-duplication Protection Rules; 47 CFR 76.123, Satellite Syndicated Program Exclusivity Rules and 47 CFR 76.124, Requirements for Invocation of Non-duplication and Syndicated Exclusivity Protection.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 1,428 respondents and 9,806 responses.

Estimated Time per Response: 0.5–1 hour.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 9,352 hours.

Total Annual Costs: No costs.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 4(i), 4(j), 303(r), 339 and 340 of the Communications Act of 1934, as amended.

Needs and Uses: The information collection requirements contained in 47 CFR 76.122, 76.123 and 76.124 are used to protect exclusive contract rights negotiated between broadcasters, distributors, and rights holders for the transmission of network syndicated in the broadcasters' recognized market areas. Rule sections 76.122 and 76.123 implement statutory requirements to provide rights for in-market stations to assert non-duplication and exclusivity rights.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–12572 Filed 6–9–22; 8:45 am]

BILLING CODE 6712–01–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 27, 2022.

A. Federal Reserve Bank of St. Louis (Holly A. Rieser, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034 or by email at *Comments.applications@stls.frb.org*:

1. *The William A Carlson 2007 Trust, William A. Carlson and Pam Falkner, as co-trustees, Carlson Andrew Bennage, and Catherine Jane Carlson Bennage, all of West Memphis, Arkansas; Michael Dustin Carlson, two minor children of Michael Dustin Carlson, Marilyn Hayes Carlson, and Michael Andrew Carlson, all of Marion, Arkansas; Kirby Hayes Carlson, Proctor, Arkansas; and the William C. Carlson Living Trust, William C. Carlson, as trustee, Hot Springs, Arkansas;* as members of a group acting in concert, to retain voting shares of Carlson Bancshares, Inc., and thereby indirectly retain voting shares of Fidelity Bank, West Memphis, Arkansas.

B. Federal Reserve Bank of Kansas City (Jeffrey Imgarten, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *The Luann M. Walker Trust, Luann Walker GST Management Trust, and Dale F. Walker GST Management Trust, Luann Walker as trustee of the aforementioned trusts, all of Ardmore, Oklahoma; Robert Keith Walker GST Management Trust, Ardmore, Oklahoma, Robert K. Walker, individually, and as trustee of the Robert Keith Walker GST Management Trust, and Christy Godwin, both of Denver, Colorado; and DFW Trust, Ardmore, Oklahoma, Dale Walker and Mary Walker, as co-trustees, both of Norman, Oklahoma;* as a group acting in concert, to retain voting shares of First National Corporation of Ardmore, Inc., and thereby indirectly retain voting shares of First National Bank and Trust Company of Ardmore, both of Ardmore, Oklahoma.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–12593 Filed 6–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket No. CDC–2019–0103]

Reporting of Pregnancy Success Rates from Assisted Reproductive Technology (ART) Programs; Proposed Additional Data Collection Fields and Modified Reporting Requirements; Final Notice

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: General notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC) within the Department of Health and Human Services (HHS) announces revised plans for additional data fields and modified reporting requirements for Assisted Reproductive Technology (ART) programs pursuant to the Fertility Clinic Success Rate and Certification Act of 1992 (FCSRCA). This notice also responds to public comments received in response to CDC's 2019 request for comment.

DATES: The requirements for the additional data fields and modified reporting requirements will be implemented for reporting year 2021.

FOR FURTHER INFORMATION CONTACT: Mithi Sunderam, Division of Reproductive Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway NE, Mailstop S107–2, Atlanta, Georgia 30341; Telephone: 1–800–232–4636; Email: *ARTinfo@cdc.gov*.

SUPPLEMENTARY INFORMATION: On November 6, 2019, CDC published a notice in the **Federal Register** (84 FR 59814) requesting comments on a plan proposing that ART programs collect additional information, listed below.

(i) For intended parents who are not oocyte source or pregnancy carriers under Section A (Patient Demographic Information): race/ethnicity.

(ii) For oocyte donors under Section D (Oocyte Source and Carrier Information): height, weight, smoking history, and other key pregnancy, diagnostic, and reproductive history (including number of prior pregnancies [ectopic, spontaneous abortions]; number of prior births [full term, preterm, live births, stillbirths]; history of prior ART cycles [fresh, frozen]; maximum follicle-stimulating hormone (FSH) level [value in mIU/mL]; and most recent anti-müllerian hormone (AMH) level [value in ng/mL, date]).

(iii) For both fresh embryo transfers and thawed embryo transfers, under Section H (Transfer Information): clinic names if oocyte retrievals took place in a clinic different from the one performing the transfer.

CDC also proposed changes in reporting responsibilities when multiple ART programs were involved in performing one cycle (such as different ART programs responsible for ovarian stimulation, oocyte retrieval, and/or embryo transfer), moving the reporting obligations from the ART program that accepts responsibility for embryo culture to the ART program that directs the clinical management of the cycle.

Public Comment Summary and Responses

CDC received three comments (two comments from researchers and one from the Society for Assisted Reproductive Technology) in response to its request for comment. Summaries of these comments and CDC's responses are provided below.

1. One commenter cautioned that embryos shipped between centers often arrive without retrieval information, such as dates of retrieval. The commenter was otherwise supportive of collecting additional information for embryos shipped from different centers, as it would improve the accuracy of calculating cumulative success rates.

Response: CDC thanks the commenter for providing this comment. Accurate documentation of oocyte retrieval dates is important for establishing cumulative

success rates. No changes were made to the reporting requirement.

2. A second commenter suggested using the term ''intended parents'' rather than ''patients'' for people who are not using their own oocytes or carrying a pregnancy. The commenter supported collection of additional information for oocyte donors and suggested expanding data collection to reflect changes in ART practice by collecting additional information (such as reproductive health and history, demographics, and detailed information on prior ART treatments) for all people involved in an ART cycle, including both intended parents and gestational carriers. The commenter also proposed that independent egg freezing clinics or companies that are not affiliated with ART clinics should be required to report their data. Finally, the commenter had many suggestions for improving the data collected by the Society for Assisted Reproductive Technology.

Response: CDC thanks the commenter for these suggestions. CDC agrees that the suggested terminology (''intended parents'') is more accurate. No changes were made to the reporting requirements based on these comments; however, CDC will adopt the term ''intended parents'' where appropriate.

Any practice, program, or clinic providing ART services (such as egg freezing) is required to report its data to CDC whether or not it is affiliated with an ART clinic. Specifics about the reporting process and requirements are described in ''Reporting of Pregnancy Success Rates from Assisted Reproductive Technology (ART) Programs'' (80 FR 51811). Therefore, no changes to the reporting requirements are needed based on these comments.

3. A third commenter expressed concerns about the burden of additional data collection on reporting clinics. The commenter also noted that additional variables related to egg donors may not have an impact on pregnancy outcomes, which is the primary focus of FCSRCA. Additionally, the commenter noted that CDC's plan to collect information on race/ethnicity for intended parents using donor oocytes and gestational carriers was mainly for research purposes, as these variables have no biological effect on pregnancy outcomes.

Response: CDC thanks the commenter for providing their feedback. Since the proposed additional information related to egg donors is already collected during the time of egg retrieval, CDC will instead link the information collected during egg retrieval from the clinic that performed the egg retrieval with information reported during donor egg or embryo transfer from the ART clinic performing the transfer. This can be achieved by transmitting the cycle identification number from the clinic that collected the donor egg to the clinic that provides care to the donor egg recipient. This will allow utilization of the data that are already collected to avoid additional burden on clinics. The details of the proposed linkage plan will be published separately in a different **Federal Register** notice before implementation.

CDC notes the commenter's feedback regarding collecting information on race/ethnicity for a small group of intended parents that do not use their own eggs or carry a pregnancy. Other demographic information such as date of birth, sex, and residency status are currently collected for this group; however, information on race/ethnicity is currently only collected for oocyte sources and pregnancy carriers. Collecting information on race/ethnicity for both intended parents that do not use their own eggs or carry pregnancy, and for oocyte sources and pregnancy carriers, ensures consistency in demographic data collection. CDC also believes that this information allows the pregnancy success rates to reflect a complete set of demographics for intended parents and will help better understand disparities in utilization of ART services.

Please see the revised Appendix below for the new requirements.

Appendix—Notice for Reporting of Pregnancy Success Rates From Assisted Reproductive Technology (ART) Programs; Additional Data Collection Fields and Modified Reporting Requirements:

A. Background

On August 26, 2015, CDC published a notice in the **Federal Register** (80 FR 51811) announcing the overall reporting requirements of the National ART Surveillance System (NASS). The notice described who shall report to HHS/CDC; the process for reporting by each ART program; the data to be reported; and the contents of the published reports. This data collection is approved under Office of Management and Budget Control Number 0920–0556, expiration date: 12/31/2024. The purpose of this notice published June 10, 2022 is to apply consistent data collection requirements to various treatment options, including certain rare situations, to improve quality of data. Effective for reporting year 2021, CDC is implementing the following changes to its data collection.

Section III. What to Report

Section A. Patient Demographic Information

Addition (for Intended Parents Who Are Not Oocyte Source or Pregnancy Carrier)

In addition to collecting information on race and ethnicity for oocyte source, sperm source, and pregnancy carrier as part of the current data collection system, CDC will also collect race and ethnicity information for intended parents who do not use their own oocytes (use donor eggs) and do not carry the pregnancy (use gestational carrier). Specifically, this information will include (i) Ethnicity (Hispanic, non-Hispanic, Refused, Unknown) and (ii) Race (White, Black, Asian, Native Hawaiian/Pacific Islander, American Indian or Alaska Native, Refused, Unknown). CDC has added these questions to the patient profile in the beginning of the questionnaire to ensure consistency in demographic data collected and to allow the pregnancy success rates to reflect a complete set of demographics for intended parents. To reduce the reporting burden, the system has been designed to pre-fill race/ethnicity of oocyte source, sperm source, or pregnancy carrier, if previously reported.

Section D. Oocyte Source and Carrier Information

Addition (for Oocyte Donors)

CDC has replaced its original plan to add several new data collection fields for oocyte donors which were to be obtained directly from ART programs. Instead, CDC plans to use the oocyte donor cycle identifying information to link and retrieve information about oocyte donors collected at the time of egg retrieval. When applicable, oocyte donor cycle identifying information will be transferred from the program involved in egg retrieval to the program involved in subsequent use of donor eggs. The details of the proposed linkage plan and the timeline for implementation of this plan will be published in a separate **Federal Register** notice before implementation.

Section H. Transfer Information

Addition (if Oocyte Retrieval Was Not Conducted at the Same Clinic as Transfer)

CDC will collect the name of the clinic in which the previous egg retrieval occurred for all fresh embryo transfers and thawed embryo transfers if the retrieval and transfer were completed at different clinics. Oocyte retrieval dates are already being collected for all transferred embryos.

Reporting Requirement Modification

Section I. Who Reports

Sub-Section C. Reporting Responsibilities of ART Program

Modification (if More Than One Program is Involved in One Cycle)

Multiple ART programs involved in one cycle — Different ART programs responsible for ovarian stimulation, oocyte retrieval, and/or embryo transfer.

The following updated guidelines shall be used:

a. The requirement to report cycles lies with the ART program that directs the

clinical management of the cycle, which would include (but is not limited to) multiple aspects of the treatment such as patient selection, pre-treatment counseling and selection of the specific treatment protocol. The ART programs involved must have a method in place to ensure that these cycles can be prospectively reported by the ART program required to report them. In addition, all canceled cycles must be reported by the same ART program.

b. Cycles involving previously cryopreserved oocytes/embryos are to be reported by the ART program that accepts responsibility for thawing the oocytes/embryos.

Dated: June 7, 2022.

Angela K. Oliver,

Executive Secretary, Centers for Disease Control and Prevention.

[FR Doc. 2022–12528 Filed 6–9–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Behavioral Interventions To Advance Self-Sufficiency Next Generation (BIAS–NG) (OMB# 0970–0502)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, HHS.

ACTION: Request for public comment.

SUMMARY: The Office of Planning, Research, and Evaluation (OPRE) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), requests Office of Management and Budget (OMB) approval to extend approval of the ACF Behavioral Interventions to Advance Self-Sufficiency Next Generation (BIAS–NG) Project Overarching Generic (OMB #: 0970–0502; Expiration date: 8/31/2022). Under this overarching generic, ACF collects data as part of rapid cycle testing and evaluation, in order to inform the design of interventions informed by behavioral science and to better understand the mechanisms and effects of such interventions. Interventions have been and will continue to be developed in the program area domains of Temporary Assistance for Needy Families (TANF), child welfare, and Early Head Start/Head Start (EHS/HS). These interventions are intended to improve outcomes for participants in these programs. No changes are proposed.

DATES: *Comments due within 30 days of publication.* OMB must make a decision about the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. You can also obtain copies of the proposed collection of information by emailing *OPREinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: OPRE is conducting the BIAS–NG project, which uses behavioral insights to design and test interventions intended to improve the efficiency, operations, and efficacy of human services programs. The BIAS–NG project is applying and testing behavioral insights to ACF programs including TANF, Child Welfare, and EHS/HS. This notice is a request for comments on ACF's proposal to extend approval of the overarching generic. Under the approved pilot generic clearance, OPRE has already completed work with five sites and has conducted five tests. The extended approval would allow OPRE to continue to work with at least three additional sites, conducting one or more tests of behavioral interventions. The design and testing of BIAS–NG interventions is rapid and, to the extent possible, iterative. Each specific intervention is designed in consultation with agency leaders and launched as quickly as possible. To maximize the likelihood that the intervention produces measurable, significant, and positive effects on outcomes of interest, rapid cycle evaluation techniques will be employed in which proximate outcomes will be measured to allow the research team to more quickly iterate and adjust the intervention design, informing subsequent tests. Due to the rapid and iterative nature of this work, OPRE sought and received generic clearance to conduct this research. Following standard OMB requirements for generic clearances, once instruments requiring burden are tailored to a specific site and the site's intervention, OPRE submits an individual generic information collection request under this umbrella clearance. Each request includes the individual instrument(s), a justification specific to the individual information collection, a description of the proposed intervention, and any supplementary documents. Each specific information collection includes up to two submissions—one submission for the formative stage research and another submission for any further data collection requiring burden during the testing phase. The type of information to be collected and the uses of the information is described in the supporting statements, found here: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201909-0970-003.*

Respondents: (1) Program Administrators, (2) Program Staff, and (3) Program Clients.

Annual Burden Estimates (TANF, CW, EHS/HS): This request includes an extension to complete currently approved and ongoing phase 3 data collection in three sites (Matrix/Starfish and Hennepin County), and new data collection. Burden estimates for new requests are outlined below. Previously approved burden estimates can be found at the url above.

Instrument	Number of respondents (TANF, CW, EHS/HS) (total over request period)	Number of responses per respondent (total over request period)	Average burden hours per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Phase 3: Diagnosis and Design					
Administrator interviews/focus groups	48	1	1	48	16
Staff interviews/focus groups	400	1	1	400	133
Client interviews/focus groups	400	1	1	400	133
Client survey	400	1	0.25	100	33

Instrument	Number of respondents (TANF, CW, EHS/HS) (total over request period)	Number of responses per respondent (total over request period)	Average burden hours per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Staff Survey	400	1	0.25	100	33
Phase 4: Evaluation					
Administrator interviews/focus groups	96	1	1	96	32
Staff interviews/focus groups	800	1	1	800	267
Client interviews/focus groups	800	1	1	800	267
Client survey	12,000	1	0.25	3,000	1,000
Staff Survey	1,200	1	0.25	300	100

Estimated Total Annual Burden Hours: 2,014.

Authority: 42 U.S.C. 1310.

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–12538 Filed 6–9–22; 8:45 am]

BILLING CODE 4184–07–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: Radiation Therapy and Biology SBIR/STTR.

Date: July 7, 2022.

Time: 9:00 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: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, *hongb@csr.nih.gov*.

Name of Committee: Infectious Diseases and Immunology B Integrated Review Group; HIV Comorbidities and Clinical Studies Study Section.

Date: July 12–13, 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: 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*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuropathology, Developmental Disability, and Stem Education.

Date: July 13–14, 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: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, (301) 379–5632, *hfriedman@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: HIV/AIDS Biological.

Date: July 14, 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: Raj K. Krishnaraju, Ph.D., MS Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, (301) 435–1047, *kkrishna@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Motivated Behavior, Alcohol and Neurotoxicology.

Date: July 14, 2022.

Time: 11:00 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: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Metabolic Live Disease and Regeneration.

Date: July 15, 2022.

Time: 12:00 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: Ganesan Ramesh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 827–5467, *ganesan.ramesh@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Biomedical Sensing, Measurement and Instrumentation.

Date: July 19–20, 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: Michael L Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Innovative Immunology.

Date: July 20, 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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Skeletal Muscle and Exercise Physiology.

Date: July 20, 2022.

Time: 1:00 p.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: 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; PAR Panel: Biomedical Data Repositories and Knowledgebases.

Date: July 21, 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: Noffisat Oki, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (240) 627–3648, *noffisat.oki@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: June 6, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12484 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.* Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852: tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION: Technology description follows:

Human Monoclonal Antibodies That Broadly Target Coronaviruses

Description of Technology

The family of coronaviruses cause upper respiratory tract disease in humans and have caused three major disease outbreaks in recent history: the 2003 SARS outbreak, the 2012 MERS outbreak, and the current SARS–CoV–2 pandemic. There is an urgent need for strategies that broadly target coronaviruses, both to deal with new SARS–CoV–2 variants and future coronavirus outbreaks.

Scientists at NIAID have developed several novel human monoclonal antibodies that bind to conserved parts of the SARS–CoV–2 spike protein. These antibodies can neutralize SARS–CoV–2 variants of concern including Omicron BA.1 and BA.2, as well as neutralize at least one other betacoronavirus. Further, these antibodies limit disease in animal models. Broadly reactive antibodies against coronaviruses are useful tools to identify conserved sites on the coronavirus spike protein, which could be investigated for the development of broad coronavirus vaccines that aim to prevent future pandemics. Potent neutralizers that target these sites could also be useful for prevention of disease caused by diverse coronaviruses, including those that may emerge in the future.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications

- Prophylactic usage against SARS–CoV–2 and/or other betacoronaviruses in normal or high-risk populations.
- Therapeutic treatment, alone or in combination, in patients with SARS–CoV–2 and/or other betacoronaviruses infections.
- Assay development for surveillance, diagnostic, and prevention measures.

Competitive Advantages

- Antibodies can neutralize SARS–CoV–2 variants, including Omicron BA.1 and BA.2.
- Antibodies can broadly target and neutralize betacoronaviruses.

Development Stage

- Pre-Clinical.

Inventors: Joshua Tan, Ph.D., Cherrelle Dacon, Ph.D., both of NIAID.

Publications: Dacon, C., et al. ''Broadly neutralizing antibodies target the coronavirus fusion peptide'' *bioRxiv* 2022.04.11.48789. Doi: *https://doi.org/10.1101/2022.04.11.48789* (This article is a preprint and has not been certified by peer review)

Intellectual Property: HHS Reference No. E–047–2022–0–EIR–00 U.S. Patent Application No. 63/308,898, filed on February 10, 2022.

Licensing Contact: To license this technology, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov,* and reference E–047–2022.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize this technology. Areas of specific interest include (a) testing developability of these antibodies (*e.g.,* biophysical characteristics, cross-reactivity, pharmacokinetics, toxicity), (b) pre-clinical model assessment, and (c) human clinical trials. For collaboration opportunities, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.*

Dated: June 3, 2022.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2022–12485 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA: Cardiovascular and Respiratory Sciences.

Date: July 7, 2022.

Time: 10 a.m. to 3 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: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301) 435–1743, *margaret.chandler@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.

Date: July 12–13, 2022.

Time: 9:30 a.m. to 8 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*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Respiratory Sciences.

Date: July 13–14, 2022.

Time: 9 a.m. to 6 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: Imoh S. Okon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817, (301) –347–8881, *imoh.okon@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Special Topics in Instrumentation and Systems Development.

Date: July 13, 2022.

Time: 10 a.m. to 8:30 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: Zarana Patel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 496–9295. *zarana.shavers@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Cancer Biology.

Date: July 13, 2022.

Time: 10:30 a.m. to 6:30 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: Sulagna Banerjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (612) 309–2479, *sulagna.banerjee@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Cell Biology, Developmental Biology and Bioengineering.

Date: July 14–15, 2022.

Time: 9:30 a.m. to 7:30 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: Alexander Gubin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7812, Bethesda, MD 20892, (301) 435–2902, *gubina@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: June 7, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12591 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Community Engaged Research on Pregnancy Related and Associated Infections and Sepsis Morbidity and Mortality.

Date: July 14, 2022.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121C, Bethesda, MD 20892 (Video Assisted Meeting).

Contact Person: Jagpreet Singh Nanda, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver, National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121C, Bethesda, MD 20892, (301) 451–4454, *jagpreet.nanda@nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: June 7, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12554 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health and Human Development; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Function, Integration, and Rehabilitation Sciences Study Section, June 17, 2022, 10:00 a.m. to June 17, 2022, 05:00 p.m., Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2137D, Bethesda, MD 20892 which was published in the **Federal Register** on May 18, 2022, 87 FR 96.

New Contact Person: Christiane M. Robbins, Scientific Review Officer,

Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Room 2121B, Bethesda, MD 20892, (301) 451–4989, *crobbins@mail.nih.gov.* The meeting is closed to the public.

Dated: June 7, 2022.

David W. Freeman,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12555 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: October 13–14, 2022.

Open: October 13, 2022, 10:00 a.m. to 10:20 a.m.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: October 13, 2022, 10:20 a.m. to 5:40 p.m.

Agenda: To review and evaluate to review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Closed: October 14, 2022, 10:00 a.m. to 3:10 p.m.

Agenda: To review and evaluate to review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, 10 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Michael W. Krause, Ph.D., Scientific Director, NIDDK, National Institute of Diabetes and Digestive and Kidney Diseases, National Institute of Health, Building 5, Room B104, Bethesda, MD 20892–1818, (301) 402–4633, *mwkrause@helix.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12590 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 Drug Abuse Special Emphasis Panel; NIDA–L Conflict SEP II.

Date: July 1, 2022.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 827–5819, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Support for Conferences and Scientific Meetings.

Date: July 6, 2022.

Time: 3:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Brian Stefan Wolff, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 480–1448, *brian.wolff@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Cutting-Edge Basic Research Awards (CEBRA).

Date: July 15, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, National Institute on Drug Abuse, 301 North Stonestreet Avenue, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Sheila Pirooznia, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Review, National Institute on Drug Abuse, NIH, 301 North Stonestreet Avenue, MSC 6021, Bethesda, MD 20892, (301) 496–9350, *sheila.pirooznia@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: June 6, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12486 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C.,

as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Collaborative Research at the NIH Clinical Center (U01).

Date: July 7, 2022.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W240, Rockville, Maryland 20850 (Virtual Meeting).

Contact Person: Hasan Siddiqui, Ph.D., Scientific Review Officer, Special Review Branch, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W240, Rockville, Maryland 20850, 240–276–5122, *hasan.siddiqui@nih.gov*.

Name of Committee: National Cancer Institute Initial Review Group; Cancer Centers Study Section (A).

Date: August 4, 2022.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute at Shady Grove, 9609 Medical Center Drive, Room 7W530, Rockville, Maryland 20850 (Telephone Conference Call).

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director, Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, NIH 9609, Medical Center Drive, Room 7W530, Rockville, Maryland 20850, 240–276–6442, *ss537t@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 7, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–12589 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.* Licensing information may be obtained by communicating with the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases (NIAID), 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished information related to the invention.

SUPPLEMENTARY INFORMATION: Technology description follows:

Human lgA Monoclonal Antibody That Targets a Conserved Site on the Plasmodium Falciparum Circumsporozoite Protein

Description of Technology

Scientists at NIAID have isolated MAD2–6, an IgA antibody active against *Plasmodium falciparum* sporozoites, the infectious agent of malaria. In 2019, the majority of the 229 million cases resulted from *P. falciparum* infections. Because *P. falciparum* has a complex lifecycle during human infection, most advanced malaria vaccine candidates and current chemoprophylaxis drugs can confer only partial, short-term protection in malaria-endemic areas. Thus, the MAD2–6 antibody could be used alone or in combination with current technology.

MAD2–6 binds to a unique epitope overlapping with region I, a functionally important region of the *Plasmodium falciparum* circumsporozoite protein (PfCSP). This binding site of PfCSP is a previously unknown target for protective antibodies, which may be useful as a new target. Monoclonal antibodies are promising tools for prevention of malaria and could replace or be combined with malaria chemoprevention in areas with seasonal malaria.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications

- Alternate technologies are required to address drug resistance.
- A multi-targeted approach can combat all stages of the parasite lifecycle.
- Prophylactic treatment for neutralization of *P. falciparum* in normal or at-risk populations including pregnant women.

Competitive Advantages

- Antibodies can be effective as prophylactics, alone or in combination with other treatments.

Development Stage

- Pre-Clinical.

Inventors: Joshua Tan Ph.D., Peter Crompton M.D., Robert Seder M.D., Hyeseon Cho Ph.D., all of NIAID.

Publications: Tan, J., et al., ''Functional human IgA targets a conserved site on malaria sporozoites'', *Science Translational Medicine,* Vol. 13(599), 23 June 2021. *https://doi.org/10.1126/scitranslmed.abg2344.*

Intellectual Property: HHS Reference No. E–130–2020–0–PCT–02—PCT Application No. PCT/US2021/037571 filed on 6 June 2021.

Licensing Contact: To license this technology, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov,* and reference E–130–2020.

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize this technology. For collaboration opportunities, please contact Dawn Taylor-Mulneix at 301–767–5189, or *dawn.taylor-mulneix@nih.gov.*

Dated: June 3, 2022.

Surekha Vathyam,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2022–12482 Filed 6–9–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0085]

Administrative Rulings

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

ACTION: 60-Day notice and request for comments; extension of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 9, 2022) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0085 in the subject line and the agency name. Please use the following method to submit comments:

Email: Submit comments to: *CBP_PRA@cbp.dhs.gov.*

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

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Administrative Rulings.
OMB Number: 1651–0085.
Form Number: N/A.
Current Actions: CBP proposes to extend the expiration date of this information collection with an increase in the estimated burden hours previously reported. There is no change to the information being collected.
Type of Review: Extension (with change).
Affected Public: Businesses.
Abstract: The collection of information in 19 CFR part 177 is necessary in order to enable Customs and Border Protection (CBP) to respond to requests by importers and other interested persons for the issuance of administrative rulings. These rulings pertain to the interpretation of applicable laws related to prospective and current or completed transactions involving, but not limited to classification, marking, valuation, carrier, and country of origin. The collection of information in part 177 of the CBP Regulations is also necessary to enable CBP to make proper decisions regarding the issuance of binding rulings that modify or revoke prior CBP binding rulings. This collection of information is authorized by 5 U.S.C. 301, 19 U.S.C. 66, 1202, (General Note 3(i), Harmonized Tariff Schedule of the United States), 1502, 1624, 1625. The application to obtain an administrative ruling is accessible at: *https://erulings.cbp.gov/s/* or the public can submit a ruling request by mail (or email).

This collection of information applies to the importing and trade community who are familiar with import procedures and with the CBP regulations.

Type of Information Collection: Administrative Rulings.
Estimated Number of Respondents: 3,500.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Number of Total Annual Responses: 3,500.
Estimated Time per Response: 20 hours.
Estimated Total Annual Burden Hours: 70,000.
Type of Information Collection: Appeals.
Estimated Number of Respondents: 100.
Estimated Number of Annual Responses per Respondent: 1.
Estimated Number of Total Annual Responses: 100.
Estimated Time per Response: 30 hours.
Estimated Total Annual Burden Hours: 3,000.

Dated: June 7, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–12559 Filed 6–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[Docket No. USCBP–2022–0022]

Commercial Customs Operations Advisory Committee (COAC)

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

ACTION: Committee Management; notice of Federal Advisory Committee meeting.

SUMMARY: The Commercial Customs Operations Advisory Committee (COAC) will hold its quarterly meeting on Wednesday, June 29, 2022. The meeting will be open to the public via webinar only. There is no on-site, in-person option for the public to attend this quarterly meeting.

DATES: The COAC will meet on Wednesday, June 29, 2022, from 1 p.m. to 5 p.m. EDT. Please note that the meeting may close early if the committee has completed its business.

Comments must be submitted in writing no later than June 24, 2022.

ADDRESSES: The meeting will be open to the public via webinar. The webinar link and conference number will be provided to all registrants by 9 a.m. EDT on June 29, 2022. For information or to request special assistance for the meeting, contact Ms. Latoria Martin, Office of Trade Relations, U.S. Customs and Border Protection, at (202) 344–1440 as soon as possible. Submit electronic comments and supporting data to *www.regulations.gov* or by email at *tradeevents@cbp.dhs.gov.* See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

FOR FURTHER INFORMATION CONTACT: Ms. Latoria Martin, Office of Trade Relations, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Room 3.5A, Washington, DC 20229, (202) 344–1440; or Ms. Valarie M. Neuhart, Designated Federal Officer, at (202) 344–1440.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the authority of the Federal Advisory Committee Act, 5 U.S.C. Appendix. The Commercial Customs Operations Advisory Committee (COAC) provides advice to the Secretary of Homeland Security, the Secretary of the Treasury, and the Commissioner of U.S. Customs and Border Protection (CBP) on matters pertaining to the commercial operations of CBP and related functions within the Department of Homeland Security and the Department of the Treasury.

Pre-registration: For members of the public who plan to participate in the webinar, please register online at *https://teregistration.cbp.gov/index.asp?w=265* by 5:00 p.m. EDT on June 28, 2022. For members of the public who are pre-registered to attend the meeting via webinar and later need to cancel, please do so by 5:00 p.m. EDT June 28, 2022, utilizing the following link: *https://teregistration.cbp.gov/cancel.asp?w=265.* The COAC is committed to ensuring all participants have equal access regardless of disability status. If you require a reasonable accommodation due to a disability to fully participate, please contact Ms. Latoria Martin at (202) 344–1440 as soon as possible.

Please feel free to share this information with other interested members of your organization or association.

To facilitate public participation, we are inviting public comment on the issues the committee will consider prior to the formulation of recommendations as listed in the Agenda section below.

Comments must be submitted in writing no later than June 24, 2022 and must be identified by Docket No. USCBP–2022–0022. Comments may be submitted by one (1) of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov* and search for Docket Number USCBP–2022–0022. To submit a comment, click the ''Comment!'' button located on the top-right hand side of the docket page.
- *Email: tradeevents@cbp.dhs.gov.* Include the docket number in the subject line of the message.
- *Docket Instructions:* All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action.

All comments received will be posted without change to *https://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings* and *www.regulations.gov,* so please refrain from including any personal information you do not wish to be posted. You may wish to view the Privacy and Security Notice which is available via a link on the homepage of *www.regulations.gov.*

There will be multiple public comment periods held during the meeting on June 29, 2022. Speakers are requested to limit their comments to 2 minutes or less to facilitate greater participation. Please note that the public comment period for speakers may end before the time indicated on the schedule that is posted on the CBP web page: *https://www.cbp.gov/trade/stakeholder-engagement/coac.*

Agenda

The COAC will hear from the current subcommittees on the topics listed below:

1. The Intelligent Enforcement Subcommittee will provide updates on the work completed and topics discussed for its working groups. The Antidumping/Countervailing Duty (AD/CVD) Working Group will provide updates regarding its work and discussions on importer compliance with AD/CVD requirements. The Intellectual Property Rights Process Modernization Working Group will provide updates regarding development of an electronic notice of detention and enhanced procedures for manipulation of shipments, in addition to other practical proposals for enhancing communication concerning intellectual property rights issues between the trade, the rights holders, and CBP. The Bond Working Group's updates will include the status of proposed revisions to Directive 3510–004, ''Monetary Guidelines for Setting Bond Amounts,'' and the testing of electronic delivery of CBP Form 5955a Notice of Penalty or Liquidated Damages Incurred and Demand for Payment. The Forced Labor Working Group will submit recommendations for the committee's consideration regarding the Uyghur Forced Labor Prevention Act (UFLPA) implementation as well as the UFLPA Importer Guidelines.

2. The Next Generation Facilitation Subcommittee will provide updates on its task forces and working groups, including an update on the progress of the 21st Century Customs Framework (21CCF) and E-Commerce Task Forces, and it is expected there will be recommendations for the committee's consideration in both areas. The Automated Commercial Environment (ACE) 2.0 Working Group will present recommendations for the committee's consideration stemming from the in-depth gap analysis of areas that may be improved when CBP embarks on ACE 2.0 modernization. Finally, the One U.S. Government Working Group will provide an update on the work planned for upcoming quarters of the 16th Term of the COAC.

3. The Rapid Response Subcommittee will provide updates for the Domestic Manufacturing and Production (DMAP) Working Group and the Broker Modernization Working Group. CBP formed the DMAP Working Group to collaborate and obtain input from industry stakeholders on trade enforcement areas impacting domestic manufacturers and producers. While this is a new group, the expectation is that recommendations will be developed and submitted for consideration at an upcoming COAC public meeting. The topics for discussion for the Broker Modernization Working Group will include the April 2022 broker exam, potential regulatory updates to 19 CFR part 111, and requiring continuing education for licensed customs brokers.

4. The Secure Trade Lanes Subcommittee will provide updates on the progress and plans for the In-Bond Working Group and the Remote and Autonomous Cargo Processing Working Group. The Partnership Programs and Industry Engagement Working Group (formerly Trusted Trader Working Group) topics of discussion will include the inclusion of forced labor into the Customs Trade Partnership Against Terrorism (CTPAT) program, as well as the proposed requirements CTPAT members must meet to mitigate the risk of forced labor in their supply chains. The Export Modernization Working Group will provide updates regarding

the development of policies for industry and government partners regarding data collection and sharing in all modes for exportation of goods out of the United States.

Meeting materials will be available by June 17, 2022, at: *https://www.cbp.gov/trade/stakeholder-engagement/coac/coac-public-meetings.*

Dated: June 7, 2022.

Valarie M. Neuhart,

Acting Executive Director, Office of Trade Relations.

[FR Doc. 2022–12560 Filed 6–9–22; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0076]

Customs and Border Protection Recordkeeping Requirements

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

ACTION: 60-Day notice and request for comments; extension without change of an existing collection of information.

SUMMARY: The Department of Homeland Security, U.S. Customs and Border Protection will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The information collection is published in the **Federal Register** to obtain comments from the public and affected agencies.

DATES: Comments are encouraged and must be submitted (no later than August 9, 2022) to be assured of consideration.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice must include the OMB Control Number 1651–0076 in the subject line and the agency name. Please use the following method to submit comments:

Email. Submit comments to: *CBP_PRA@cbp.dhs.gov*.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Seth Renkema, Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, 90 K Street NE, 10th Floor, Washington, DC 20229–1177, Telephone number 202–325–0056 or via email *CBP_PRA@cbp.dhs.gov.* Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP website at *https://www.cbp.gov/*.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on the proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). This process is conducted in accordance with 5 CFR 1320.8. Written comments and suggestions from the public and affected agencies should address one or more of the following four points: (1) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) suggestions to enhance the quality, utility, and clarity of the information to be collected; and (4) suggestions to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. The comments that are submitted will be summarized and included in the request for approval. All comments will become a matter of public record.

Overview of This Information Collection

Title: Customs and Border Protection Recordkeeping Requirements.

OMB Number: 1651–0076.

Form Number: N/A.

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the recordkeeping requirements.

Type of Review: Extension (without change).

Affected Public: Businesses.

Abstract: The North American Free Trade Agreement Implementation Act, Title VI, known as the Customs Modernization Act (Mod Act) amended Title 19 U.S.C. 1508, 1509 and 1510 by revising Customs and Border Protection (CBP) laws related to recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. Specifically, the Mod Act expanded the list of parties subject to CBP recordkeeping requirements; distinguished between records which pertain to the entry of merchandise and financial records needed to substantiate the correctness of information contained in entry documentation; and identified a list of records which must be maintained and produced upon request by CBP. The information and records are used by CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value, and rate of duty applicable to the entered goods. The Mod Act recordkeeping requirements are provided for by 19 CFR 163. Instructions are available at: *http://www.cbp.gov/document/publications/recordkeeping*.

The respondents to this information collection are members of the trade community who are familiar with CBP regulations.

Type of Information Collection: Mod. Act Recordkeeping.

Estimated Number of Respondents: 5,459.

Estimated Number of Annual Responses per Respondent: 1.

Estimated Number of Total Annual Responses: 5,459.

Estimated Time per Response: 1,040 hours.

Estimated Total Annual Burden Hours: 5,677,360.

Dated: June 7, 2022.

Seth D. Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2022–12558 Filed 6–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2022–N008; FXES11140800000–189–FF08EACT00]

Programmatic Safe Harbor Agreement for the Northern Spotted Owl, Mendocino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and receipt of application.

SUMMARY: This notice advises the public that registered professional foresters Craig and Christopher Blencowe have applied to the Fish and Wildlife Service (Service) for an enhancement of survival

(EOS) permit under the Endangered Species Act. If granted, the EOS permit would be in effect for a 40-year period in Mendocino County, California, and would authorize take of the threatened northern spotted owl (covered species) that is likely to occur incidental to managing the timber on properties under periodic (approximately 10-year harvest intervals) uneven-aged forestry management practices of single-tree and group selection. Owners of properties managed by the Blencowes would sign on to the Blencowe Programmatic Safe Harbor Agreement (SHA) through specific cooperative agreements and certificates of inclusion. The documents available for review and comment include the applicants' SHA; cooperative agreements and certificates of inclusion for the Bradford Ranch, Miller Tree Farm, and Weger Ranch properties; and our draft environmental action statements and low-effect screening form, which support categorical exclusions under the National Environmental Policy Act. We invite comments from the public and Federal, Tribal, State, and local governments.

DATES: *Submitting Comments:* To ensure consideration, we must receive written comments by 5 p.m. on July 11, 2022.

ADDRESSES:

Obtaining Documents: You may obtain the applicants' SHA and our draft environmental action statement and low-effect screening form by one of the following methods.

- *U.S. Mail:* U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521;
- *Electronic Mail:* Contact *fw8_afwo_comments@fws.gov* to request documents; indicate ''Blencowe SHA'' in subject line.

Submitting Comments: You may submit written comments by any one of the following methods.

- *U.S. Mail:* Tanya Sommer, Field Supervisor, at our Arcata office (address above);
- *Electronic mail: fw8_afwo_comments@fws.gov;* in the email subject line, please be specific about which documents your comments address;
- *Fax:* 707–822–8411.

FOR FURTHER INFORMATION CONTACT: Bill McIver, at our Arcata office (address above), or by telephone at 707–822–7201. 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:

Background

Under safe harbor agreements (SHAs), participating landowners voluntarily undertake management activities on their properties to enhance, restore, or maintain habitat benefiting species listed under the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*). SHAs, and the subsequent enhancement of survival (EOS) permits that are issued pursuant to section 10(a)(1)(A) of the ESA, encourage private and other non-Federal property owners to implement conservation efforts for listed species, by assuring property owners that they will not be subject to increased land use restriction as a result of efforts to attract or increase the numbers or distribution of a listed species on their property. Application requirements and issuance criteria for EOS permits through SHAs are found in 50 CFR 17.22(c) and 17.32(c).

This SHA is expected to promote the recovery of the covered species on non-Federal properties within Mendocino County. The proposed duration of the SHA and the associated enhancement of survival permit is 40 years. The proposed EOS permit would authorize the incidental taking of the covered species associated with the restoration, enhancement, and maintenance of suitable habitat for the covered species during routine and ongoing silvicultural activities and the potential future return of any property included in the SHA to baseline conditions. Under this SHA, individual landowners (cooperators) may include their properties by entering into a cooperative agreement with the applicants. Each cooperative agreement will specify the restoration and/or enhancement and management activities to be carried out on that specific property, and a timetable for implementing those activities. The Service will review all cooperative agreements to determine whether the proposed activities would result in a net conservation benefit for the covered species and meet all required standards of the Service's Safe Harbor Policy (June 17, 1999, 64 FR 32717). Upon Service approval, the Blencowes (applicants) will issue a certificate of inclusion to each of the cooperators. Each certificate of inclusion will extend the incidental take coverage conferred by the EOS permit to the cooperator.

Baseline levels for the covered species will be determined by the cooperator, in coordination with the Service, and then the Service will review each baseline determination prior to the Blencowes' issuance of a certificate of inclusion to the cooperator. The SHA also contains a monitoring component that requires the applicant to ensure that the cooperators are in compliance with the terms and conditions of the SHA. Results of these monitoring efforts will be provided to the Service by the applicant in an annual report.

Upon approval of this SHA, and consistent with the Service's Safe Harbor Policy, the Service would issue an EOS permit to the Blencowes. This permit would authorize cooperators who are issued a certificate of inclusion to take the covered species incidental to the implementation of the management activities specified in the SHA, incidental to other lawful uses of the property, including routine land management activities, and to return to baseline conditions if desired. An applicant would receive assurances under our ''No Surprises'' regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for the covered species in the EOS permit. In addition to meeting other criteria, actions to be performed under an EOS permit must not jeopardize the existence of Federally listed fish, wildlife, or plants, and the Service is conducting a section 7 consultation.

Application

The Service has worked with registered professional foresters Craig Blencowe and Christopher Blencowe to develop a programmatic SHA for the creation and enhancement of habitat for the northern spotted owl on three Mendocino County properties that the Blencowes manage for timber harvest using uneven-aged silviculture techniques. At the start of the permit term for the SHA, the Blencowes propose to include the following three properties under the SHA: Bradford Ranch, Miller Tree Farm, and Weger Ranch. The landowners associated with each property would sign a cooperative agreement with the Blencowes, and the Blencowes would sign a certificate of inclusion for each property, verifying that the landowners agree to implement the timber management activities described in the SHA and cooperative agreements. The term of the proposed SHA and associated EOS permit is 40 years. Any associated certificate of inclusion would be tied to permit term and not longer, unless the SHA is extended by agreement. Currently, the properties support approximately 6,606 acres of northern spotted owl nesting/roosting habitat and 3 northern spotted owl territories (*i.e.,* an activity center on property), as follows: Bradford Ranch (2,363 acres and 1 territory), Miller Tree Farm (1,849 acres and 2 territories), and

Weger Ranch (2,394 acres and 0 territories). We anticipate that under the timber management prescriptions proposed in the programmatic SHA, at least 6,606 acres of nesting/roosting habitat will be enhanced on Blencowe-managed properties, and potentially up to 2 additional northern spotted owl territories could exist on each of the three properties at the end of the 40-year SHA term.

For properties managed under the SHA, if any additional northern spotted owl territory becomes established on the property, take of northern spotted owls associated with the effects of timber harvest on such additional northern spotted owl territories would be authorized under the incidental take permit during the 40-year permit term. The Service anticipates that incidental take of a northern spotted owl would occur only if: (a) additional northern spotted owl territories were established on any of the enrolled properties; and (b) any of the enrolled properties were returned to baseline conditions after the term of the 40-year SHA has expired. The Service anticipates that no more than two additional northern spotted owl territories would be established on each property during the 40-year permit term. In other words, during the 40-year permit term, the Service anticipates that no more than 12 northern spotted owls (2 adult owls per territory and as many as 6 new territories) would be subject to take if habitat conditions were returned to baseline conditions. The development and maintenance of high-quality functional habitat employing uneven-aged timber management practices in a matrix of private timberland subject to even-aged management regimes will provide a relatively stable habitat condition that we believe will provide high productivity for multiple generations of northern spotted owls. Therefore, the cumulative impact of the SHA and the activities it covers, which are facilitated by the allowable incidental take, are expected to provide a net conservation benefit to the northern spotted owl.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR part 46).

Tanya Sommer,

Field Supervisor, Arcata Fish and Wildlife Office, Arcata, California.

[FR Doc. 2022–12507 Filed 6–9–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R3–ES–2022–N028 FXES11130300000–223–FF03E00000]

Endangered and Threatened Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, have received applications for permits to conduct activities intended to enhance the propagation or survival of endangered or threatened species under the Endangered Species Act. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

DATES: We must receive your written comments on or before July 11, 2022.

ADDRESSES: Submit requests for copies of the applications and related documents, as well as any comments, by one of the following methods. All requests and comments should specify the applicant name(s) and application number(s) (*e.g.,* TEXXXXXX; see table in **SUPPLEMENTARY INFORMATION**):

- *Email: permitsR3ES@fws.gov.* Please refer to the respective application number(s) (*e.g.,* Application No. TEXXXXXX) in the subject line of your email message.
- *U.S. Mail:* Regional Director, Attn: Nathan Rathbun, U.S. Fish and Wildlife Service, Ecological Services, 5600 American Blvd. West, Suite 990, Bloomington, MN 55437–1458.

FOR FURTHER INFORMATION CONTACT: Nathan Rathbun, 612–713–5343 (phone); *permitsR3ES@fws.gov* (email). 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:

Background

The Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, State, and Federal agencies; Tribes; and the public to comment on the following applications:

Application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER0042011	Dragons Wynd, Minneapolis, MN.	Rusty patched bumble bee (*Bombus affinis*) and Karner blue butterfly (*Lycaeides melissa samuelis*).	MN	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate potential impacts.	Capture, handle, and release.	New.
TE92978B	Helms and Associates, Bellevue, IA.	17 freshwater mussels ..	IL, IN, IA, MI, MN, MO, OH, WI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate potential impacts.	Capture, handle, and release.	Renew.
ES30234C	Illinois Natural History Survey, Champaign, IL.	Eastern massasauga rattlesnake (*Sistrurus catenatus*).	IL	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate potential impacts.	Add: new activity—powder marking—to existing authorized activities: capture, handle, PIT tag, mark, collect tissue and blood samples, and release.	Amend.
PER0044063	Bruce R. Galer, Elk River, MN.	Rusty patched bumble bee (*Bombus affinis*).	IL, IN, MI, MN, OH, WI ..	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate potential impacts.	Capture, handle, and release.	New.
ES64080B–3	Michigan Natural Features Inventory, Michigan State University, Lansing, MI.	American burying beetle (*Nicrophorus americanus*), clubshell (*Pleurobema clava*), copperbelly water snake (*Nerodia erythrogaster neglecta*), Hine's emerald dragonfly (*Somatochlora hineana*), Indiana bat (*Myotis sodalis*), Karner blue butterfly (*Lycaeides melissa samuelis*), Mitchell's satyr butterfly (*Neonympha mitchellii mitchellii*), northern long-eared bat (*Myotis septentrionalis*), northern riffleshell (*Epioblasma rangiana*), Poweshiek skipperling (*Oarisma poweshiek*), rayed bean (*Villosa fabalis*), rusty patched bumble bee (*Bombus affinis*), snuffbox (*Epioblasma triquetra*), white catspaw (*Epioblasma obliquata perobliqua*), and eight plant species.	Add: new States—IL, IN, MA, MN, MO OH—to existing authorized State MI.	Conduct presence/absence surveys, document habitat use, conduct population monitoring, and evaluate potential impacts.	Capture, handle, identify, mark, light-tag, PIT-tag, salvage, collect bio-sample, collect pollen samples, collect voucher specimens, and release.	Amend.

Public Availability of Comments

Written comments we receive become part of the administrative record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Lori Nordstrom,

Assistant Regional Director, Ecological Services.

[FR Doc. 2022–12508 Filed 6–9–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON05000.L71220000.EU0000 LVTFC1802900; COC–78815]

Notice of Realty Action: Non-Competitive/Modified Competitive Sale of Public Lands in Rio Blanco and Garfield Counties, CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing a non-competitive (direct) sale of two parcels of public land and a modified competitive sale of four parcels of public land. The sales will be subject to the applicable provisions of the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, and BLM land sale regulations. The sale will be for no less than the appraised fair market value (FMV).

DATES: Interested parties must submit written comments no later than July 25, 2022.

The land will not be offered for sale until after August 9, 2022.

ADDRESSES: Mail written comments to BLM White River Field Office, Field Manager, 220 East Market Street, Meeker, CO 81641. Written comments may also be submitted via email to: *blm_co_wrfo_sale@blm.gov.*

FOR FURTHER INFORMATION CONTACT: Heather Sauls, Planning and Environmental Coordinator, BLM White River Field Office, telephone (970) 878–3855, email at *hsauls@blm.gov;* or you may contact the BLM White River Field Office at the earlier-listed address. 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: White River Lodge, LLC nominated the parcels for the sale. Two of the parcels, which are surrounded by private land owned by White River Lodge, LLC would be offered through a direct sale to the lodge. The remaining four parcels would be offered through a modified competitive sale in which bidders are limited to adjacent landowners with legal access, which includes White River Lodge, LLC.

All six parcels were segregated from all forms of appropriation under public laws, including the mining laws, with publication of a Notice of Realty Action in the **Federal Register** on January 21, 2020 (85 FR 3412). The total segregation period may not exceed 2 years unless it is extended in accordance with 43 CFR 2711.1–2(d). The BLM Colorado State Director has determined that an extension of the segregation period is necessary for an additional 2 years to allow time to complete evaluation of the proposed sale. The extended segregation period will terminate on January 21, 2024.

The following described public land in Rio Blanco and Garfield Counties has been examined and found suitable for sale under the authority of Section 203 of FLPMA, as amended (43 U.S. C. 1713):

Parcel 1

Sixth Principal Meridian, Colorado

T. 2 N., R. 94 W.,
Sec. 29, NE¼NE¼.

The area described contains 40 acres.
The FMV is $16,000 and the parcel is proposed for a direct sale to White River Lodge, LLC.

Parcel 2

Sixth Principal Meridian, Colorado

T. 3 S., R. 94 W.,
Sec. 22, SE¼NE¼;
Sec. 23, S½NW¼ and NE¼SW¼.

The areas described aggregate 160 acres.
The FMV is $64,000 and the parcel is proposed for a direct sale to White River Lodge, LLC.

Parcel A

Sixth Principal Meridian, Colorado

T. 2 N., R. 94 W.,
Sec. 20, NW¼NE¼ and NE¼NW¼.

The area described contains 80 acres.
The FMV is $32,000 and the parcel is proposed for a modified competitive sale offered to adjacent landowners.

Parcel B

Sixth Principal Meridian, Colorado

T. 2 N., R. 94 W.,
Sec. 16, SW¼SE¼.

The area described contains 40 acres.
The FMV is $16,000 and the parcel is proposed for a modified competitive sale offered to adjacent landowners.

Parcel C

Sixth Principal Meridian, Colorado

T. 2 N., R. 94 W.,
Sec. 15, NE¼SW¼.

The area described contains 40 acres.
The FMV is $16,000 and the parcel is proposed for a modified competitive sale offered to adjacent landowners.

Parcel D

Sixth Principal Meridian, Colorado

T. 3 S., R. 94 W.,
Sec. 15, SW¼SE¼.

The area described contains 40 acres.
The FMV is $16,000 and the parcel is proposed for a modified competitive sale offered to adjacent landowners.

The proposed sale is in conformance with the BLM White River Resource Management Plan (RMP), approved in July 1997. The lands are identified as available for disposal and listed by legal description in Table 2–15A through 2–15D, Appendix D.

In accordance with 43 CFR 2711.3–3(a)(4), direct sales may be used ''when in the opinion of the authorized officer, a competitive sale is not appropriate and the public interest would best be served by a direct sale[,]'' including when ''the adjoining ownership pattern and access indicate a direct sale is appropriate[.]'' Both Parcels 1 and 2 are surrounded by private property owned by White River Lodge, LLC, and no other potential bidder currently has legal access to these parcels.

Modified competitive bid procedures can be used when ''the authorized officer determines it is necessary in order to assure equitable distribution of land among purchasers'' and may include ''a limitation of persons permitted to bid on a specific tract of land offered for sale'' (43 CFR 2711.3–2). Parcels A, B, C, and D are bordered by private property owned by White River Lodge, LLC and one other landowner. These parcels would be offered via a modified competitive sale where the bidders are limited to adjacent landowners who currently have legal access to the parcels. The bidders would be offered an opportunity to agree upon a division of the lands among themselves. In the absence of a written agreement, the bidders would be allowed to continue bidding to determine the high bidder (43 CFR 2711.3–2(b)).

Parcels A, B, C, and D will be offered for sale at auction beginning at 10 a.m. Mountain Time (MT) on August 16, 2022, at 220 East Market Street, Meeker, Colorado 81641. Only owners of adjacent parcels of land will be qualified to bid. The purpose of the sale is to implement land tenure adjustment decisions in the RMP.

Sealed bids for Parcels A, B, C, and D must be submitted to the BLM White River Field Office at 220 East Market Street, Meeker, Colorado 81641, not later than 4 p.m. MT, August 15, 2022. Bid envelopes must be marked on the left front corner with the file and parcel numbers and the sale date. Bids must be for not less than the appraised FMV as stated in this notice. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft,

or cashier's check made payable to the Department of the Interior, BLM, for not less than 10 percent of the bid amount. The remainder of the full bid price must be paid within 180 calendar days of the date of sale. Failure to pay the full price within 180 days will disqualify the apparent high bidder and cause the bid deposit to be forfeited to the BLM.

If issued, the conveyance document will be subject to valid existing rights and encumbrances of record, including, but not limited to, reservations for ditches and canals and all mineral deposits.

Adverse comments will be reviewed by the BLM Colorado State Director, who may sustain, vacate, or modify this realty action. In the absence of timely adverse comments, this proposal shall become the final determination of the Department of the Interior. The BLM may accept or reject any or all offers or withdraw any land or interest in land from sale.

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so.

(Authority: 43 CFR 2710.0–3(a)(3)).

Stephanie Connolly,

Acting Colorado State Director.

[FR Doc. 2022–12573 Filed 6–9–22; 8:45 am]

BILLING CODE 4310–JB–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1238]

Certain Plant-Derived Recombinant Human Serum Albumins (''rHSA'') and Products Containing Same Notice of Commission Determination To Review the Final Initial Determination in Its Entirety; Schedule for Filing Written Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the final initial determination (''final ID'') issued by the presiding administrative law judge (''ALJ'') on April 7, 2022, in its entirety. The Commission requests briefing from the parties on certain issues under review, as indicated in this notice. The Commission also requests briefing from the parties, interested government agencies, and interested persons on the issues of remedy, the public interest, and bonding.

FOR FURTHER INFORMATION CONTACT: Ronald A. Traud, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 25, 2021, based on a complaint filed on behalf of Ventria Bioscience Inc. (''Ventria'') of Junction City, Kansas. 86 FR 6916 (Jan. 25, 2021). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain plant-derived rHSA and products containing same by reason of infringement of certain claims of U.S. Patent Nos. 10,618,951 (''the '951 patent'') and 8,609,416 (''the '416 patent''). *Id.* The complaint also alleged violations of section 337 based on the importation into the United States, or in the sale of, certain plant-derived rHSA and products containing same by reason of false designation of origin, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation named four respondents: Wuhan Healthgen Biotechnology Corp. of Wuhan, China (''Healthgen''); ScienCell Research Laboratories, Inc. of Carlsbad, California (''ScienCell''); Aspira Scientific, Inc. of Milpitas, California (''Aspira''); and eEnzyme LLC of Gaithersburg, Maryland (''eEnzyme'') (collectively, the ''Respondents''). *Id.* at 6917. The Office of Unfair Import Investigations (''OUII'') was also named as a party in this investigation. *Id.*

Of the four Respondents named in the notice of investigation, only Healthgen participated in the investigation. ScienCell, Aspira, and eEnzyme were found in default. *See* Order No. 13 (July 28, 2021), *unreviewed by* Comm'n Notice (Aug. 18, 2021). ScienCell, Aspira, and eEnzyme are collectively referred to herein as the ''Defaulting Respondents.''

Prior to the issuance of the final ID, the investigation terminated as to all asserted claims of the '416 patent, claims 2 and 3 of the '951 patent, and the false designation of origin claims against Healthgen. *See* Order No. 12 (July 16, 2021), *unreviewed by* Comm'n Notice (Aug. 10, 2021); Order No. 29 (Nov. 3, 2021), *unreviewed by* Comm'n Notice (Nov. 29, 2021). The false designation of origin claims against the Defaulting Respondents were not terminated. *See* Order No. 12 at 1. Accordingly, at the time the final ID issued, only claims 1 and 11–13 of the '951 patent remained pending against Healthgen, and only claims 1 and 11–13 of the '951 patent and the false designation of origin (or Lanham Act) claims remained pending against the Defaulting Respondents.

On April 7, 2022, the ALJ issued the final ID, which found that Respondents violated section 337. The ALJ found a violation of section 337 by Healthgen and the Defaulting Respondents as to infringement of the '951 patent and found the requirements of section 337(g)(1) met as to the Lanham Act claim with respect to the Defaulting Respondents.

The final ID included the ALJ's recommendation on remedy, the public interest, and bonding (the ''RD''). The RD recommended that, if the Commission finds a violation of section 337, the Commission should issue a limited exclusion order against Healthgen and the Defaulting Respondents, cease and desist orders against the Defaulting Respondents, and impose a 100% bond during the period of Presidential review.

On April 19, 2022, Healthgen filed a petition for review of the final ID. On April 22, 2022, OUII filed a response to Healthgen's petition, and on April 27, 2022, Ventria filed a response to Healthgen's petition.

On May 9, 2022, Ventria and Healthgen filed their public interest comments pursuant to Commission Rule 210.50(a)(4) (19 CFR 210.50(a)(4)). The Commission also received several submissions from third parties in response to the Commission's **Federal Register** notice seeking comment on the public interest. 87 FR 21923–24 (Apr. 13, 2022).

Having examined the record in this investigation, including the final ID, the petition for review, and the responses thereto, the Commission has determined to review the final ID in its entirety.

The parties are requested to brief their positions with reference to the applicable law and the evidentiary record regarding the questions provided below:

(1) Given the construction of aggregated albumin (''non-monomeric albumin (*e.g.,* albumin dimers)''), what distinguishes ''non-monomeric albumin'' from ''monomeric albumin''? How can this distinction be determined from testing data, such as by electrophoresis or chromatographic testing data?

(2) Given the construction of aggregated albumin (''non-monomeric albumin (*e.g.,* albumin dimers)''), the applicable burdens of proof, and any other relevant considerations, which of the following should be considered within the scope of ''aggregated albumin'':

(a) fragments of native mammalian albumin;

(b) the combination of (i) one or more recombinant albumins (*i.e.,* albumins heterologous or foreign to the transgenic plant producing it) which has the amino acid sequence of a native mammalian albumin or which is a variant, derivative, or fusion protein, and (ii) one or more fragments of native mammalian albumin;

(c) the combination of two or more fragments of native mammalian albumin;

(d) any substance identified via electrophoresis or chromatographic techniques with a molecular weight greater than the molecular weight corresponding to the ''main band'' that is not a discrete, integer multiple of the molecular weight corresponding to that ''main band;''

(e) non-covalently linked aggregated albumin; and

(f) ''low molecular weight impurities,'' such as those included in the May 2021 reducing SDS–PAGE test results from SGS Life Science Services (JX–0129.0006–7).

(3) Given the '951 patent specification's identification of ''aggregates at around 250 KDa'' (*see* col. 72, ll. 51–54), explain:

(a) whether the molecular weight(s) of those ''aggregates at around 250 KDa'' are or are not discrete, integer multiple(s) of the molecular weight(s) of the main band(s) (*see* Figs. 9A and/or 9B); and

(b) whether the answer to subpart (a) above affects the result of any responses to (2)(a)–(f)?

(4) Does the parties' agreement that dimers are the simplest form of an aggregated albumin preclude any of the species in (2)(a)–(f) from contributing towards ''aggregated albumin''?

(5) Does the resolution of whether any of (2)(a)–(f) are within the scope of ''aggregated albumin'' (or what constitutes ''non-monomeric albumin'') require further claim construction, or are these determinations purely factual? If further claim construction is required, should the Commission remand the investigation to the ALJ?

(6) If species identified in (2)(d) that are detected via an electrophoresis or chromatographic technique are within the scope ''aggregated albumin,'' could an assay that does not use molecular weight markers or standards be able to determine whether or not a sample has ''less than 2% aggregated albumin''?

(7) How can the Commission determine whether species detected via an electrophoresis, chromatographic, or other technique retain the biological or therapeutically beneficial activity of native mammalian albumin? If the Commission is unable to determine whether such a species retains that activity, how should that inability factor into determining whether a product satisfies the ''less than 2% aggregated albumin'' claim limitation, considering, for example, the burdens of proof?

(8) In instances where species detected in electrophoresis or chromatographic techniques are determined not to be within the scope of ''aggregated albumin,'' how is the percentage of ''aggregated albumin'' calculated? Is the percentage of ''aggregated albumin'' calculated by dividing the sum total of ''band volume'' (or equivalent) of species within the scope of aggregated albumin by the sum total of the band volume of both ''aggregated'' and non-''aggregated'' albumin?

(9) How should the Commission address the situation where the accused products or domestic industry products are found to satisfy the ''less than 2% aggregated albumin'' claim limitation under one testing methodology, but not under another?

(10) Assuming the reducing agents used in reducing SDS–PAGE convert aggregated albumin into ''monomeric albumin,'' does the evidence show the extent that reducing agents do so? Please specify whether the evidence of conversion, if any, depends on the form of the product (for example, lyophilized/freeze dried powder versus liquid products).

(11) If Optibumin is found to be the only asserted product to satisfy the technical prong of the domestic industry requirement for the '951 patent and the scope of the products that can be considered in the economic prong analysis include only Optibumin, discuss whether (and why or why not) Complainant Ventria's investments and expenditures in the alleged domestic industry are significant and/or substantial within the meaning of 19 U.S.C. 1337(a)(3)(A), (B), and/or (C) with citations to record evidence.

In connection with the final disposition of this investigation, the statute authorizes issuance of, *inter alia,* (1) an exclusion order that could result in the exclusion of the subject articles from entry into the United States, and/or (2) cease and desist orders that could result in the respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or are likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (Dec. 1994).

The statute requires the Commission to consider the effects of that remedy upon the public interest. The public interest factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on: (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

Please address the following questions relevant to the public interest considerations in this investigation, including evidence in support:

(1) Please identify Healthgen's customers of the accused products and state the uses for which these customers are using its products. Are Ventria's products substitutes for these products and uses?

(2) Is there any vaccine or therapeutics research currently using Healthgen's accused products? If so, please describe.

(3) For any current uses of the accused products, can Ventria's products be used as substitutes?

(4) Can Ventria adequately supply U.S. demand for rHSA products?

(5) Are there uses for which a pHSA product cannot substitute for a plant-based rHSA product? To what extent should pHSA products be considered when examining the question of available substitutes for the accused products?

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve, disapprove, or take no action on the Commission's determination. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: The parties to the investigation are requested to file written submissions on the questions identified in this notice. Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such initial written submissions should include views on the RD that issued on April 7, 2022.

Initial written submissions, limited to 80 pages, must be filed no later than the close of business on June 20, 2022. Complainants are requested to identify the form of the remedy sought and to submit proposed remedial orders for the Commission's consideration. Complainants are also requested to state the HTSUS subheadings under which the accused articles are imported, and to supply identification information for all known importers of the accused products. Reply submissions, limited to 50 pages, must be filed no later than the close of business on June 27, 2022. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above. The Commission's paper filing requirements in 19 CFR 210.4(f) are currently waived. 85 FR 15798 (Mar. 19, 2020). Submissions should refer to the investigation number (''Inv. No. 337–TA–1238'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment by marking each document with a header indicating that the document contains confidential information. This marking will be deemed to satisfy the request procedure set forth in Rules 201.6(b) and 210.5(e)(2) (19 CFR 201.6(b) & 210.5(e)(2)). Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this investigation may be disclosed to and used: (i) by the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements. All nonconfidential written submissions will be available for public inspection on EDIS.

The Commission vote for this determination took place on June 6, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

While temporary remote operating procedures are in place in response to COVID–19, the Office of the Secretary is not able to serve parties that have not retained counsel or otherwise provided a point of contact for electronic service. Accordingly, pursuant to Commission Rules 201.16(a) and 210.7(a)(1) (19 CFR 201.16(a), 210.7(a)(1)), the Commission orders that the Complainant(s) complete service for any party/parties without a method of electronic service noted on the attached Certificate of Service and shall file proof of service on the Electronic Document Information System (EDIS).

By order of the Commission.

Issued: June 6, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–12500 Filed 6–9–22; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

211th Meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans; Notice of Meeting

Pursuant to the authority contained in Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, the 211th open meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (also known as the ERISA Advisory Council) will be held on July 18–20, 2022.

On Monday, July 18, 2022, the meeting will begin at 1 p.m. and end at approximately 4:30 p.m. (ET). On Tuesday, July 19, 2022, the meeting will begin at 8:30 a.m. and end at approximately 4:30 p.m. (ET), with a one-hour break for lunch. On Wednesday, July 20, 2022, the meeting will begin at 8:30 a.m. and end at approximately 1 p.m. (ET).

The three-day meeting will take place at the U.S. Department of Labor, 200 Constitution Avenue NW, Washington, DC 20210 in Room N5437 A–D. The meeting will also be accessible via teleconference and some participants, as well as members of the public, may elect to attend virtually. Instructions for public teleconference access will be available on the ERISA Advisory Council's web page at *https://www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council* approximately one week prior to the meeting.

The purpose of the open meeting is for Advisory Council members to hear testimony from invited witnesses and to receive an update from the Employee Benefits Security Administration (EBSA).

The Advisory Council will study the following topics: (1) Cybersecurity Issues Affecting Health Benefit Plans, and (2) Cybersecurity Insurance and Employee Benefit Plans. Descriptions of these topics, once finalized, as well as an agenda for the meeting, will be available on the ERISA Advisory Council's web page at *https://*

www.dol.gov/agencies/ebsa/about-ebsa/about-us/erisa-advisory-council.

Organizations or members of the public wishing to submit a written statement may do so on or before Monday, July 11, 2022, to Christine Donahue, Executive Secretary, ERISA Advisory Council. Statements should be transmitted electronically as an email attachment in text or pdf format to *donahue.christine@dol.gov.* Statements transmitted electronically that are included in the body of the email will not be accepted. Relevant statements received on or before Monday, July 11, 2022, will be included in the record of the meeting and made available through the EBSA Public Disclosure Room. No deletions, modifications, or redactions will be made to the statements received as they are public records.

Individuals or representatives of organizations wishing to address the ERISA Advisory Council should forward their requests to the Executive Secretary on or before Monday, July 11, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641. Oral presentations will be limited to ten minutes, time permitting, but an extended statement may be submitted for the record.

Individuals who need special accommodations should contact the Executive Secretary on or before Monday, July 11, 2022, via email to *donahue.christine@dol.gov* or by telephoning (202) 693–8641.

For more information about the meeting, contact the Executive Secretary at the address or telephone number above.

Signed at Washington, DC, this 7th day of June, 2022.

Ali Khawar,

Acting Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. 2022–12570 Filed 6–9–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Carrier's Report of Issuance of Policy

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Office of Workers' Compensation Programs (OWCP)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before July 11, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Office of Workers' Compensation Programs administers the Longshore and Harbor Workers' Compensation Act. The Act provides benefits to workers injured in maritime employment on the navigable waters of the United States or in an adjoining area customarily used by an employer in loading, unloading, repairing, or building a vessel. In addition, several acts extend the Longshore Act's coverage to certain other employees.

Authorized insurance carriers are required to report the issuance of policies and endorsements under the Longshore and Harbor Workers' Compensation Act and its extensions, the Defense Base Act, Outer Continental Shelf Lands Act and Non-Appropriated Fund Instrumentalities Act, to the Department of Labor's OWCP. Carriers use the form LS–570 for this purpose. Filing the Form LS–570 with OWCP's Division of Federal Employees', Longshore and Harbor Workers' Compensation binds the carrier to full liability for the named employer's obligations under the Act or its extensions.

Legal authority for this information collection is found at 33 U.S.C. 932(a) and 33 U.S.C. 939 and regulatory authority is found at 20 CFR 703.116 and 20 CFR 703.118. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on January 20, 2022 (87 FR 3127).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. See 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OWCP.

Title of Collection: Carrier's Report of Issuance of Policy.

OMB Control Number: 1240–0004.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 400.

Total Estimated Number of Responses: 1,500.

Total Estimated Annual Time Burden: 25 hours.

Total Estimated Annual Other Costs Burden: $15.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–12505 Filed 6–9–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Information Collection Activities; Comment Request

AGENCY: Bureau of Labor Statistics, Department of Labor.

ACTION: Notice of information collection; request for comment.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an

opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act 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. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Census of Fatal Occupational Injuries.'' A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before August 9, 2022.

ADDRESSES: Send comments to Nora Kincaid, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments also may be transmitted by email to *BLS_PRA_Public@bls.gov.*

FOR FURTHER INFORMATION CONTACT: Nora Kincaid, BLS Clearance Officer, at 202–691–7628 (this is not a toll free number). (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Bureau of Labor Statistics (BLS) was delegated responsibility by the Secretary of Labor for implementing Section 24(a) of the Occupational Safety and Health Act of 1970. This section states that ''the Secretary shall compile accurate statistics on work injuries and illnesses which shall include all disabling, serious, or significant injuries and illnesses . . .''

Prior to the implementation of the Census of Fatal Occupational Injuries (CFOI), the BLS generated estimates of occupational fatalities for private sector employers from a sample survey of about 280,000 establishments. Studies showed that occupational fatalities were underreported in those estimates as well as in those compiled by regulatory, vital statistics, and workers' compensation systems. Estimates prior to the CFOI varied widely, ranging from 3,000 to 10,000 fatal work injuries annually. In addition, information needed to develop prevention strategies were often missing from these earlier programs.

In the late 1980s, the National Academy of Sciences study, *Counting Injuries and Illnesses in the Workplace,* and another report, *Keystone National Policy Dialogue on Work-Related Illness and Injury Recordkeeping,* emphasized the need for the BLS to compile a complete roster of work-related fatalities because of concern over the accuracy of using a sample survey to estimate the incidence of occupational fatalities. These studies also recommended the use of all available data sources to compile detailed information for fatality prevention efforts.

The BLS tested the feasibility of collecting fatality data in this manner in 1989 and 1990. The resulting CFOI was implemented in 32 states in 1991. National data covering all 50 states, New York City, the District of Columbia, and three U.S. Territories have been compiled and published annually since 1992.

The CFOI compiles comprehensive, accurate, and timely information on work-injury fatalities needed to develop effective prevention strategies. The system collects information concerning the incident, demographic information of the deceased, and characteristics of the employer.

Data are used to:

- Develop employee safety training programs.
- Develop and assess the effectiveness of safety standards.
- Conduct research for developing prevention strategies.

In addition, state partners use the data to publish state reports, to identify state-specific hazards, to allocate resources for promoting safety in the workplace, and to evaluate the quality of work life in the state.

II. Current Action

Office of Management and Budget clearance is being sought for the Census of Fatal Occupational Injuries.

In 2019 and 2020, 5,333 (pre-pandemic) and 4,764 (pandemic) workers, respectively, lost their lives because of fatal work injuries. This official systematic, verifiable count mutes controversy over the various counts from different sources. The CFOI count has been adopted by the National Safety Council and other organizations as the sole source of a comprehensive count of fatal work injuries for the U.S. If this information were not collected, confusion over the number and patterns in fatal occupational injuries would hamper prevention efforts. By providing timely occupational fatality data, the CFOI provides safety and health managers the information necessary to respond to emerging workplace hazards.

During 2020, BLS national office responded to 148 requests for CFOI data from various organizations. (This figure excludes requests received by states for state-specific data.) In addition, the CFOI page of the BLS website averaged about 7,015 users per month in 2020.

National office staff also responded to numerous requests from safety organizations for staff members to participate in safety conferences and seminars. The CFOI research file, made available to safety and health groups, is being used by 12 organizations. Study topics include fatalities by worker demographic category (young workers, older workers, Hispanic workers); by occupation or industry (construction workers, police officers, firefighters, landscaping workers, workers in oil and gas extraction); by event (heat-related fatalities, fatalities from workplace violence, suicides, falls from ladders); or other research such as safety and health program effectiveness and the impact of fatality risk on wages. A current list of research articles and reports that include CFOI data can be found at: *http://www.bls.gov/iif/publications.htm.*

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- 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.

Title of Collection: Census of Fatal Occupational Injuries.

OMB Number: 1220–0133

Type of Review: Extension.

Affected Public: Federal government; Individuals or households; Private sector (Business or other for-profits, Not-for-profit institutions, Farms); State, local, or tribal governments.

Form	Total respondents	Frequency	Total responses	Average time per response (minutes)	Estimated total burden (hours)
Form BLS CFOI–1	334	On Occasion	334	20	111
Source Documents	227	On Occasion	15,476	10	2,648
Totals	561		15,810		2,759

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, on June 3, 2022.

Eric Molina,

Acting Chief, Division of Management Systems.

[FR Doc. 2022–12506 Filed 6–9–22; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (22–043)]

NASA Planetary Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Planetary Science Advisory Committee. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning. This meeting was announced in the **Federal Register** on May 26, 2022, (see reference above).

DATES: Tuesday, June 21, 2022, 12:00 p.m. to 6:00 p.m.; Wednesday, June 22, 2022, 10:00 a.m. to 6:00 p.m.; and Thursday, June 23, 2022, 10:00 a.m. to 6:00 p.m. *Note:* All times listed are Eastern Time.

ADDRESSES: NASA Headquarters, Room MIC3A, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The meeting will also be available telephonically and via WebEx. For Tuesday, June 21, the WebEx information for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=mda51ad787d5b7783fca775b4e68c3f80.* The WebEx number is: 2762 055 5578 and the password is XJgRNbNB353 (95476262 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access Code: 276 205 55578). For Wednesday, June 22, the WebEx information for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m70025abdbeb5bbacc34d2e6981bbc504.*

The WebEx number is: 2762 423 0318 and the password is kiNQPeF4V52 (54677334 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access Code: 276 242 30318). For Thursday, June 23, the WebEx information for attendees is: *https://nasaevents.webex.com/nasaevents/j.php?MTID=m03f1b23e28838670f76363f664819fa0.*

The WebEx number is: 2762 920 8201 and the password is 8yiSPwY3MM2 (89477993 from phones). To join by telephone call, use US Toll: +1–415–527–5035 (Access Code: 276 292 08201). REF: **Federal Register**/Vol. 87, No. 102/Thursday, May 26, 2022/Notices; pages 32063–32064.

Accessibility: Captioning will be provided for this meeting. We are committed to providing equal access to this meeting for all participants. If you need alternative formats or other reasonable accommodations, please contact Ms. KarShelia Kinard, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355 or *karshelia.kinard@nasa.gov.*

The agenda for the meeting includes the following topics:

—Planetary Science Division Update
—Planetary Science Division Research and Analysis Program Update

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2022–12539 Filed 6–9–22; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services

Notice of Proposed Information Collection Requests: Guidelines for IMLS Grants to States Five-Year Evaluation

AGENCY: Institute of Museum and Library Services.

ACTION: Notice, request for comments, collection of information.

SUMMARY: The Institute of Museum and Library Services (IMLS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act. This pre-clearance consultation program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The purpose of this Notice is to solicit comments related to the *Guidelines for IMLS Grants to States Five-Year Evaluation.* A copy of the proposed information collection request can be obtained by contacting the individual listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 9, 2022.

ADDRESSES: Send comments to Connie Bodner, Ph.D., Director of Grants Policy and Management, Office of Grants Policy and Management, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Dr. Bodner can be reached by telephone: 202–653–4636, or by email at *cbodner@imls.gov.* Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

FOR FURTHER INFORMATION CONTACT: Teri DeVoe, Associate Deputy Director for Grants to States, Institute of Museum and Library Services, 955 L'Enfant Plaza North SW, Suite 4000, Washington, DC 20024–2135. Ms. DeVoe can be reached by telephone at 202–653–2135, or by email at *tdevoe@imls.gov.* Persons who are deaf or hard of hearing (TTY users) can contact IMLS at 202–207–7858 via 711 for TTY-Based Telecommunications Relay Service.

SUPPLEMENTARY INFORMATION: IMLS is particularly interested in public comments that help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques, or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

I. Background

The Institute of Museum and Library Services is the primary source of Federal support for the Nation's libraries and museums. We advance, support, and empower America's museums, libraries, and related organizations through grant making, research, and policy development. To learn more, visit *www.imls.gov.*

II. Current Actions

The Grants to States program is the largest source of Federal funding support for library services in the U.S. Using a population-based formula, more than $160 million is distributed among the State Library Administrative Agencies (SLAAs) every year. SLAAs are official agencies charged by the Library Services and Technology Act (20 U.S.C. 9121 and 20 U.S.C. 9141) with the extension and development of library services, and they are located in each of the 50 States of the United States, the District of Columbia, the five Territories of Guam, American Samoa, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands, and the three Freely Associated States of Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands.

IMLS authorizing legislation (20 U.S.C. 9134) directs State Library Administrative Agencies (SLAAs) to ''independently evaluate, and report to the Director regarding, the activities assisted under this subchapter, prior to the end of the Five-Year Plan.'' This evaluation provides SLAAs an opportunity to measure progress in meeting the goals set in their approved Five-Year Plans with a framework to synthesize information across all state reports in telling a national story. This action is to renew clearance of the Guidelines for IMLS Grants to States Five-Year Evaluation (2023–2027) for the next three years.

Agency: Institute of Museum and Library Services.

Title: Guidelines for IMLS Grants to States Five-Year Evaluation.

OMB Control Number: 3137–0090.

Agency Number: 3137.

Respondents/Affected Public: State Library Administrative Agencies.

Total Estimated Number of Annual Respondents: 59.

Frequency of Response: Once every five years.

Average Hours per Response: 90 hours.

Total Estimated Number of Annual Burden Hours: 5,310 hours.

Cost Burden (dollars): $156,220.20.

Public Comments Invited: Comments submitted in response to this Notice will be summarized and/or included in the request for OMB's clearance of this information collection.

Dated: June 6, 2022.

Suzanne Mbollo,

Grants Management Specialist, Institute of Museum and Library Services.

[FR Doc. 2022–12478 Filed 6–9–22; 8:45 am]

BILLING CODE 7036–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CAHPS Enrollee Survey 3206–0274–RENEWAL

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice with request for comment.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a proposed information collection (ICR) 3206–0274, Consumer Assessment of Healthcare Providers and Systems (CAHPS®). As required by the Paperwork Reduction Act of 1995, as amended by the Clinger-Cohen Act, OPM is soliciting comments for this collection. The information collection was previously published in the **Federal Register** on February 25, 2022 allowing for a 60-day public comment period. OPM received twenty-nine comments in response to this information collection. The organizations that submitted comments are the American Association of Nurse Practitioners and the Association of Federal Health Organizations (AFHO). The comments and OPM's responses are in the table.

DATES: Comments are encouraged and will be accepted until July 11, 2022. This process is conducted in accordance with 5 CFR 1320.1.

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 request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Michael Kaszynski, Senior Policy Analyst at *michael.kaszynski@opm.gov.* Formal requests must be in writing.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submissions of responses.

Analysis

Frequency: Annually.

Affected Public: Federal Employees and Retirees.

Number of Respondents: 73,505.

Estimated Time per Respondent: 15 minutes.

Total Burden Hours: 18,376 hours.

U.S. Office of Personnel Management.

Kellie Cosgrove Riley,

Director, Office of Privacy and Information Management.

OPM Response to Comments for the CAHPS Enrollee Survey 3206–0274—Renewal

Public/individual comments	Section/issue	Comment	Decision	Reasoning
American Association of Nurse Practitioners (AANP).		Requested that OPM amend the survey by changing the word ''doctor'' to ''health care provider'' throughout the instrument and clarify that nurse practitioners are included in that definition.	OPM determined that this feedback does not necessitate a change to the 30-day notice.	As the Agency for Healthcare Research and Quality (AHRQ) is the survey steward, comments related to survey format or questioning clarity should be directed to *https://www.ahrq.gov/cahps/surveys-guidance/index.html.*
The following section includes recommendations and responses from the Association of Federal Health Organizations (AFHO).				
The Association of Federal Health Organizations (AFHO).	Time Burden Estimate	• AFHO members generally agree with the assessment of 15 minutes per response time adding to 18,376 hours for 73,505 total respondents. AFHO members note that the CAHPS survey response time is evidence-based; however, response time may vary by the respondent, by administration method, and by a respondent's decision to not respond at all. In addition, the burden assessment may not reflect the experience of members with a language barrier.	OPM determined that this feedback does not necessitate a change to the 30-day notice.	The comments indicate a general agreement with the estimate.
	The CAHPS Survey Instrument.	• OPM should support refining and streamlining questions to be more direct and clearer, as well as, actionable for managed care companies/PPOs. ○ For example, questions evaluating provider interface with members are not directly actionable by plans, while questions related to member website interface with plan operations or tools, such as the provider directory or member website are actionable by plans. • Some AFHO members assert that CAHPS is a lengthy survey which may contribute to a drop in response rates. As many of the topical areas in CAHPS are unlikely to change year-over-year, it may be possible to shorten the CAHPS survey by administering only one topical area per year to boost response rates, lessen burden, and generate a cycle for measuring both relative levels of satisfaction and impact of improvement activities. The questions would be rotated from year to year to allow all questions to be surveyed cyclically. • OPM should identify and share with carriers the preferred language of each FEHB member to support survey translation prioritization and to tailor the distribution of appropriate surveys through CAHPS vendors. • OPM should arrange for standardizing translations of the CAHPS surveys to avoid potential inconsistencies in messaging (i.e., having AHRQ perform translations for consistency in structure and messaging across health plans distributing surveys in other languages versus health plans following recommendations to generate surveys in a variety of languages themselves).	• OPM determined that this feedback does not necessitate a change to the 30-day notice. As OPM is not the survey steward, we cannot make changes to the CAHPS Health Plan Survey 5.1H, Adult Version.	• OPM asks Carriers to implement the CAHPS survey as part of OPM's Plan Performance Assessment (PPA) annual process to assess the customer experience. As AHRQ is the survey steward, comments related to survey format or question clarity should be directed to *https://www.ahrq.gov/cahps/surveys-guidance/index.html.* • OPM understands that Carriers have the best information available in relation to the language needs of their members. Questions related to survey translation should be directed to AHRQ. AHRQ provides additional information on CAHPS translation services Guidelines for Translating CAHPS® Surveys | Agency for Healthcare Research and Quality (*ahrq.gov*).

OPM RESPONSE TO COMMENTS FOR THE CAHPS ENROLLEE SURVEY 3206–0274—RENEWAL—Continued

Public/individual comments	Section/issue	Comment	Decision	Reasoning
		• Several AFHO members service plan members living in other countries where language and terminology used in CAHPS may not be as common making it challenging to track actionable responses via CAHPS data. • The anonymity of CAHPS data, while purposeful for the survey intent, does impose a challenge to implementing targeted member experience improvement; therefore, some plans assume an added burden in coordinating independent target assessments. In terms of the actionability of CAHPS information for the health plan. • Some AFHO members recommend integrating open-ended comments in the CAHPS survey as the high-level nature of the CAHPS survey presents a challenge to actionability. • Several of the questions in the survey are related to provider behavior versus health plan behavior, which is not as directly actionable.		
	CAHPS Survey Data Collection.	• OPM should encourage efforts to promote email and text-based member outreach to increase digital survey responses and improve response rates for more complete data collection. • FEHB members are more receptive to completing a paper or online survey as opposed to a telephone-administered survey which may take longer to complete. • AFHO recommends inviting sampled individuals to participate in CAHPS via email or text, when possible. • If outreach transitions to digital and text, then carriers should have the option of forgoing mail outreach as this is cost prohibitive. • More research is still needed to better understand the effect of email or text outreach on burden. In terms of CAHPS administrative burden on carriers, AFHO members have experienced challenges with survey distribution and collection. • In terms of CAHPS administrative burden on carriers, AFHO members have experienced challenges with survey distribution and collection. • AFHO members shared COVID–19 pandemic-related supply chain disruptions in acquiring mailing materials for CAHPS. • The two-week telephone interview field period presents a challenge as it requires a large volume of interviews to be conducted in a short timeframe, and at times a member may have already completed a paper survey when they are called, but the health plan had not received it yet, due to mail delays.	• OPM determined that this feedback does not necessitate a change to the 30-day notice. As OPM is not the survey steward, we cannot make changes to the CAHPS Health Plan Survey 5.1H, Adult Version administration guidelines.	• Multiple survey methodologies are allowed under AHRQ and NCQA guidelines and OPM does not have any jurisdiction in this arena. Feedback related to survey administration should be directed to NCQA and AHRQ as they Oversee the survey data collection guidelines.

OPM RESPONSE TO COMMENTS FOR THE CAHPS ENROLLEE SURVEY 3206–0274—RENEWAL—Continued

Public/individual comments	Section/issue	Comment	Decision	Reasoning
	Feedback Related to Data Use.	• CAHPS provides a standardized method of measuring and understanding member experience which is a key component of health plan performance, as well as any opportunities to improve member experience. AFHO members have indicated that information collected from CAHPS has limited practical utility. • The FEHB serves an aging demographic. To ensure the accessibility of CAHPS for older populations, OPM should take FEHB demographics into account as changes to survey processes or guidelines may pose a challenge to members' ability to complete the survey. • OPM should provide carriers with an understanding of how OPM's Plan Performance Assessment (PPA) program uses CAHPS data to improve carrier performance, given that CAHPS is a randomly sampled survey with subject responses provided based on each respondent's interpretation of the questions.	• OPM determined that this feedback does not necessitate a change to the 30-day notice.	• OPM understands that the practicality of CAHPS data is determined individually by each FEHB Carrier as they use customer satisfaction data for planning in conjunction with other measures that they collect to assess the customer experience. OPM continues to explore other strategies to measure customer service. At this time, OPM has not found a suitable replacement that meets the PPA methodology criteria. • OPM reviews CAHPS demographics during the annual data evaluation. This information is reviewed internally and not available for public distribution. • OPM relies on Carriers to make determinations on improving Carrier performance as they have the best understanding of their member population, benefit design, and operating environment. • OPM has hosted a PPA Best Practice Workgroup presentation on methods FEHB Carriers have employed to improve on select CAHPS measures. Workgroup presentations are intended to give insight into successful quality improvement efforts on specific topics for FEHB Carriers. It is not meant to dictate any business activities. The PPA Best Practices Workgroup is a forum to allow for open dialogue and idea sharing among FEHB Carriers.
	Feedback Related to Data Distribution.	• To improve the actionability of collected data, OPM should create and share a demographic analysis of all CAHPS surveys collected by OPM from year to year. This analysis would allow OPM, carriers and the public to understand better FEHB member demographics, such as geography and enrollment type. Specifically, the analysis would offer an opportunity for carriers to identify the demographic aggregations that would be most meaningful in assessing member experience for actionable quality improvement. • OPM should share FEHB member race, ethnicity, and gender identity with carriers to optimize diverse member data representation in the CAPHS surveys.	• OPM determined that this feedback does not necessitate a change to the 30-day notice. As OPM is not the survey steward, we cannot make changes to the CAHPS Health Plan Survey 5.1H, Adult Version administration guidelines.	• OPM understands that FEHB Carriers have access to the demographic breakdown of their own member population. At this time, OPM does not intend to share demographic data from CAHPS across FEHB Carriers.
	Feedback Related to PPA Methodology.	• OPM should consider whether there is an opportunity to better align the PPA with National Committee for Quality Assurance (NCQA) Ratings and Accreditation where similar information is also being collected. • AFHO members also encourage better alignment with NCQA and OPM in tracking CAHPS improvement as part of NCQA accreditation. • Reporting on the percentage of members who indicate a rating of 9–10 on rating items versus the percentage of members who indicate a rating of 8–10, to better align with NCQA ratings or transition to the use of NCQA ratings for OPM purposes to reduce duplication of efforts. • Extending the review timeline for CAHPS performance data. • Allowing for the review of all FEHB plan CAHPS reports from the past two measurement years rather than one measurement year to better assess the actual impact of improvement plans using CAHPS survey data. • Will the Net Promoter Score (NPS) referenced in Carrier Letter 2018–07 will receive further discussion as a potential replacement for CAHPS?.	• OPM determined that this feedback does not necessitate a change to the 30-day notice.	• OPM continues to explore other strategies to measure customer service. At this time, OPM has not found a suitable replacement that meets the PPA methodology criteria. • The PRA request was not a vehicle to provide feedback on PPA methodology. To provide methodology feedback, please email *FEHBPerformance@opm.gov.*

[FR Doc. 2022–12501 Filed 6–9–22; 8:45 am]
BILLING CODE 6325–63–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2021–114]

New Postal Products

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 14, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *https://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*https://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3011.301.[1]

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3030, and 39 CFR part 3040, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3035, and 39 CFR part 3040, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2021–114; *Filing Title:* USPS Notice of Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 74, Filed Under Seal; *Filing Acceptance Date:* June 3, 2022; *Filing Authority:* 39 CFR 3035.105; *Public Representative:* Jennaca D. Upperman; *Comments Due:* June 14, 2022.

This Notice will be published in the **Federal Register**.

Erica A. Barker,

Secretary.

[FR Doc. 2022–12582 Filed 6–9–22; 8:45 am]
BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2022–34; Order No. 6190]

Inbound Competitive Multi-Service Agreements With Foreign Postal Operators

AGENCY: Postal Regulatory Commission.
ACTION: Notice.

SUMMARY: The Commission is recognizing a recent Postal Service filing of a change in certain inbound rates under the Competitive Multi-Service Agreements with Foreign Postal Operators 1 product to be effective January 1, 2023. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* June 21, 2022.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

On June 3, 2022, the Postal Service filed a notice with the Commission pursuant to 39 CFR 3035.105 and Order No. 546, giving notice of modifications to certain inbound rates under the Competitive multi-product ''Interconnect Remuneration Agreement USPS and Specified Postal Operators II'' (IRA–USPS II Agreement).[1] The IRA–USPS II Agreement is included within the Competitive Multi-Service Agreements with Foreign Postal Operators 1 product.[2]

Parties to the IRA–USPS II Agreement may self-declare their delivery rates within defined parameters by communicating revised rates to the International Post Corporation by July 15 of the year preceding their application.[3] The modifications proposed in the Notice are intended to take effect on January 1, 2023. Notice at 2.

Concurrent with the Notice, the Postal Service has filed a certified statement concerning the modified rates under the IRA–USPS II Agreement and supporting financial documentation. *Id.* at 2–3, Attachment 1. The Postal Service also requests that the Commission continue to grant its Application for Non-Public Treatment, which was filed with the

[1] *See* Docket No. RM2018–3, Order Adopting Final Rules Relating to Non-Public Information, June 27, 2018, Attachment A at 19–22 (Order No. 4679).

[1] Notice of the United States Postal Service of Filing Modifications to Rates Under Inbound Competitive Multi-Service IRA–USPS II Agreement with Materials Filed Under Seal, June 3, 2022 (Notice). Docket Nos. MC2010–34 and CP2010–95, Order Adding Inbound Competitive Multi-Service Agreements with Foreign Postal Service Operators 1 to the Competitive Product List and Approving Included Agreement, September 29, 2010 (Order No. 546).

[2] Order Approving Additional Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 23, 2021 (Order No. 6074).

[3] Notice of United States Postal Service of Filing Functionally Equivalent Inbound Competitive Multi-Service Agreement with Foreign Postal Operators, December 8, 2021, Attachment 2 at 21–23.

Postal Service's initial notice and is incorporated by reference. Notice at 3.

The Commission will review the proposed IRA–USPS II Agreement rates to ensure that the Inbound Competitive Multi-Service Agreements with Foreign Postal Operators 1 product continues to cover its attributable costs, does not cause Market Dominant products to subsidize Competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. 3633(a); 39 CFR 3035.105 and 3035.107.

II. Commission Action

The Commission seeks public comments from interested persons on whether the Postal Service's Notice concerning the IRA–USPS II Agreement is consistent with 39 U.S.C. 3633 and 39 CFR 3035.105. Comments are due by June 21, 2022.

The Notice and related filings are available on the Commission's website (*http://www.prc.gov*). The Commission encourages interested persons to review the Notice for further details.

The Commission appoints Kenneth R. Moeller to serve as Public Representative in this proceeding.

III. Ordering Paragraphs

It is ordered:

1. The Commission seeks public comment from interested persons on whether the Notice of the United States Postal Service of Filing Modifications to Rates Under Inbound Competitive Multi-Service IRA–USPS II Agreement with Materials Filed Under Seal, filed June 3, 2022, is consistent with 39 U.S.C. 3633 and 39 CFR 3035.105.

2. Pursuant to 39 U.S.C. 505, Kenneth R. Moeller is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

3. Comments by interested persons are due by June 21, 2022.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–12503 Filed 6–9–22; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Notice of Intent To Prepare a Supplement to the Next Generation Delivery Vehicles Acquisitions Final Environmental Impact Statement

AGENCY: Postal Service.

ACTION: Notice.

SUMMARY: On January 7, 2022, the Postal Service published a Final Environmental Impact Statement (FEIS) pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), its implementing regulations, and the President's Council on Environmental Quality (CEQ) regulations for its Next Generation Delivery Vehicle (NGDV) Acquisitions. On February 23, 2022, the Postal Service issued its Record of Decision, determining that it would implement the NGDV FEIS's Preferred Alternative to purchase and deploy over a ten-year period 50,000 to 165,000 purpose-built, right-hand drive NGDV consisting of a mix of internal combustion engine (ICE) and battery electric vehicle (BEV) powertrains, with at least ten percent BEVs. On March 24, 2022, in accordance with that decision, the Postal Service placed an order for 50,000 NGDV, of which 10,019 are BEV. The Postal Service now announces its intention to prepare a Supplemental Environmental Impact Statement (SEIS) to address the three considerations that have developed since the NGDV FEIS and Record of Decision.

DATES: Comments should be received no later than July 25, 2022. The Postal Service will also publish a Notice of Availability to announce the availability of the Draft SEIS and solicit comments on the Draft SEIS during a second 45-day public comment period.

ADDRESSES: Interested parties may direct comments and questions to: Mr. Davon Collins, Environmental Counsel, United States Postal Service, 475 L'Enfant Plaza SW, Office 6606, Washington, DC 20260–6201, or at *NEPA@usps.gov.* Note that comments sent by mail may be subject to delay due to federal security screening. Faxed comments are not accepted. All submitted comments and attachments are part of the public record and subject to disclosure. Do not enclose any material in your comments that you consider to be confidential or inappropriate for public disclosure.

The Postal Service will also conduct a virtual public hearing on Tuesday, July 19, 2022, at 7 p.m. (ET). Registration information will be made available 15 days prior to the hearing date at the following website: *http://uspsngdveis.com/.*

SUPPLEMENTARY INFORMATION: The three considerations that have developed since the NGDV FEIS and Record of Decision are as follows:

First, in response to potential delivery network refinements and route optimization efforts being considered for the postal delivery network, the SEIS would analyze the potential impacts to the delivery fleet from such changes, including whether the changed route length and characteristics warrant an increase in the minimum number of BEV NGDVs to be procured under the Proposed Action set forth in the FEIS.

Second, in response to its need to accelerate the replacement of aged and high-maintenance Long Life Vehicles (LLV) and Flexible Fuel Vehicles (FFV) in furtherance of its Universal Service Obligation, the Postal Service intends to analyze the potential impacts of replacing the remainder of its LLV/FFV fleet with a combination of NGDV and Commercial Off-the-Shelf (COTS) vehicles. The Postal Service anticipates that the SEIS Proposed Action will propose acquiring up to 37,000 left-hand drive COTS with ICE and BEV powertrains, which would be deployed on routes with fewer than 21 curb-line delivery points.

Third, as the NGDV FEIS only assessed the environmental impacts from a replacement of the Postal Service's LLV and FFVs, the SEIS would also assess the potential impacts from replacing other aged and high-maintenance non-LLV/FFV postal delivery vehicles. This analysis would include consideration of the acquisition of: (1) up to 60,000 right-hand drive non-NGDV purpose-built vehicles with ICE and BEV powertrains to place on routes currently utilizing personally owned vehicles (POVs), for rural route growth, and for routes that require a vehicle less than 111 inches tall; and (2) the acquisition of up to 26,000 left-hand drive COTS with ICE and BEV powertrains to replace existing COTS delivery vehicles that will reach the end of their service lives within the next ten years.

The Postal Service actively seeks input from the public, interested persons, organizations, and Federal, state, and regional agencies to identify environmental concerns and potential alternatives to be addressed in the SEIS and will accept public comments for a 45-day period, concluding on July 25, 2022. With respect to recommendations regarding potential alternatives, the Postal Service requests that comments be as specific as possible regarding vehicle type, model and manufacturer so that the Postal Service might fully consider the alternative in terms of pricing, operational capabilities, and market availability.

References

1. U.S. Postal Service, Notice of Intent to Prepare an Environmental Impact

Statement for Purchase of Next Generation Delivery Vehicles, 86 FR 12715 (Mar. 4, 2021).
2. U.S. Postal Service, Notice of Availability of Draft Environmental Impact Statement for Purchase of Next Generation Delivery Vehicle, 86 FR 47662 (Aug. 26, 2021).
3. U.S. Environmental Protection Agency, Notice of Availability of EIS No. 20210129, Draft, USPS, DC, Next Generation Delivery Vehicle Acquisitions, 86 FR 49531 (Sept. 3, 2021).
4. U.S. Environmental Protection Agency, Notice of Availability of EIS No. 20220001, Final, USPS, DC, Next Generation Delivery Vehicle Acquisitions, 87 FR 964 (Jan. 7, 2022).
5. U.S. Postal Service, Notice of Availability of Final Environmental Impact Statement for Purchase of Next Generation Delivery Vehicles, 87 FR 994 (Jan. 7, 2022).
6. U.S. Postal Service, Notice of Availability of Record of Decision, 87 FR 14588 (Mar. 15, 2022).

Joshua J. Hofer,

Attorney, Ethics and Legal Compliance.

[FR Doc. 2022–12581 Filed 6–7–22; 4:15 pm]

BILLING CODE 7710–12–P

POSTAL SERVICE

Sunshine Act Meetings

TIME AND DATE: June 22, 2022, at 9:00 a.m.

PLACE: Atlanta, GA.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Wednesday, June 22, 2022, at 9:00 a.m.

1. Strategic Issues.
2. Financial and Operational Issues.
3. Executive Session.
4. Administrative Items.

GENERAL COUNSEL CERTIFICATION: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Michael J. Elston, Secretary of the Board of Governors, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260–1000. Telephone: (202) 268–4800.

Michael J. Elston,

Secretary.

[FR Doc. 2022–12628 Filed 6–8–22; 11:15 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95048; File No. SR–FINRA–2022–014]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend FINRA Rules 4111 (Restricted Firm Obligations) and 9561 (Procedures for Regulating Activities Under Rule 4111)

June 6, 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 26, 2022, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (f)(6) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to amend FINRA Rules 4111 and 9561 to make non-substantive and technical amendments.

The text of the proposed rule change is available on FINRA's website at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 30, 2021, the Commission approved rules concerning firms with a significant history of misconduct, including new Rule 4111 (Restricted Firm Obligations), amendments to Rule 9559 (Hearing Procedures for Expedited Proceedings Under the Rule 9550 Series), and new Rule 9561 (Procedures for Regulating Activities Under Rule 4111).[4] The rules allow FINRA to impose obligations on broker-dealers with significantly higher levels of risk-related disclosures than other similarly sized peers based on numeric, threshold-based criteria.[5] Specifically, Rule 4111 requires members that are identified as ''Restricted Firms'' to deposit cash or qualified securities in a segregated account, adhere to specified conditions or restrictions, or comply with a combination of such obligations.[6]

The annual Rule 4111 process through which FINRA will determine which members are Restricted Firms, and the obligations to impose on them, has several steps and includes features that narrowly focus the obligations on the firms of most concern.[7] The first step is the annual calculation.[8] Specifically, for each member, the Department of Member Regulation (''Department'') will compute annually the member's ''Preliminary Identification Metrics'' to determine if it meets the ''Preliminary Criteria for Identification.'' [9] The date, each calendar year, as of which the Department calculates the Preliminary Identification Metrics to determine if the member meets the Preliminary Criteria for Identification is the ''Evaluation Date.'' [10]

For a member that meets the Preliminary Criteria for Identification during the annual calculation, the Department will conduct an Initial

[4] *See* Securities Exchange Act Release No. 92525 (July 30, 2021), 86 FR 42925 (August 5, 2021) (Order Approving File No. SR–FINRA–2020–041, as Modified by Amendment Nos. 1 and 2) (''SEC Order''); *see also* Securities Exchange Act Release No. 92525 (July 30, 2021), 86 FR 49589 (September 3, 2021) (Order Approving File No. SR–FINRA–2020–041, as Modified by Amendment Nos. 1 and 2) (Correction).

[5] *See* SEC Order, 86 FR 42925, 42926.

[6] *See* SEC Order, 86 FR 42925, 42926; *see also* Rule 4111(i)(16) (defining ''Restricted Firm'').

[7] *See* SEC Order, 86 FR 42925, 42927.

[8] *See* Rule 4111(b).

[9] *See* Rule 4111(b); Rule 4111(i)(9) (definition of ''Preliminary Criteria for Identification'') and (i)(10) (definition of ''Preliminary Identification Metrics'').

[10] *See* Rule 4111(i)(5).

Department Evaluation.[11] If the Department determines that the member warrants further review, and such member has met the Preliminary Criteria for the first time, the member will have a one-time staff-reduction opportunity to no longer meet the Preliminary Criteria for Identification.[12] A member that still meets the Preliminary Criteria for Identification after the staff-reduction opportunity, or that does not have a one-time staff-reduction opportunity available, will proceed to a Consultation.[13]

After the Consultation, the Department will issue a Department decision concerning the member.[14] A Department decision will indicate whether the member is designated as a Restricted Firm.[15] For a member that is designated as a Restricted Firm, the Department decision also will state the obligations that are imposed on that member.[16] These obligations can include a ''Restricted Deposit Requirement,'' specified conditions or restrictions on the operations and activities of the member and its associated persons, or both.[17] Rule 4111(e) includes provisions concerning, in pertinent part, the Department's 30-day deadline for rendering, and issuing notice of, its decision.[18]

To implement Rule 4111, FINRA created two new expedited proceedings.[19] Rule 9561(a) governs a new expedited proceeding that allows a member to request a prompt review of the Department's determinations. Rule 9561(b) governs a new expedited proceeding to address a member's failure to comply with any requirements, conditions or restrictions imposed on it pursuant to Rule 4111 and Rule 9561(a). The procedures for the Rule 9561(b) expedited proceeding include, in pertinent part, provisions concerning the notices that the Department may issue to commence a Rule 9561(b) expedited proceeding and the contents of those notices.[20] Rule 9561(b) is expressly referenced in Rule 4111(h), which concerns notices of a member's failures to comply with a Restricted Deposit Requirement or conditions or restrictions imposed pursuant to Rule 4111.

Rules 4111 and 9561, and the amendments to Rule 9559, became effective on January 1, 2022.[21] The first Evaluation Date for Rule 4111 will be June 1, 2022.[22]

FINRA is proposing technical, non-substantive changes to Rules 4111 and 9561, for clarity and consistency, and to avoid unintended consequences of the 30-day deadline currently specified in Rule 4111(e). Specifically, FINRA is proposing amendments to: (1) Rule 4111(b), which concerns the annual calculation of the Preliminary Criteria for Identification, to delete the reference to ''on a calendar-year basis,'' as the Evaluation Date establishes the operative time periods under the rule; (2) Rule 4111(e), to modify and clarify when the 30-day time period commences for the Department to render, and issue notice of, its decisions; (3) Rule 4111(h), to more closely align its description of the notices issued pursuant to Rule 9561(b) with the text of Rule 9561(b); (4) Rule 9561(b)(3), to modify the second sentence to use the phrase ''suspension or cancellation of membership,'' to be consistent with how the phrase ''suspension or cancellation of membership'' is used throughout Rule 9561; and (5) Rules 4111(f)(3), (i)(2), and (i)(15), to remove the capitalization from the term ''Associated Person,'' to be consistent with how the term is used throughout the FINRA Rulebook.

Proposed Amendments to Rule 4111(b)

Rule 4111(b) currently provides that, for each member, the Department will compute ''annually (on a calendar-year basis) the Preliminary Identification Metrics to determine if the member meets the Preliminary Criteria for Identification.'' FINRA proposes to delete from Rule 4111(b) the words ''on a calendar-year basis.''

What establishes the relevant time periods for the Rule 4111 annual calculation is the Evaluation Date. The Evaluation Date is defined as ''the date, each calendar year, as of which the Department calculates the Preliminary Identification Metrics to determine if the member meets the Preliminary Criteria for Identification.'' [23] The first Evaluation Date under Rule 4111 will be June 1, 2022, and FINRA expects that, in subsequent years, the Evaluation Dates also will be on June 1.[24] Because the Evaluation Date establishes the operative time periods for the Rule 4111 annual calculation, FINRA is proposing to delete from Rule 4111(b) the words ''on a calendar-year basis.''

Proposed Amendments to Rule 4111(e)

FINRA is proposing to make technical, non-substantive changes to the provisions in Rule 4111(e) that concern the timing of the Department decisions, to modify and clarify when the 30-day time period commences for the Department to render, and issue notice of, its decisions.

Currently, Rule 4111(e)(1) provides, in pertinent part, that ''[f]ollowing the Consultation, but no later than 30 days from the date of the latest letter provided to the member under paragraph (d)(2) of this Rule, the Department shall render a Department Decision . . . .'' Similarly, Rule 4111(e)(2) provides, in pertinent part, that ''[n]o later than 30 days following the latest letter provided to the member under paragraph (d)(2) of this Rule, the Department shall issue a notice of the Department's decision pursuant to Rule 9561(a) . . . .'' The letters that FINRA can provide pursuant to Rule 4111(d)(2) include ones that schedule the Consultation and ones that postpone the commencement of the Consultation for good cause shown.[25] Rule 4111(d)(2) requires that the Department provide the written Consultation scheduling letter to the member firm ''at least seven days prior to the Consultation.'' Rule 4111(d)(2) further provides that ''[p]ostponements shall not exceed 30 days unless the member establishes the

[11] *See* Rule 4111(c)(1).

[12] *See* Rule 4111(c)(2).

[13] *See* Rule 4111(c); 4111(d).

[14] *See* Rule 4111(e).

[15] *See* Rule 4111(e)(1).

[16] *See* Rule 4111(e)(1)(B) and (C).

[17] *See* Rule 4111(e)(1)(B) and (C); *see also* Rule 4111(d)(1); Rule 4111(i)(15) (defining ''Restricted Deposit Requirement'').

[18] *See* Rule 4111(e)(1) and (e)(2).

[19] *See* SEC Order, 86 FR 42925, 42926.

[20] *See* Rule 9561(b)(1) and (3).

[21] *See Regulatory Notice* 21–34 (September 2021).

[22] *See Information Notice,* February 1, 2022 (FINRA Announces Rule 4111 (Restricted Firm Obligations) Evaluation Date). As FINRA explained in that *Information Notice,* FINRA plans to actually perform the annual calculation at least 30 days after the June 1, 2022 Evaluation Date, to account for the time between when relevant disclosure events occurred and when firms must report those events on the Uniform Registration Forms. *See* Rule 4111(i)(17) (defining ''Uniform Registration Forms'' for purposes of Rule 4111).

[23] *See* Rule 4111(i)(5). The Evaluation Date impacts numerous aspects of the annual Rule 4111 calculation—including, among other things, the dates of the ''Evaluation Period,'' the ''Preliminary Identification Metrics,'' the number of ''Registered Persons In-Scope,'' and the number of ''Registered Persons Associated with Previously Expelled Firms''—and which firm-size ''Preliminary Identification Metrics Thresholds'' apply. *See* Rule 4111(i)(6) (defining the ''Evaluation Period''); 4111(i)(10) (defining ''Preliminary Identification Metrics''); 4111(i)(13) (defining ''Registered Persons In-Scope''); 4111(i)(4)(F) (defining ''Registered Persons Associated with Previously Expelled Firms''); 4111(i)(11) (defining the ''Preliminary Identification Metrics Thresholds'').

[24] *See Information Notice,* February 1, 2022 (FINRA Announces Rule 4111 (Restricted Firm Obligations) Evaluation Date). FINRA also has explained, both in *Regulatory Notice* 21–34 and *Information Notice,* February 1, 2022, that FINRA will evaluate whether future adjustments of the annual Evaluation Date are warranted and would announce any changes in such date sufficiently in advance.

[25] *See* Rule 4111(d)(2).

reasons a longer postponement is necessary.''

FINRA's intent was to provide the Department with a reasonable amount of time following the Consultation to evaluate the information that a member provides during the Consultation and prepare its decision. However, commencing the 30-day deadline period from the ''date of the latest letter to the member under [Rule 4111(d)(2)]'' could result in the Department having little to no time to prepare its decision after the Consultation, especially when the Department sends a written letter granting a postponement of a Consultation for good cause shown. When a postponement is granted, the amount of time the Department would have to prepare its decision would depend on how far in advance of the postponed Consultation the Department sends the letter granting the postponement request. In some cases, depending on how long a postponement is granted, postponement letters could be provided 30 days or more before a postponed Consultation, leaving the Department with no time to prepare a decision following the postponed Consultation or evaluate the information provided by the member during the Consultation.[26]

Commencing the 30-day decision deadline period from the ''date of the latest letter provided to the member under [Rule 4111(d)(2)]'' also could have other unintended impacts on the Rule 4111 process. Rule 4111(d)(2) requires the Department to provide a written letter scheduling the Consultation ''at least seven days prior to the Consultation,'' but the ''latest letter'' provisions in Rule 4111(e) could create a disincentive for the Department to provide more than seven days' notice of the Consultation; each additional day of notice provided would translate into one less day for the Department to prepare its decision following the Consultation. Likewise, Rule 4111(d)(2) provides that postponements of Consultations ''shall not exceed 30 days unless the member establishes the reasons a longer postponement is necessary,'' but the ''latest letter'' provisions could create a disincentive for the Department to grant postponements of a length that would leave it with little or no time to prepare its decisions.

FINRA is also seeking to provide clarity to members on when the 30-day decision deadline period would begin, because the ''latest letter'' provisions may create potential ambiguity as to what communication starts, or restarts, the 30-day clock. For example, there could be occasions when the Department, after sending an initial letter scheduling the Consultation, needs to send subsequent scheduling letters that revise minor scheduling details (*e.g.,* adjustments to the day, starting time, or location of the Consultation; changes to audio or video conferencing details). In such situations, it may not be clear which scheduling letter would qualify as the ''latest'' letter from which the 30-day decision deadline period commences.

For these reasons, FINRA is proposing to amend Rule 4111(e)(1) and (e)(2) to require that the Department decision be rendered, and that notice of that decision be issued, no later than 30 days from the Consultation. This would ensure that the Department always has a reasonable amount of time to evaluate the information provided by a member during, and prepare its decisions after, the Consultation, and clarify when the 30-day decision deadline period begins.

Proposed Amendments to Rule 4111(h)

FINRA also is proposing non-substantive, technical changes to Rule 4111(h), to more closely align its description of the notices issued pursuant to Rule 9561(b) with the text of Rule 9561(b).

Currently, Rule 4111(h) provides that FINRA may issue a notice ''pursuant to Rule 9561(b)'' directing a member that is not in compliance with the Restricted Deposit Requirement or the conditions or restrictions imposed to ''suspend all or a portion of its business.'' The general description in Rule 4111(h) of the notices that may be issued pursuant to Rule 9561(b), however, does not align with how Rule 9561(b) describes them. In this regard, the phrase ''suspension or cancellation of membership'' (and, likewise, the phrase ''suspension or cancellation'') is used throughout Rule 9561(b). For example, Rule 9561(b)(1) provides that if a member fails to comply with any Rule 4111 Requirements imposed,[27] the Department, after receiving authorization from FINRA's Chief Executive Officer or such other executive officer as the Chief Executive Officer may designate, may issue a ''suspension or cancellation'' notice to such member stating that the failure to comply with the Rule 4111 Requirements within seven days of service of the notice will result in a ''suspension or cancellation of membership.'' These phrases also are used in the title of Rule 9561(b)(1), as well as in Rule 9561(b)(3), (4), and (6).[28] In addition, Rule 4111(h) does not currently describe how notices issued pursuant to Rule 9561(b) shall state that the failure to comply within seven days of service of the notice will result in a suspension or cancellation of membership.[29]

Rule 4111(h) was intended to be entirely consistent with Rule 9561(b), as reflected by the fact that Rule 4111(h) expressly provides that FINRA may issue a notice ''pursuant to Rule 9561(b).'' Thus, for purposes of consistency and clarity, FINRA proposes to amend Rule 4111(h) to provide that, pursuant to the procedure set forth in Rule 9561(b), FINRA may issue a suspension or cancellation notice to a member that is not in compliance with a Restricted Deposit Requirement or conditions or restrictions imposed by Rule 4111, stating that the failure to comply within seven days of service of the notice will result in a suspension or cancellation of membership.

Proposed Amendments to Rule 9561(b)(3)

FINRA also is proposing technical amendments to modify the second sentence of Rule 9561(b)(3) to use the phrase ''suspension or cancellation of membership,'' to be consistent with how the phrase ''suspension or cancellation of membership'' is used throughout Rule 9561.

Rule 9561(b)(3) governs the contents of a Rule 9561(b)(1) notice of suspension or cancellation of membership. Currently, the second sentence of Rule 9561(b)(3) provides, in pertinent part, that ''[t]he notice shall state when the suspension will take effect and explain what the respondent must do to avoid such suspension.'' This use of the word ''suspension'' is inconsistent with how the phrase ''suspension or cancellation'' (and, similarly, ''suspension or cancellation of membership'') is used throughout Rule 9561(b), including in a later sentence in

[26] *See* Rule 4111(d)(2).

[27] In Rule 9561, ''the Rule 4111 Requirements'' refer collectively to the requirements, conditions or restrictions to which a Restricted Firm is subject. *See* Rule 9561(a)(1).

[28] *See* Rule 9561(b)(1) (titled ''Notice of Suspension or Cancellation''), 9561(b)(3) (explaining that the notice shall explain that a Hearing Officer ''may approve or withdraw the suspension or cancellation of membership''), 9561(b)(4) (explaining the effective date of a ''suspension or cancellation''), and 9561(b)(6) (explaining the effective date of a ''suspension or cancellation'' when no hearing is timely requested); *see also* Rule 9559(n)(6) (''In any action brought under Rule 9561(b), the Hearing Officer may approve or withdraw the suspension or cancellation of membership . . . .'').

[29] *See* Rule 9561(b)(1).

Rule 9561(b)(3).[30] Accordingly, for consistency and clarity, FINRA proposes to modify the second sentence of Rule 9561(b)(3) to use the phrase ''suspension or cancellation of membership.''

Other Technical, Non-Substantive Changes

FINRA also proposes to amend various provisions in Rule 4111 to remove the capitalization of the term ''Associated Persons.'' [31] This would be consistent with how, throughout the FINRA Rulebook, the term ''associated person'' is generally not capitalized.[32]

FINRA has filed the proposed rule change for immediate effectiveness and has requested that the SEC waive the requirement that the proposed rule change not become operative for 30 days after the date of the filing, so FINRA can implement the proposed rule change immediately.[33]

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[34] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The proposed rule change will make non-substantive, technical amendments that FINRA believes will provide greater clarity and consistency to its rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change brings clarity and consistency to FINRA rules without adding any burden on firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [35] and Rule 19b–4(f)(6) thereunder.[36]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2022–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2022–014. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of FINRA. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2022–014 and should be submitted on or before July 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[37]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–12483 Filed 6–9–22; 8:45 am]

BILLING CODE 8011–01–P

[30] *See* Rule 9561(b)(1), (3), (4) and (6); *see also* Rule 9559(n)(6).

[31] The capitalized term ''Associated Persons'' is in Rule 4111(f)(3) (concerning requests by Previously Designated Restricted Firms for withdrawals from a Restricted Deposit Requirement), (i)(2) (defining ''Covered Pending Arbitration Claim''), and (i)(15) (defining ''Restricted Deposit Requirement'').

[32] The definition of ''Covered Pending Arbitration Claim'' in Rule 4111(i)(2) was modeled on the definition of the same term in Rule 1011(c), which is in the Rule 1000 Series (Member Application and Associated Person Registration). *See* Securities Exchange Act Release No. 90527 (November 27, 2020), 85 FR 78540, 78541–42 n.10 (December 4, 2020) (Notice of Filing of SR–FINRA–2020–041). In Rule 1011(c), as well as in some other provisions in the Rule 1000 Series, the term ''Associated Person'' is capitalized. The Rule 1000 Series, however, has a specific definition of the term ''Associated Person'' that applies specifically to the Rule 1000 Series. *See* Rule 1011(b).

[33] FINRA notes that the proposed rule change would impact all members, including members that have elected to be treated as capital acquisition brokers (''CABs''), given that the CAB rule set incorporates the impacted FINRA rules by reference. The proposed rule change would not impact, however, member firms that are funding portals, because the Funding Portal rule set neither incorporates the impacted FINRA rules by reference nor contains parallel rule provisions. *See* Funding Portal Rule 900(a) (excepting FINRA Rule 9561 from the application of the FINRA Rule 9000 Series to funding portals).

[34] 15 U.S.C. 78*o*–3(b)(6).

[35] 15 U.S.C. 78s(b)(3)(A).

[36] 17 CFR 240.19b–4(f)(6).

[37] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–507, OMB Control No. 3235–0563]

Proposed Collection; Comment Request; Extension: Rule 17a–10

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services,

100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (''PRA'') the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget (''OMB'') for extension and approval.

Section 17(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Act''), generally prohibits affiliated persons of a registered investment company (''fund'') from borrowing money or other property from, or selling or buying securities or other property to or from, the fund or any company that the fund controls.[1] Section 2(a)(3) of the Act defines ''affiliated person'' of a fund to include its investment advisers.[2] Rule 17a–10 (17 CFR 270.17a–10) permits (i) a subadviser [3] of a fund to enter into transactions with funds the subadviser does not advise but that are affiliated persons of a fund that it does advise (*e.g.,* other funds in the fund complex), and (ii) a subadviser (and its affiliated persons) to enter into transactions and arrangements with funds the subadviser does advise, but only with respect to discrete portions of the subadvised fund for which the subadviser does not provide investment advice.

To qualify for the exemptions in rule 17a–10, the subadvisory relationship must be the sole reason why section 17(a) prohibits the transaction. In addition, the advisory contracts of the subadviser entering into the transaction, and any subadviser that is advising the purchasing portion of the fund, must prohibit the subadvisers from consulting with each other concerning securities transactions of the fund, and limit their responsibility to providing advice with respect to discrete portions of the fund's portfolio.[4] This requirement regarding the prohibitions and limitations in advisory contracts of subadvisers relying on the rule constitutes a collection of information under the PRA.[5]

The staff assumes that all existing funds with subadvisory contracts amended those contracts to comply with the adoption of rule 17a–10 in 2003, which conditioned certain exemptions upon these contractual alterations, and therefore there is no continuing burden for those funds.[6] However, the staff assumes that all newly formed subadvised funds, and funds that enter into new contracts with subadvisers, will incur the one-time burden by amending their contracts to add the terms required by the rule.

Based on an analysis of fund filings, the staff estimates that approximately 314 funds enter into new subadvisory agreements each year.[7] Based on discussions with industry representatives, the staff estimates that it will require approximately 3 attorney hours to draft and execute additional clauses in new subadvisory contracts in order for funds and subadvisers to be able to rely on the exemptions in rule 17a–10. Because these additional clauses are identical to the clauses that a fund would need to insert in their subadvisory contracts to rely on rules 10f–3 (17 CFR 270.10f–3), 12d3–1 (17 CFR 270.12d3–1), and 17e–1 (17 CFR 270.17e–1), and because we believe that funds that use one such rule generally use all of these rules, we apportion this 3 hour time burden equally among all four rules. Therefore, we estimate that the burden allocated to rule 17a–10 for this contract change would be 0.75 hours.[8] Assuming that all 314 funds that enter into new subadvisory contracts each year make the modification to their contract required by the rule, we estimate that the rule's contract modification requirement will result in 236 burden hours annually, with an associated cost of approximately $107,380.[9]

The estimate of average burden hours is made solely for the purposes of the PRA. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules. Complying with this collection of information requirement is necessary to obtain the benefit of relying on rule 17a–10. Responses will not be kept confidential. 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 control number.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by August 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Acting Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 6, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–12495 Filed 6–9–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–482, OMB Control No. 3235–0540]

Proposed Collection; Comment Request; Extension: Rule 17a–25

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

[1] 15 U.S.C. 80a–17(a).

[2] 15 U.S.C. 80a–2(a)(3)(E).

[3] As defined in rule 17a–10(b)(2). 17 CFR 270.17a–10(b)(2).

[4] 17 CFR 270.17a–10(a)(2).

[5] 44 U.S.C. 3501.

[6] Transactions of Investment Companies With Portfolio and Subadviser Affiliates, Investment Company Act Release No. 25888 (Jan. 14, 2003) [68 FR 3153, (Jan. 22, 2003)]. We assume that funds formed after 2003 that intended to rely on rule 17a–10 would have included the required provision as a standard element in their initial subadvisory contracts.

[7] Based on data from form N–CEN filings, as of March 2022, there are 12,468 registered funds (open-end funds, closed-end funds, and exchange-traded funds), 4,870 funds of which have subadvisory relationships (approximately 39%). Based on Form N–1A and Form N–2 filings, there were 806 new registered funds in 2020. 806 new funds × 39% = 314 funds.

[8] This estimate is based on the following calculation: 3 hours ÷ 4 rules = 0.75 hours.

[9] These estimates are based on the following calculations: (0.75 hours × 314 portfolios = 236 burden hours); ($455 per hour × 236 hours = $107,380 total cost). The Commission's estimates concerning the wage rates for attorney time are based on salary information for the securities industry compiled by the Securities Industry and Financial Markets Association. The estimated wage figure is based on published rates for in-house attorneys, modified to account for a 1,800-hour work-year and inflation, and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding an effective hourly rate of $455. *See* Securities Industry and Financial Markets Association, Report on Management & Professional Earnings in the Securities Industry 2013.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*) (''PRA''), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–25 (17 CFR 204.17a–25) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et. seq.*).

Paragraph (a)(1) of Rule 17a–25 requires registered broker-dealers to electronically submit securities transaction information, including identifiers for prime brokerage arrangements, average price accounts, and depository institutions, in a standardized format when requested by the Commission staff. In addition, Paragraph (c) of Rule 17a–25 requires broker-dealers to submit, and keep current, contact person information for electronic blue sheets (''EBS'') requests. The Commission uses the information for enforcement inquiries or investigations and trading reconstructions, as well as for inspections and examinations.

The Commission estimates that it sends approximately 13,558 electronic blue sheet requests per year to clearing broker-dealers that in turn submit an average 223,057 responses.[1] It is estimated that each broker-dealer that responds electronically will take 8 minutes, and each broker-dealer that responds manually will take 1½ hours to prepare and submit the securities trading data requested by the Commission. The annual aggregate hour burden for electronic and manual response firms is estimated to be 29,924 (223,057 × 8 ÷ 60 = 29,741 hours) + (122 × 1.5 = 183 hours), respectively.[2]

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (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. Consideration will be given to comments and suggestions submitted in writing by August 9, 2022.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Office, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: June 6, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–12497 Filed 6–9–22; 8:45 am]

BILLING CODE 8011–01–P

[1] A single EBS request has a unique number assigned to each request (*e.g.,* ''0900001''). However, the number of broker-dealer responses generated from one EBS request can range from one to several thousand. EBS requests are sent directly to clearing firms, as the clearing firm is the repository for trading data for securities transactions information provided by the clearing firm and the correspondent firms. Clearing brokers respond for themselves and other firms they clear for. There were 446,113 responses during the 24-month period, for an average of 223,057 annual responses.

[2] Few respondents submit manual EBS responses. The small percentage of respondents that submit manual responses do so by hand, via email, spreadsheet, disk, or other electronic media. Thus, the number of manual submissions (approximately 122 per year) has minimal effect on the total annual burden hours.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95041; File No. SR–NYSEAMER–2022–22]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the NYSE American Options Fee Schedule

June 3, 2022.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 31, 2022, NYSE American LLC (''NYSE American'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE American Options Fee Schedule (''Fee Schedule'') regarding credits relating to the BOLD Mechanism. The Exchange proposes to implement the fee change effective June 1, 2022. The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to modify credits associated with the BOLD Mechanism, a trading mechanism for automated order handling for eligible orders in designated classes pursuant to NYSE American Rule 994NY.

Currently, BOLD Initiating Orders receive the better of a $0.12 per contract credit or a higher credit earned by qualifying for the American Customer Engagement (''ACE'') Program.[4] As set forth in Section I.E. of the Fee Schedule, the ACE Program provides qualifying participants with per contract credits applicable to Electronic options transactions, including those executed via the BOLD Mechanism.

The Exchange now proposes to modify Section I.M. of the Fee Schedule to provide that the credit available to BOLD Initiating Orders would be the better of $0.12 or, to the extent an ATP Holder would qualify for a higher credit via the ACE Program, $0.13.[5]

The Exchange notes that the fees and credits relating to the BOLD Mechanism, as originally established,[6]

[4] *See* Fee Schedule, Section I.M. BOLD Mechanism Fees & Credits.

[5] The Exchange notes that this proposed change would only impact the credit relating to BOLD Initiating Orders, and the ACE Program credits outlined in Section I.E. remain unchanged.

[6] *See* Securities Exchange Act Release No. 80964 (June 19, 2017), 82 FR 28726 (June 23, 2017) (SR–NYSEMKT–2017–37) (Notice of Filing and Immediate Effectiveness of Proposed Change to Modify the NYSE Amex Options Fee Schedule).

were intended to encourage the use of the new mechanism, which purpose was achieved. The Exchange believes that, although the proposed change would set an upper limit on the credit for BOLD Initiating Orders offered to ATP Holders that qualify via the ACE Program, the proposed change would not discourage ATP Holders from continuing to use the BOLD Mechanism and would continue to provide an incentive to ATP Holders to submit orders to the Exchange for execution via the BOLD Mechanism.

The Exchange proposes to implement the fee change effective June 1, 2022.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[8] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Rule Change Is Reasonable

The Exchange operates in a highly competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [9]

There are currently 16 registered options exchanges competing for order flow. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[10] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity and ETF options order flow. More specifically, in April 2022, the Exchange had less than 9% market share of executed volume of multiply-listed equity and ETF options trades.[11]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can shift order flow or discontinue or reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain options exchange transaction fees. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

The Exchange's fees are constrained by intermarket competition, as OTP Holders may direct their order flow to any of the 16 options exchanges. The Exchange regularly reviews the effectiveness of various fees and incentives, including to determine whether moderations of such fees and incentives would be appropriate. As noted above, the existing fees and credits for use of the BOLD Mechanism were designed to incent ATP Holders to become familiar with the execution quality of the mechanism, and ATP Holders have now had the opportunity to do so. Having reviewed the effectiveness of the credit offered on BOLD Initiating Orders, the Exchange believes that its proposed modification of the incentives for use of the BOLD Mechanism is reasonably designed to continue to encourage ATP Holders to submit orders to the Exchange for execution via the BOLD Mechanism and would not discourage ATP Holders from continuing to use the BOLD Mechanism even though the credit available to ATP Holders that earn a higher credit through the ACE Program would be capped at $0.13, as proposed.

The Exchange cannot predict with certainty whether or the extent to which ATP Holders would continue to use the BOLD Mechanism, but believes that the $0.12 credit on BOLD Initiating Orders (which remains unchanged) as well as the proposed credit of $0.13 for qualifying ACE Program participants would continue to encourage ATP Holders to utilize the mechanism. The Exchange further believes that the benefits associated with the use of the BOLD Mechanism would continue to provide an incentive for ATP Holders to direct Customer options order flow to the Exchange, which brings increased liquidity and order flow for the benefit of all market participants.

Finally, to the extent the proposed change continues to attract volume and liquidity, while encouraging use of the BOLD Mechanism, the Exchange believes the proposed change would improve the Exchange's overall competitiveness and strengthen its market quality for all market participants by offering various mechanisms for execution of orders. In the backdrop of the competitive environment in which the Exchange operates, the proposed rule change is a reasonable attempt by the Exchange to maintain the depth of its market and maintain its market share relative to its competitors. ATP Holders have a choice of where they direct their order flow (including their Customer marketable orders), and the proposed rule change is designed to continue to incent ATP Holders to direct liquidity to the Exchange, thereby promoting market depth, price discovery and improvement and enhancing order execution opportunities for market participants.

The Proposed Rule Change is an Equitable Allocation of Credits and Fees

The Exchange believes the proposed rule change is an equitable allocation of its fees and credits. The proposal is based on the amount and type of business transacted on the Exchange and ATP Holders can opt to use the BOLD Mechanism or not. Although the proposed change would limit the credit available on BOLD Initiating Orders for certain ATP Holders that also participate in the ACE Program, such limit would apply equally to all ACE Program participants that may be eligible for a higher credit and would thus provide for a more equitable allocation of credits associated with the use of the BOLD Mechanism. Moreover, the proposal is designed to continue to incent ATP Holders to aggregate all Customer interest at the Exchange as a primary execution venue and to attract more marketable orders to be executed through the BOLD Mechanism. To the extent that the proposed change does not discourage ATP Holders from directing Customer marketable orders to the Exchange, the Exchange believes that order flow sent to the Exchange for execution via the BOLD Mechanism would continue to make the Exchange a more competitive venue for, among other things, order execution of all order types. Thus, the Exchange believes the proposed rule change would improve market quality for all market participants on the Exchange and, as a

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (S7–10–04) (''Reg NMS Adopting Release'').

[10] The OCC publishes options and futures volume in a variety of formats, including daily and monthly volume by exchange, available here: *https://www.theocc.com/Market-Data/Market-Data-Reports/Volume-and-Open-Interest/Monthly-Weekly-Volume-Statistics.*

[11] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in equity-based options decreased from 8.57% for the month of April 2021 to 8.14% for the month of April 2022.

consequence, attract more order flow to the Exchange thereby improving market-wide quality and price discovery.

The Proposed Rule Change Is Not Unfairly Discriminatory

The Exchange does not believe that the proposed change to the credit for BOLD Initiating Orders is unfairly discriminatory because all ATP Holders that submit orders through the BOLD Mechanism would continue to be eligible for the $0.12 credit, and the proposed modification to cap the credit available to ATP Holders that may be eligible for a higher credit via the ACE Program at $0.13 would apply equally to all such ATP Holders.

The proposal is based on the amount and type of business transacted on the Exchange, and ATP Holders are not obligated to use the BOLD Mechanism. Rather, the proposal is designed to encourage ATP Holders to utilize the Exchange as a primary trading venue for Customer marketable orders (if they have not done so previously). To the extent that the proposed change would continue to encourage ATP Holders to maintain their current level of Customer interest, including marketable interest, on the Exchange, this order flow would continue to make the Exchange a competitive venue for, among other things, order execution. Thus, the Exchange believes the proposed rule change would support market quality for all market participants on the Exchange and, as a consequence, attract order flow to the Exchange thereby improving market-wide quality and price discovery. The resulting continued volume and liquidity would provide more trading opportunities and tighter spreads to all market participants and thus would promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act, the Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, as discussed above, the Exchange believes that the proposed changes would continue to encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery and transparency and enhancing order execution opportunities for all market participants. As a result, the Exchange believes that the proposed change furthers the Commission's goal in adopting Regulation NMS of fostering integrated competition among orders, which promotes ''more efficient pricing of individual stocks for all types of orders, large and small.'' [12]

Intramarket Competition. The proposed change is designed to maintain order flow (particularly Customer marketable orders) to the Exchange. The Exchange believes that the proposed modification to the credit on BOLD Initiating Orders would not discourage ATP Holders from using the BOLD Mechanism or maintaining their current level of Customer marketable order flow to the Exchange and, to the extent such purpose is achieved, the Exchange would maintain its Customer order flow, which benefits all market participants on the Exchange. In addition, because the credits available on BOLD Initiating Orders, as modified, would be available to all similarly-situated market participants that execute Customer marketable interest through the BOLD Mechanism, the Exchange does not believe that the proposed change would impose a disparate burden on competition among market participants on the Exchange.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily favor one of the 16 competing option exchanges if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. Based on publicly-available information, and excluding index-based options, no single exchange has more than 16% of the market share of executed volume of multiply-listed equity and ETF options trades.[13] Therefore, currently no exchange possesses significant pricing power in the execution of multiply-listed equity & ETF options order flow. More specifically, in April 2022, the Exchange had less than 9% market share of executed volume of multiply-listed equity & ETF options trades.[14]

The Exchange believes that the proposed rule change reflects this competitive environment because, although it may reduce the credit that some ATP Holders would earn on BOLD Initiating Orders, it modifies the Exchange's fees in a manner designed to continue to incent ATP Holders to direct trading interest (particularly Customer marketable interest) to the Exchange, to provide liquidity and to attract order flow. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market quality and increased opportunities for price improvement.

The Exchange believes that the proposed change could maintain competition between the Exchange and other execution venues, including those that currently offer similar Customer execution mechanisms, by encouraging additional orders to be sent to the Exchange for execution.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A) [15] of the Act and subparagraph (f)(2) of Rule 19b–4 [16] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] of the Act to determine whether the proposed rule

[12] *See* Reg NMS Adopting Release, *supra* note 9, at 37499.

[13] *See* note 10, *supra.*

[14] Based on a compilation of OCC data for monthly volume of equity-based options and monthly volume of ETF-based options, *see id.,* the Exchange's market share in equity-based options decreased from 8.57% for the month of April 2021 to 8.14% for the month of April 2022.

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4(f)(2).

[17] 15 U.S.C. 78s(b)(2)(B).

change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEAMER–2022–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEAMER–2022–22. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEAMER–2022–22, and should be submitted on or before July 1, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–12403 Filed 6–9–22; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 02/02–0671]

PVP Fund I, LP; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 02/02–0671 issued to PVP Fund I, LP, said license is hereby declared null and void.

United States Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–12487 Filed 6–9–22; 8:45 am]

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SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0319]

CCSD II, L.P.; Surrender of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration under the Small Business Investment Act of 1958, as amended, under Section 309 of the Act and Section 107.1900 of the Small Business Administration Rules and Regulations (13 CFR 107.1900) to function as a small business investment company under the Small Business Investment Company License No. 04/04–0319 issued to CCSD II, L.P. said license is hereby declared null and void.

United States Small Business Administration.

Bailey DeVries,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2022–12488 Filed 6–9–22; 8:45 am]

BILLING CODE P

[18] 17 CFR 200.30–3(a)(12).

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36589]

Merced County Central Valley Railroad, LLC—Lease and Operation Exemption—Track in Merced County, Cal.

Merced County Central Valley Railroad, LLC (MCCVR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Merced County, Cal. (the County), and to commence common carrier operations on approximately 0.3 miles of track located at the Castle Commerce Center at Atwater in Merced County (the Line). According to MCCVR, the Line currently is unregulated track and has no mileposts.

This transaction is related to a verified notice of exemption filed concurrently in *Patriot Rail Company—Continuance in Control Exemption—Merced County Central Valley Railroad,* Docket No. FD 36590, in which Patriot Rail Company LLC and a number of other applicants seek to continue in control of MCCVR upon MCCVR's becoming a Class III carrier.

MCCVR states that it and the County entered into a Lease of County Property (the Lease), pursuant to which MCCVR will provide common carrier rail service on the Line.[1]

MCCVR certifies that its projected annual revenues from this transaction will not result in the creation of a Class I or Class II rail carrier and will not exceed $5 million. MCCVR also certifies that the Lease does not include an interchange commitment.

The earliest this transaction may be consummated is June 25, 2022, the effective date of the exemption (30 days after the verified notice was filed).[2]

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than June 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36589, must be filed with the Surface Transportation Board either via

[1] Public and confidential versions of the Agreement were filed with the verified notice. The confidential version was submitted under seal concurrently with a motion for protective order, which was granted on April 12, 2022.

[2] MCCVR supplemented its verified notice on April 29 and May 26, 2022. Therefore, May 26, 2022, is considered the filing date for the purpose of calculating the effective date of the exemption.

e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on MCCVR's representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to MCCVR, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 7, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2022–12568 Filed 6–9–22; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36590]

Patriot Rail Company LLC, SteelRiver Transport Ventures LLC, First State Infrastructure Managers (International) Limited, Global Diversified Infrastructure Fund (North America) LP, and Mitsubishi UFJ Financial Group, Inc.—Continuance in Control Exemption—Merced County Central Valley Railroad, LLC

Patriot Rail Company LLC, SteelRiver Transport Ventures LLC, First State Infrastructure Managers (International) Limited, Global Diversified Infrastructure Fund (North America) LP, and Mitsubishi UFJ Financial Group, Inc. (collectively, Applicants), all noncarriers, have filed a verified notice of exemption under 49 CFR 1180.2(d)(2) to continue in control of Merced County Central Valley Railroad, LLC (MCCVR) upon MCCVR's becoming a Class III rail carrier.

This transaction is related to a verified notice of exemption filed concurrently in *Merced County Central Valley Railroad—Lease & Operation Exemption—Track in Merced County, Cal.,* Docket No. FD 36589, in which MCCVR seeks to lease and commence common carrier operations over approximately 0.3 miles of track located at the Castle Commerce Center at Atwater in Merced County (the Line).

According to the verified notice, Applicants currently control MCCVR in addition to 15 existing rail carriers in 14 states.[1] Applicants state that they neither contemplate nor require an agreement to continue in control of MCCVR once it commences operations.

The verified notice indicates that: (1) the Line will not connect with any of the Subsidiary Railroads; (2) the acquisition of control is not part of a series of anticipated transactions that would connect the Line or any of the Subsidiary Railroads with each other; and (3) the proposed transaction does not involve a Class I rail carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

The earliest this transaction may be consummated is June 25, 2022, the effective date of the exemption (30 days after the verified notice was filed).[2]

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. However, 49 U.S.C. 11326(c) does not provide for labor protection for transactions under 49 U.S.C. 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here because all of the carriers involved are Class III rail carriers.

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than June 17, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36590, must be filed with the Surface Transportation Board either via e-filing on the Board's website or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Applicants' representative, Bradon J. Smith, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 800, Chicago, IL 60606.

According to the verified notice, this action is categorically excluded from environmental review under 49 CFR 1105.6(c) and from historic preservation reporting requirements under 49 CFR 1105.8(b).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 7, 2022.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Brendetta Jones,

Clearance Clerk.

[FR Doc. 2022–12567 Filed 6–9–22; 8:45 am]

BILLING CODE 4915–01–P

[1] The verified notice lists the railroads as follows: (1) the Columbia & Cowlitz Railway, LLC; (2) DeQueen & Eastern Railroad, LLC; (3) Georgia Northeastern Railroad Company, LLC; (4) Golden Triangle Railroad, LLC; (5) Kingman Terminal Railroad, LLC; (6) Louisiana & North West Railroad Company; (7) Patriot Woods Railroad, LLC; (8) Rarus Railway, LLC (d/b/a Butte, Anaconda & Pacific Railway Company); (9) Sacramento Valley Railroad, LLC; (10) Salt Lake Garfield & Western Railway Company; (11) Temple & Central Texas Railway, LLC; (12) Tennessee Southern Railroad Company, LLC; (13) Texas & Oklahoma Eastern Railroad, LLC; (14) Utah Central Railway Company, LLC; and (15) West Belt Railway LLC (collectively, the Subsidiary Railroads).

[2] Applicants supplemented their verified notice on April 29 and May 26, 2022. Therefore, May 26, 2022, is considered the filing date for the purpose of calculating the effective date of the exemption.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2022–0005]

Request for Comments on Proposed U.S.-Taiwan Initiative on 21st-Century Trade; Correction

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Request for comments; correction.

SUMMARY: The Office of the United States Trade Representative (USTR) published a document in the **Federal Register** on June 7, 2022 concerning a request for comments on the proposed U.S.-Taiwan Initiative on 21st-Century Trade. The submission deadline specified in the notice needs to be corrected.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments, please contact Spencer Smith at *Spencer.L.Smith2@ustr.eop.gov* or (202) 395–2974 in advance of the deadline and before transmitting a comment. Direct all other questions to Jing Jing Zhang, Deputy Director for China Affairs, at *Yizhi.Zhang@ustr.eop.gov,* or (202) 395–9534.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** on June 7, 2022, in FR Doc 2022–12248 (87 FR 34745), on page 34746, starting in the second column, correct the ''III. Submission Instructions'' caption to read as follows:

III. Submission Instructions

Persons submitting written comments must do so in English and must identify on the first page of the submission ''Comments Regarding U.S.-Taiwan Initiative on 21st-Century Trade.''

The submission deadline is July 8, 2022. USTR strongly encourages commenters to make online submissions, using *Regulations.gov*. To submit comments via *Regulations.gov*, enter docket number USTR–2022–0005 on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled 'Comment Now' For further information on using *Regulations.gov*, please consult the resources provided on the website by clicking on 'How to Use This Site' on the left side of the home page.

Regulations.gov allows users to submit comments by filling in a 'type comment' field, or by attaching a document using an 'upload file' field. USTR prefers that you provide comments in an attached document. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the 'type comment' field.

Filers submitting comments containing no business confidential information (BCI) should name their file using the name of the person or entity submitting the comments. For any comments submitted electronically containing BCI, the file name of the business confidential version should begin with the characters 'BCI.' Clearly mark any page containing BCI with 'BUSINESS CONFIDENTIAL' on the top of that page. Filers of submissions containing BCI also must submit a public version of their comments that USTR will place in the docket for public inspection. The file name of the public version should begin with the character 'P.' Follow the 'BCI' and 'P' with the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges that you file comments through *Regulations.gov*. You must make any alternative arrangements with Spencer Smith at *Spencer.L.Smith2@ustr.eop.gov* or (202) 395–2974 before transmitting a comment and in advance of the deadline.

USTR will post comments in the docket for public inspection, except properly designated BCI. You can view comments on the *Regulations.gov* by entering docket number USTR–2022–0005 in the search field on the home page. General information concerning USTR is available at *https://www.ustr.gov.*

William Shpiece,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2022–12556 Filed 6–9–22; 8:45 am]

BILLING CODE 3290–F2–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No.: FAA–2022–0114; Summary Notice No.–xxxx–xx]

Petition for Exemption; Summary of Petition Received; Federal Express Corporation

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

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion nor omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before June 30, 2022.

ADDRESSES: Send comments identified by docket number FAA–2022–0114 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC 20590–0001, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Andrew Thai at 202–267–0175, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC.

Timothy R. Adams,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2022–0114.

Petitioner: Federal Express Corporation.

Section(s) of 14 CFR Affected: §§ 121.1105(b)(1), 121.1105(b)(2), and 121.1105(b)(3).

Description of Relief Sought: Federal Express Corporation (FedEx) is requesting an exemption for the 757 fleet to 14 CFR 121.1105(b)(1), (2), and (3) to extend the interval for aging aircraft inspection and records review from the current requirement of seven years to an interval of eight years. FedEx operates the 757 fleet at low utilization rates, and the ability to extend the reviews to eight years (when the airplane undergoes a thorough and extensive maintenance visit) supports more comprehensive inspections of repairs and alterations of the aircraft structure.

[FR Doc. 2022–12534 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2020–0611]

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Hazardous Materials Training Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the FAA invites public comments about its intention to request the Office of Management and Budget (OMB) grant approval to renew an information collection. This collection involves the FAA's certification process requirements for operators and repair stations that are required to submit documentation related to hazardous materials training programs.

DATES: Written comments should be submitted by August 9, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket:
www.regulations.gov (Enter docket number into search field)

By mail: Victoria Lehman, Security & Hazardous Materials Safety, FAA Office of Hazardous Materials Safety (AXH–510), Federal Aviation Administration, 800 Independence Avenue SW, Room 300 East, Washington, DC 20591

By fax: 202–267–8496

FOR FURTHER INFORMATION CONTACT: Victoria Lehman by email at: *hazmatinfo@faa.gov;* phone: 202–267–7211

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0705.

Title: Hazardous Materials Training Requirements.

Form Numbers: There are no FAA forms associated with this collection of information.

Type of Review: Renewal of an information collection.

Background: The FAA, as prescribed in Title 14, Code of Federal Regulations (14 CFR) parts 121 and 135, requires certificate holders to submit manuals and hazardous materials (''hazmat'') training programs, or revisions to an approved hazmat training program to obtain initial and final approval as part of the FAA's certification process. Original certification is completed in accordance with 14 CFR part 119. Continuing certification is completed in accordance with 14 CFR parts 121 and 135. The FAA uses the approval process to determine compliance of the hazmat training programs with the applicable regulations, national policies, and safe operating practices. The FAA must ensure that the documents adequately establish safe operating procedures. Additionally, 14 CFR part 145 requires certain repair stations to provide documentation showing that persons handling hazmat for transportation have been trained following the Department of Transportation's (DOT, ''Department'') guidelines.

Respondents: The FAA estimates 6,893 respondents that are 14 CFR parts 121, 135, and 145 active certificate holders. The FAA estimates 80 active firms under part 121, 1,915 active firms under part 135, and 4,898 active firms under part 145.

Frequency: There is a one-time cost to revise manuals. Information is collected on occasion. Part 121 and part 135 operators are required to submit documentation of their hazardous materials training to receive original certification. If an operator decides to make a change to its training program, it must provide the updated manual. A part 145 repair station is required to submit a statement to the FAA certifying that all of its hazmat employees are trained under the Hazardous Materials Regulations prior to receiving the initial part 145 certificate.

Estimated Average Burden per Response: 374.69 hours of manual revision, recordkeeping, and notification for each part 121 operator, and 6.31 hours for each part 135 operator.

The FAA estimates 1.22 hours of certification submission and notification for part 145 operators. These are all annualized averages, which account for the wide variability in the type, complexity, and size of operation. Certificate holders are not anticipated to spend the same amount of time each year. Therefore, based on subject-matter expertise, the FAA expects that all part 121 operators will require 0.8 hours for minimum revisions to revise their manuals, and all part 135 operators will require 0.4 hours to accomplish this task. The estimated hours needed for the additional, substantial revisions range from 4 hours for part 121 operators, to 2 hours for part 135 operators. The FAA expects 65 part 121 operators and 624 part 135 operators to provide substantial revisions. Time averages the same of 0.08 hours per employee for recordkeeping for part 121 and part 135 operators. It is estimated that part 145 operators will spend 1 hour for notification. The FAA continues to assume these time burdens are reasonable estimates. Additionally, the type of update can vary. Operators may make minor revisions to the manual, or they may choose to make more significant changes reflecting a larger change in their operations.

Estimated Total Annual Burden: 29,975.58 hours for part 121 operators, 12,088.89 hours for part 135 operators, and 5,974 hours for part 145 operators.

The amount of time per response is expected to vary. For example, new responses take significantly longer than revisions. Furthermore, operators with will-carry hazardous materials operations are anticipated to have longer responses than will-not carry hazardous materials operations. Part 145 repair stations will require less time to develop a certification statement than operators require to develop a manual. Due to the pandemic, the data collection during this time reflects new normal operations.

Issued in Washington, DC, on June 7, 2022.

Daniel Benjamin Supko,

Executive Director, FAA, Office of Hazardous Materials Safety.

[FR Doc. 2022–12523 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2022–0134]

Definitions of Broker and Bona Fide Agents

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), Department of Transportation (DOT).

ACTION: Notice; request for comments.

SUMMARY: FMCSA is requesting responses to a number of questions in order to inform future guidance on the definitions of *broker* and *bona fide agents.* FMCSA is required to issue guidance by November 15, 2022, in response to the Infrastructure Investment and Jobs Act (IIJA).

DATES: Comments on this notice must be received on or before July 11, 2022.

ADDRESSES: You may submit comments bearing the Federal Docket Management System Docket ID FMCSA–2022–0134 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

• *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.

• *Fax:* (202) 493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the Privacy heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, DOT, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its guidance process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Secrist, Registration, Licensing, and Insurance Division, Office of Registration and Safety Information, FMCSA, 1200 New Jersey Avenue SE, Washington, DC 20590–0001, (202) 385–2367, *jeff.secrist@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Dockets Operations, (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2022–0134), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *https://www.regulations.gov/docket/FMCSA-2022-0134/document,* click on this notice, click ''Comment,'' and type your comment into the text box on the following screen.

If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

II. Background

Currently, *broker* is defined in 49 U.S.C. 13102(2) as a ''person, other than a motor carrier or an employee or agent of a motor carrier, that as a principal or agent sells, offers for sale, negotiates for, or holds itself out by solicitation, advertisement, or otherwise as selling, providing, or arranging for, transportation by motor carrier for compensation.'' It is also defined in 49 CFR 371.2(a) as a ''person who, for compensation, arranges, or offers to arrange, the transportation of property by an authorized motor carrier. Motor carriers, or persons who are employees or bona fide agents of carriers, are not brokers within the meaning of this section when they arrange or offer to arrange the transportation of shipments which they are authorized to transport and which they have accepted and legally bound themselves to transport.'' In that same section, *bona fide agents* are defined as ''persons who are part of the normal organization of a motor carrier and perform duties under the carrier's directions pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.'' 49 CFR 371.2(b).

Over the past decade, FMCSA has received numerous inquiries and several petitions related to the definition of a broker.[1] FMCSA is aware that there is significant stakeholder interest in FMCSA's unauthorized brokerage enforcement. On November 15, 2021, The President signed the IIJA into law. (Pub. L. 117–58, 135 Stat. 429) Section 23021 of the IIJA [2] directed the Secretary (FMCSA) to issue guidance, within 1 year of the date of enactment of the IIJA, clarifying the definitions of the terms *broker* and *bona fide agents* in 49 CFR 371.2. The guidance must take into consideration the extent to which technology has changed the nature of freight brokerage, the role of bona fide agents, and other aspects of the freight transportation industry. Additionally, when issuing the guidance, FMCSA must, at a minimum: (1) examine the role of a dispatch service in the transportation industry; (2) examine the extent to which dispatch services could be considered brokers or bona fide agents; and (3) clarify the level of financial penalties for unauthorized brokerage activities under 49 U.S.C. 14916, applicable to a dispatch service.

III. Questions

FMCSA is requesting comment on the following questions, to inform the agency as it completes the guidance required by the IIJA. Please identify the question you are responding to in each section of your comments.

1. What evaluation criteria should FMCSA use when determining whether a business model/entity meets the definition of a broker?

2. Provide examples of operations that meet the definition of *broker* in 49 CFR 371.2 and examples of operations that do not meet the definition in 49 CFR 371.2.

3. What role should the possession of money exchanged between shippers and motor carriers in a brokered transaction play in determining whether one is conducting brokerage or not?

4. How would you define the term *dispatch service*? Is there a commonly accepted definition? What role do dispatch services play in the transportation industry?

5. To the best of your knowledge, do dispatch services need to obtain a business license/Employer Identification Number from the State in which they primarily conduct business?

6. Some ''dispatch services'' cite 49 CFR 371.2(b) as the reason they do not obtain FMCSA brokerage authority registration in order to conduct their operations. As noted above, section 371.2(b) states that bona fide agents are ''persons who are part of the normal organization of a motor carrier and perform duties under the carrier's

[1] A list of open and closed petitions for rulemaking is available at *https://www.fmcsa.dot.gov/regulations/petitions-0.*

[2] The full text is available at *congress.gov/117/plaws/publ58/PLAW-117publ58.pdf.*

directions pursuant to a pre-existing agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent in allocating traffic between the carrier and others.'' Some dispatch services interpret this regulation as allowing them to represent more than one carrier yet not obtain broker operating authority registration. Others interpret this regulation to argue that a dispatch service can only represent one carrier without obtaining broker authority. What should FMCSA consider when determining if a dispatch service needs to obtain broker operating authority?

7. If a dispatch service represents more than one carrier, does this in and of itself make it a broker operating without authority?

8. When should a dispatch service be considered a *bona fide agent*?

9. What role do bona fide agents play in the transportation of freight?

10. Electronic bulletin boards match shippers and carriers for a fee. The fee is a membership fee to have access to the bulletin board information. Should electronic bulletin boards be considered brokers and required to register with FMCSA to obtain broker operating authority? If so, when and why?

11. How has technology changed the nature of freight brokerage, and how should these changes be reflected, if at all, in FMCSA's guidance?

12. Are there other business models/services, other than dispatch services and electronic bulletin boards, that should be considered when clarifying the definition of *broker*?

13. Are there other aspects of the freight transportation industry that FMCSA should consider in issuing guidance pertaining to the definitions of *broker* and *bona fide agents*?

Robin Hutcheson,

Deputy Administrator.

[FR Doc. 2022–12574 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA–2000–7257, Notice No. 91]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: FRA announces the sixty-second meeting of the Railroad Safety Advisory Committee (RSAC), a Federal Advisory Committee that develops, through a consensus process, recommendations for railroad safety regulations and other solutions to railroad safety issues.

DATES: The RSAC meeting is scheduled for Monday, June 27, 2022. The meeting will commence at 9:30 a.m. and will adjourn by 4:30 p.m. (all times Eastern Daylight Time). Requests to submit written materials to be reviewed during the meeting must be received by June 17, 2022. Requests for accommodations because of a disability must be received by June 17, 2022.

ADDRESSES: The RSAC meeting will be held at the National Association of Home Builders, located at 1201 15th Street NW, Washington, DC 20005. A final agenda will be posted on the RSAC internet website at *https://rsac.fra.dot.gov/* at least one week in advance of the meeting. Please see the RSAC website for additional information on the committee at *https://rsac.fra.dot.gov/.*

FOR FURTHER INFORMATION CONTACT: Kenton Kilgore, RSAC Designated Federal Officer/RSAC Coordinator, FRA Office of Railroad Safety, (202) 493–6286 or *kenton.kilgore@dot.gov.* Any committee-related request should be sent to Mr. Kilgore.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), FRA is giving notice of a meeting of the RSAC.

The RSAC is composed of 51 voting representatives from 26 member organizations, representing various rail industry perspectives. The diversity of the RSAC ensures the requisite range of views and expertise necessary to discharge its responsibilities.

Public Participation: The meeting is open to the public and attendance is on a first-come, first served basis, and is accessible to individuals with disabilities. DOT and FRA are committed to providing equal access to this meeting for all participants. If you need alternative formats or services because of a disability, please contact Mr. Kenton Kilgore as listed in the **FOR FURTHER INFORMATION CONTACT** section and submit your request by June 17. Any member of the public may submit a written statement to the committee at any time. If a member of the public wants the submit written materials to be reviewed by the committee during the meeting, it must be received by June 17.

Agenda Summary: The RSAC meeting topics will include updates on recent activity by RSAC Working Groups for Passenger Safety; and Track Standards. FRA intends to propose to the RSAC four new tasks, related to: (1) roadway worker protection; (2) confidential close call reporting; (3) railroad communications; and (4) practices to maximize alertness and reduce fatigue. The detailed agenda will be posted on the RSAC internet website at least one week in advance of the meeting.

Issued in Washington, DC.

Amitabha Bose,

Administrator.

[FR Doc. 2022–12520 Filed 6–9–22; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

[Docket ID OCC–2022–0011]

Mutual Savings Association Advisory Committee

AGENCY: Office of the Comptroller of the Currency (OCC), Department of the Treasury.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The OCC announces a meeting of the Mutual Savings Association Advisory Committee (MSAAC).

DATES: A public meeting of the MSAAC will be held on Monday, June 27, 2022, beginning at 1:00 p.m. Eastern Daylight Time (EDT). The meeting will be in person and virtual.

ADDRESSES: The OCC will host the June 27, 2022 meeting of the MSAAC at the OCC's offices at 400 7th Street SW, Washington, DC 20219 and virtually.

FOR FURTHER INFORMATION CONTACT: Michael R. Brickman, Deputy Comptroller for Thrift Supervision, (202) 649–5420, Office of the Comptroller of the Currency, Washington, DC 20219. You also may access prior MSAAC meeting materials on the MSAAC page of the OCC's website at Mutual Savings Association Advisory Committee.

SUPPLEMENTARY INFORMATION: Under the authority of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and the regulations implementing the Act at 41 CFR part 102–3, the OCC is announcing that the MSAAC will convene a meeting on Monday, June 27, 2022. The meeting is open to the public and will begin at 1:00 p.m. EDT. The purpose of the meeting is for the MSAAC to advise the OCC on regulatory or other changes the OCC may make to ensure the health and viability of mutual savings associations.

The agenda includes a discussion of current topics of interest to the industry.

Members of the public may submit written statements to the MSAAC. The OCC must receive written statements no later than 5:00 p.m. EDT on Wednesday, June 22, 2022. Members of the public may submit written statements to *MSAAC@occ.treas.gov.*

Members of the public who plan to attend the meeting should contact the OCC by 5:00 p.m. EDT on Wednesday, June 22, 2022, to inform the OCC of their desire to attend the meeting and whether they will attend in person or virtually, and to obtain information about participating in the meeting. Members of the public may contact the OCC via email at *MSAAC@OCC.treas.gov* or by telephone at (202) 649–5420. Attendees should provide their full name, email address, and organization, if any. For persons who are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to arrange telecommunications relay services for this meeting.

Attendees should provide their full name, email address, and organization, if any.

Michael J. Hsu,

Acting Comptroller of the Currency.

[FR Doc. 2022–12575 Filed 6–9–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Accounts Receivable Forms for Debt Repayment

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning the Accounts Receivable Forms for Debt Repayment.

DATES: Written comments should be received on or before August 9, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, Room #4006–A, P.O. Box 1328, Parkersburg, WV 26106–1328, or *bruce.sharp@fiscal.treasury.gov.*

SUPPLEMENTARY INFORMATION:

Title: Accounts Receivable Forms for Debt Repayment.

OMB Number: 1530–NEW.

Form Number(s): FS Form 000122: Request for Recurring Electronic Payments; FS Form 000123: Financial Statement of Debtor.

Abstract: The principal purpose for gathering this information is to evaluate a debtor's ability to pay their debt and to obtain the debtor's ACH payment information so recurring electronic payments can be set up to pay their debt.

Current Actions: Fiscal Service will insert the new forms into the customer relationship management system, so it can be added to any of the Accounts Receivable Section letters and mailed by Federal Reserve Bank, Minneapolis. The forms are necessary to evaluate the debtor's ability to pay their debt and obtain the debtor's ACH payment information so recurring electronic payments can be set up to pay their debt.

Type of Review: New.

Affected Public: Individuals.

Estimated Number of Respondents: 60 Total (FS Form 000122: 20 responses; FS Form 000123: 40 responses).

Estimated Time per Respondent: FS Form 000122: 15 minutes; FS Form 000123: 45 minutes).

Estimated Total Annual Burden Hours: 35 hours.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: 1. Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; 2. the accuracy of the agency's estimate of the burden of the collection of information; 3. ways to enhance the quality, utility, and clarity of the information to be collected; 4. ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and 5. estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: May 19, 2022.

Bruce A. Sharp,

Bureau PRA Clearance Officer.

[FR Doc. 2022–12571 Filed 6–9–22; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On June 6, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. CAVARA, Marinko, Bosnia and Herzegovina; DOB 02 Feb 1967; POB Busovaca, Bosnia and Herzegovina; nationality Bosnia and Herzegovina; citizen Bosnia and Herzegovina; Gender Male; President of the Federation of Bosnia and Herzegovina (individual) [BALKANS–EO14033].

Designated pursuant to sections 1(a)(ii) and 1(a)(iii) of Executive Order 14033 of June 8, 2021, ''Blocking Property and Suspending Entry into the United States of Certain Persons Contributing to the Destabilizing Situation in the Western Balkans,'' 86 FR 31079 (E.O. 14033) for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that undermine democratic processes or

institutions in the Western Balkans, and for being responsible for or complicit in, or having directly or indirectly engaged in, a violation of, or an act that has obstructed or threatened the implementation of, any regional security, peace, cooperation, or mutual recognition agreement or framework or accountability mechanism related to the Western Balkans, including the Prespa Agreement of 2018; the Ohrid Framework Agreement of 2001; United Nations Security Council Resolution 1244; the Dayton Accords; or the Conclusions of the Peace Implementation Conference Council held in London in December 1995, including the decisions or conclusions of the High Representative, the Peace Implementation Council, or its Steering Board; or the International Criminal Tribunal for the former Yugoslavia, or, with respect to the former Yugoslavia, the International Residual Mechanism for Criminal Tribunals.

2. SERANIC, Alen, Bosnia and Herzegovina; DOB 17 Apr 1977; POB Banja Luka, Bosnia and Herzegovina; nationality Bosnia and Herzegovina; citizen Bosnia and Herzegovina; Gender Male (individual) [BALKANS–EO14033].

Designated pursuant to sections 1(a)(ii) and 1(a)(iii) of Executive Order 14033 for being responsible for or complicit in, or having directly or indirectly engaged in, actions or policies that undermine democratic processes or institutions in the Western Balkans and for being responsible for or complicit in, or having directly or indirectly engaged in, a violation of, or an act that has obstructed or threatened the implementation of, any regional security, peace, cooperation, or mutual recognition agreement or framework or accountability mechanism related to the Western Balkans, including the Prespa Agreement of 2018; the Ohrid Framework Agreement of 2001; United Nations Security Council Resolution 1244; the Dayton Accords; or the Conclusions of the Peace Implementation Conference Council held in London in December 1995, including the decisions or conclusions of the High Representative, the Peace Implementation Council, or its Steering Board; or the International Criminal Tribunal for the former Yugoslavia, or, with respect to the former Yugoslavia, the International Residual Mechanism for Criminal Tribunals.

Dated: June 6, 2022.

Bradley T. Smith,

Deputy Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–12527 Filed 6–9–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons and property that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is publishing updates to the identifying information of one person currently included on the Sectoral Sanctions Identification List (SSI List).

DATES: See **SUPPLEMENTARY INFORMATION** section for applicable date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List, SSI List, and additional information concerning OFAC sanctions programs are available on OFAC's website (*https://www.treasury.gov/ofac*).

Notice of OFAC Actions

A. On June 2, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked and also identified the following property as blocked under the relevant sanctions authorities listed below.

BILLING CODE 4810–AL–P

Individuals

1. GASILOV, Andrei Valeryevich, Moscow, Russia; DOB 14 Jul 1982; POB Gorky, Russia; nationality Russia; citizen Russia; Gender Male; Tax ID No. 526310349913 (Russia) (individual) [RUSSIA-EO14024] (Linked To: JSC ARGUMENT).

   Designated pursuant to section 1(a)(iii)(C) of Executive Order 14024 of April 15, 2021, "Blocking Property With Respect To Specified Harmful Foreign Activities of the Government of the Russian Federation," 86 FR 20249 (Apr. 15, 2021) (E.O. 14024) for being or having been a leader, official, senior executive officer, or member of the board of directors of JSC Argument, an entity whose property and interests in property are blocked pursuant to E.O. 14024.

2. KOCHMAN, Evgeniy Borisovich (Cyrillic: КОЧМАН, Евгений Борисович) (a.k.a. KOCHMAN, Evgenii Borisovich), Russia; Monaco; France; DOB 25 Aug 1980; nationality Russia; Gender Male; Tax ID No. 770465009803 (Russia) (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the marine sector of the Russian Federation economy.

3. MIRTOVA, Elena Yuryevna (Cyrillic: МИРТОВА, Елена Юрьевна) (a.k.a. MIRTOVA, Yelena (Cyrillic: МИРТОВА, Елена)), Saint Petersburg, Russia; DOB 06 Jul 1961; POB Novokuznetsk, Russia; nationality Russia; Gender Female (individual) [RUSSIA-EO14024] (Linked To: ROLDUGIN, Sergei Pavlovich).

Designated pursuant to section 1(a)(v) of E.O. 14024 for being a spouse or adult child of Sergei Pavlovich Roldugin, a person whose property and interests in property are blocked pursuant to section 1(a)(ii) or (iii) of E.O. 14024.

4. ROLDUGIN, Sergei Pavlovich (Cyrillic: РОЛДУГИН, Сергей Павлович) (a.k.a. ROLDUGIN, Sergey (Cyrillic: РОЛДУГИН, Сергей)), Saint Petersburg, Russia; DOB 28 Sep 1951; POB Sakhalin Oblast, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

5. SLYUSAR, Yury Borisovich (Cyrillic: СЛЮСАРЬ, Юрий Борисович) (a.k.a. SLYUSAR, Yuri Borisovich; a.k.a. SLYUSAR, Yurii Borisovich), Moscow, Russia; DOB 20 Jul 1974; POB Rostov-on-Don, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

   Designated pursuant to sections 1(a)(i) and 1(a)(iii)(A) of E.O. 14024 for operating or having operated in the aerospace sector of the Russian Federation economy and for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

6. SAVELYEV, Vitaly Gennadyevich (Cyrillic: САВЕЛЬЕВ, Виталий Геннадьевич) (a.k.a. SAVELIEV, Vitaly Gennadyevich), Russia; DOB 18 Jan 1954; POB Tashkent, Uzbekistan; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

7. RESHETNIKOV, Maxim Gennadyevich (Cyrillic: РЕШЕТНИКОВ, Максим Геннадьевич), Russia; DOB 11 Jul 1979; POB Perm, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

8. FAIZULLIN, Irek Envarovich (Cyrillic: ФАЙЗУЛЛИН, Ирек Енварович), Russia; DOB 08 Dec 1962; POB Kazan, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

9. GRIGORENKO, Dmitriy Yuryevich (Cyrillic: ГРИГОРЕНКО, Дмитрий Юрьевич), Russia; DOB 14 Jul 1978; POB Nizhnevartovsk, Tyumen Region, Russia; nationality Russia; Gender Male (individual) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(iii)(A) of E.O. 14024 for being or having been a leader, official, senior executive officer, or member of the board of directors of the Government of the Russian Federation.

Entities

1. IRONSTONE MARINE INVESTMENTS, SCF Unicom Tower, Maximos Plaza, a8, Maximou Michailidi Street, Neapolis, Limassol 3106, Cyprus; Organization Type: Activities of holding companies; Target Type Private Company; Identification Number IMO 3001731 [RUSSIA-EO14024] (Linked To: PUTIN, Vladimir Vladimirovich).

   Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Vladimir Vladimirovich Putin, a person whose property and interests in property are blocked pursuant to E.O. 14024.

2. JSC ARGUMENT (a.k.a. ARGUMENT JSC; a.k.a. JOINT STOCK COMPANY ARGUMENT), Ul. 2-Ya Entuziastov D. 5, K. 40, Floor 4, Kom. 8A, Office 3, Moscow 111024, Russia; Office 36, ul Novorossiyskaya 163R, Gelendzhik, Krasnodarskiy Kray 353460, Russia; Organization Established Date 10 Dec 2020; Tax ID No. 7720649916 (Russia); Identification Number IMO 6297782; Registration Number 1207700471110 (Russia) [RUSSIA-EO14024] (Linked To: PUTIN, Vladimir Vladimirovich).

   Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Vladimir Vladimirovich Putin, a person whose property and interests in property are blocked pursuant to E.O. 14024.

3. O'NEILL ASSETS CORPORATION (a.k.a. O'NEILL ASSETS CORP), Cayman Islands; C, SCF Unicom Tower, Maximos Plaza, 18, Maximou Michailidi Street, Neapolis, Limassol 3106, Cyprus; Organization Type: Activities of holding companies; Target Type Private Company [RUSSIA-EO14024] (Linked To: PUTIN, Vladimir Vladimirovich).

Designated pursuant to section 1(a)(vi)(B) of E.O. 14024 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of Vladimir Vladimirovich Putin, a person whose property and interests in property are blocked pursuant to E.O. 14024.

4. SCF MANAGEMENT SERVICES CYPRUS LTD, Tower II, Maximos Plaza, Maximos Michailidis 18, Neapolis 3106, Cyprus; Organization Established Date 24 Jan 1991; V.A.T. Number CY10042739H (Cyprus); Tax ID No. 10042739H (Cyprus); Registration Number C42739 (Cyprus) [RUSSIA-EO14024].

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Government of the Russian Federation.

5. IMPERIAL YACHTS SARL (a.k.a. IMPERIAL YACHTS LIMITED; a.k.a. IMPERIAL YACHTS LTD), 27, Bd Albert 1Er, Ermanno Palace Bloc A-7ETG-N01, 98000, Monaco; Moscow, Russia; PO Box 437 Kensington Chambers, 46 50 Kensington Place, St Helier JE4 0ZE, Jersey; United Kingdom; Organization Established Date 2005; Registration Number 08S04803 (Monaco) [RUSSIA-EO14024] (Linked To: KOCHMAN, Evgeniy Borisovich).

   Designated pursuant to sections 1(a)(i) and 1(a)(vii) of E.O. 14024 for operating or having operated in the marine sector of the Russian Federation economy and for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Evgeniy Borisovich Kochman, a person whose property and interests in property are blocked pursuant to E.O. 14024.

6. OOO BILDING MENEDZHMENT (Cyrillic: ООО БИЛДИНГ МЕНЕДЖМЕНТ) (a.k.a. "BILDING MANAGEMENT"), Per. Butikovskii D. 7, Floor 3, Pom. I Komnata 1, Moscow 119034, Russia; Organization Established Date 27 Jul 2016; Tax ID No. 7703413861 (Russia); Registration Number 1167746703464 (Russia) [RUSSIA-EO14024] (Linked To: KOCHMAN, Evgeniy Borisovich).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Evgeniy Borisovich Kochman, a person whose property and interests in property are blocked pursuant to E.O. 14024.

7. OOO NORD MARIN INZHINIRING (Cyrillic: ООО НОРД МАРИН ИНЖИНИРИНГ) (a.k.a. NORD MARIN INZHINIRING), Sh. Leningradskoe D. 39, Str. 6, Pom. XXIV, Moscow 125212, Russia; Organization Established Date 27 Jul 2016; Tax ID No. 7743165541 (Russia); Registration Number

1167746706137 (Russia) [RUSSIA-EO14024] (Linked To: KOCHMAN, Evgeniy Borisovich).

Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Evgeniy Borisovich Kochman, a person whose property and interests in property are blocked pursuant to E.O. 14024.

8. OOO NORD MARINE (Cyrillic: ООО НОРД МАРИН) (a.k.a. NORD MARINE), Ul. Rochdelskaya D. 11/5, Str. 1, Moscow 123100, Russia; Organization Established Date 16 Apr 2001; Tax ID No. 7716204897 (Russia); Registration Number 1027700401024 (Russia) [RUSSIA-EO14024] (Linked To: KOCHMAN, Evgeniy Borisovich).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Evgeniy Borisovich Kochman, a person whose property and interests in property are blocked pursuant to E.O. 14024.

9. OOO YAKHT-TREID (Cyrillic: ООО ЯХТ-ТРЕЙД) (a.k.a. YAKHT TREID), Sh. Leningradskoe D. 39, Str. 6, Moscow 125212, Russia; Organization Established Date 01 Oct 2010; Tax ID No. 7743794726 (Russia); Registration Number 1107746800270 (Russia) [RUSSIA-EO14024] (Linked To: KOCHMAN, Evgeniy Borisovich).

   Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Evgeniy Borisovich Kochman, a person whose property and interests in property are blocked pursuant to E.O. 14024.

10. LIMITED LIABILITY CORPORATION GELIOS (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ ГЕЛИОС) (a.k.a. "HELIOS"), Liniya 11-ya v.o. d. 38, Lit. A, Pom. 80, Saint Petersburg 199178, Russia; Organization Established Date 23 May 2013; Tax ID No. 7801602842 (Russia) [RUSSIA-EO14024] (Linked To: NON-PROFIT PARTNERSHIP REVIVAL OF MARITIME TRADITIONS).

    Designated pursuant to section 1(a)(vii) of E.O. 14024 for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, Non-Profit Partnership Revival of Maritime Traditions, a person whose property and interests in property are blocked pursuant to E.O. 14024.

11. NON-PROFIT PARTNERSHIP REVIVAL OF MARITIME TRADITIONS (a.k.a. NON-PROFIT ASSOCIATION REVIVAL OF MARITIME

TRADITIONS; a.k.a. NON-PROFIT-MAKING PARTNERSHIP REVIVAL OF MARITIME TRADITIONS; a.k.a. REVIVAL OF MARITIME TRADITIONS (Cyrillic: ВОЗРОЖДЕНИЕ МОРСКИХ ТРАДИЦИЙ)), Pr-kt bolshoi v.o. d. 9/6, Lit. A, Pom. 3n, Saint Petersburg 199004, Russia; Organization Established Date 20 Oct 2009; Tax ID No. 7805303650 (Russia); Registration Number 1097800006380 (Russia) [RUSSIA-EO14024].

Designated pursuant to section 1(a)(i) of E.O. 14024 for operating or having operated in the marine sector of the Russian Federation economy.

12. SRL SKYLINE AVIATION (a.k.a. SKYLINE AVIATION LTD; a.k.a. SKYLINE AVIATION SRL), Via Consiglio dei Sessanta, 99, Dogana, 47891, San Marino; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 2016; Organization Type: Passenger air transport; Tax ID No. 26806 (San Marino) [UKRAINE-EO13685].

Designated pursuant to section 2(a)(i) of Executive Order 13685 of December 19, 2014, "Blocking Property of Certain Persons and Prohibiting Certain Transactions With Respect to the Crimea Region of Ukraine," 79 FR 77357 (December 24, 2014) (E.O. 13685) for operating in the Crimea region of Ukraine.

BILLING CODE 4810–AL–C

Vessels

1. GRACEFUL (UBGV8) Yacht 2,685GRT Russia flag; Vessel Registration Identification IMO 1011551 (vessel) [RUSSIA–EO14024] (Linked To: PUTIN, Vladimir Vladimirovich).

Identified as property in which Vladimir Vladimirovich Putin, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

2. OLYMPIA (ZCGR) Yacht 776GRT Cayman Islands flag; Vessel Registration Identification IMO 1006960; MMSI 319766000 (vessel) [RUSSIA–EO14024] (Linked To: PUTIN, Vladimir Vladimirovich).

Identified as property in which Vladimir Vladimirovich Putin, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

3. SEA RHAPSODY (V7VR9) Yacht 1,503GRT Marshall Islands flag; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 1010648; MMSI 538071180 (vessel) [UKRAINE–EO13661] (Linked To: KOSTIN, Andrey Leonidovich).

Identified as property in which Andrey Leonidovich Kostin, a person whose property and interests in property are blocked pursuant to Executive Order 13661 of March 16, 2014, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine,'' 79 FR 15535 (March 19, 2014) (E.O. 13661), has an interest.

4. MADAME GU (ZGCW7) Yacht 2,991GRT Cayman Islands flag; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Vessel Registration Identification IMO 1011331 (vessel) [UKRAINE–EO13661] [RUSSIA–EO14024] (Linked To: SKOCH, Andrei Vladimirovich).

Identified as property in which Andrei Vladimirovich Skoch, a person whose property and interests in property are blocked pursuant to E.O. 13661 and E.O. 14024, has an interest.

5. NEGA (Cyrillic: НЕГА) (J8Y4483) Yacht Russia flag; Vessel Registration Identification RS 130280 (Russia); MMSI 273337970 (vessel) [RUSSIA–EO14024] (Linked To: LIMITED LIABILITY CORPORATION GELIOS).

Identified as property in which Limited Liability Corporation Gelios, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

6. SHELLEST (Cyrillic: ШЕЛЛЕСТ) (UBAO8) Yacht Russia flag; Vessel Registration Identification RS 150443 (Russia); MMSI 273385420 (vessel) [RUSSIA–EO14024] (Linked To: NON–PROFIT PARTNERSHIP REVIVAL OF MARITIME TRADITIONS).

Identified as property in which Non-Profit Partnership Revival of Maritime Traditions, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

7. FLYING FOX (ZGHN) Yacht 9,022GRT Cayman Islands flag; Vessel Registration Identification IMO 9829394; MMSI 319133800 (vessel) [RUSSIA–EO14024] (Linked To: IMPERIAL YACHTS SARL).

Identified as property in which IMPERIAL YACHTS SARL, a person whose property and interests in property are blocked pursuant to E.O. 14024, has an interest.

Aircraft

1. T7–OKY; Aircraft Manufacture Date 2014; Aircraft Model BD700–1A10 Global 6000; Aircraft Manufacturer's Serial Number (MSN) 9576; Registration Number T7–OKY (San Marino) (aircraft) [UKRAINE–EO13685] (Linked To: SRL SKYLINE AVIATION).

Identified as property in which SRL Skyline Aviation, a person whose property and interests in property are blocked pursuant to E.O. 13685, has an interest.

2. P4–MGU; Aircraft Manufacture Date 18 Feb 2013; Aircraft Model A319; Aircraft Manufacturer's Serial Number (MSN) 5445; Aircraft Tail Number P4–MGU (aircraft) [UKRAINE–EO13661] [RUSSIA–EO14024] (Linked To: SKOCH, Andrei Vladimirovich).

Identified as property in which Andrei Vladimirovich Skoch, a person whose property and interests in property are blocked pursuant to E.O. 13661 and E.O. 14024, has an interest.

3. 3A–MGU; Aircraft Model AS365 Dauphin; Aircraft Manufacturer's Serial Number (MSN) 6959; Aircraft Tail Number 3A–MGU; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209 (aircraft)

[UKRAINE–EO13661] [RUSSIA–EO14024] (Linked To: SKOCH, Andrei Vladimirovich).

Identified as property in which Andrei Vladimirovich Skoch, a person whose property and interests in property are blocked pursuant to E.O. 13661 and E.O. 14024, has an interest.

B. On June 2, 2022, OFAC updated the entry on the SSI List for the following entity, which remains subject to the prohibitions of Directive 1 under E.O. 13662, ''Blocking Property of Additional Persons Contributing to the Situation in Ukraine'' 79 FR 16169 (March 24, 2014) for being identified as an entity in which in the Bank of Moscow owns, directly or indirectly, a 50 percent or greater interest.

1. LLC BALTECH (a.k.a. BALTECH LLC; a.k.a. OOO 'BALTECH'), Russia; Executive Order 13662 Directive Determination - Subject to Directive 1; For more information on directives, please visit the following link: https://www.treasury.gov/resourcecenter/sanctions/Programs/Pages/ukraine.aspx #directives [UKRAINE-EO13662] (Linked To: BANK OF MOSCOW).

-to-

LLC BALTECH (Cyrillic: ООО БАЛТЕХ) (a.k.a. BALTECH LLC; a.k.a. LIMITED LIABILITY CORPORATION BALTECH (Cyrillic: ОБЩЕСТВО С ОГРАНИЧЕННОЙ ОТВЕТСТВЕННОСТЬЮ БАЛТЕХ); a.k.a. OBSCHESTVO S OGRANICHENNOY OTVETSTVENNOSTYU BALTEKH; a.k.a. OOO BALTECH; a.k.a. OOO BALTEKH), Ulitsa Yunnatov, Dom 3, Liter A, Ofis 15, Saint Petersburg 192177, Russia (Cyrillic: Улица Юннатов, Дом 3, Литер А, Офис 15, Санкт-Петербург 192177, Russia); Executive Order 13662 Directive Determination - Subject to Directive 1; Secondary sanctions risk: Ukraine-/Russia-Related Sanctions Regulations, 31 CFR 589.201 and/or 589.209; Organization Established Date 16 Dec 2004; Tax ID No. 7840309622 (Russia); Registration Number 1047855168140 (Russia); For more information on directives, please visit the following link: https://www.treasury.gov/resource-center/sanctions/Programs/Pages/ukraine.aspx#directives [UKRAINE-EO13662] (Linked To: BANK OF MOSCOW).

Dated: June 2, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–12525 Filed 6–9–22; 8:45 am]

BILLING CODE 4810–AL–C

DEPARTMENT OF VETERANS AFFAIRS

Notice of Performance Review Board Members

AGENCY: Corporate Senior Executive Management Office, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Agencies are required to publish a notice in the **Federal Register** of the appointment of Performance Review Board (PRB) members. This notice announces the appointment of individuals to serve on the PRB of the Department of Veterans Affairs.

DATES: This appointment is effective June 10, 2022.

ADDRESSES: Corporate Senior Executive Management Office, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420.

FOR FURTHER INFORMATION CONTACT: Carrie M. Johnson-Clark, Executive Director, Corporate Senior Executive Management Office (006D), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202–632–5181.

SUPPLEMENTARY INFORMATION: The membership of the Department of Veterans Affairs Performance Review Board is as follows:

Bradsher, Tanya—Chair
Arnold, Kenneth
Billups, Angela
Bocchicchio, Alfred
Boerstler, John
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Flint, Sandra
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Hipolit, Richard
Lilly, Ryan
Llorente, Maria
Marsh, Willie Clyde
Mattison-Brown, Valerie
McInerney, Joan
Pape, Lisa
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Rychalski, John
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Terrell, Brandye
Thomas, Lisa
Tibbits, Paul
Young, Stephanie

Authority: 5 U.S.C. 4314(c)(4).

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 6, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication

electronically as an official document of the Department of Veterans Affairs.

Luvenia Potts,

Regulations Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

[FR Doc. 2022–12576 Filed 6–9–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Veterans and Community Oversight and Engagement Board, Notice of Meeting, Amended

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, that the Veterans and Community Oversight and Engagement Board (the Board) will meet on June 21–22, 2022, at 11301 Wilshire Boulevard, Building 500, Room 1281, Los Angeles, CA. The meeting sessions will begin and end as follows:

Date(s)	Time(s)
June 21, 2022	8:30 a.m. to 5:30 p.m.—Pacific Standard Time (PST).
June 22, 2022	8:30 a.m. to 5:30 p.m.—PST.

Sessions are open to the public, except during the time the Board is conducting tours of VA facilities, participating in off-site events, and participating in workgroup sessions. Tours of VA facilities are closed, to protect Veterans' privacy and personal information, in accordance with 5 U.S.C. 552b(c)(6).

The Board was established by the West Los Angeles Leasing Act of 2016 on September 29, 2016. The purpose of the Board is to provide advice and make recommendations to the Secretary of Veterans Affairs on identifying the goals of the community and Veteran partnership; improving services and outcomes for Veterans, members of the Armed Forces, and the families of such Veterans and members; and on the implementation of the Draft Master Plan approved by the Secretary on January 28, 2016, and on the creation and implementation of any successor master plans.

On Tuesday, June 21, 2022, from 8:30 a.m. to 11:45 a.m. PST, the Board will meet in open session with key staff of the VA Greater Los Angeles Healthcare System (VAGLAHS). The Advisory Committee Management Office will present, FACA 101 training. The agenda will include opening remarks from the Committee Chair, Executive Sponsor, and other VA officials. There will be a general update from the Director of the Veterans Administration Greater Los Angeles Healthcare System (VAGLAHS). From 12:30 p.m. to 5:00 p.m. PST, the Board will convene with a closed tour of the VA Greater Los Angles Healthcare System. Tours of VA facilities are closed to protect Veterans' privacy and personal information, in accordance with 5 U.S.C. 552b(c)(6).

On Wednesday, June 22, 2022, the Board will reconvene in open session at 11301 Wilshire Boulevard, Building 500, Room 1281, Los Angeles, CA, and receive a comprehensive presentation from the Community Engagement and Reintegration Services (CERS) team from VAGLAHS. The Office of Strategic, Facility & Master Planning, VAGLAHS will provide a Master Plan 2022 update, followed by a detailed Principal Developer update by the West Los Angeles Collective to include plans and vison for the Town Center. The Board will receive a briefing from the VA Office of Inspector General (OIG) on the results of the two OIG audit reports. Brentwood Schools and UCLA leaseholders have been invited to provide updates on their leases and contributions to date, for Veterans. The Board's subcommittees on Outreach and Community Engagement with Services and Outcomes, and Master Plan with Services and Outcomes will provide an out brief to the full Board and update on draft recommendations to be considered for forwarding to the Secretary.

Due to a steady rise in COVID–19 outpatient cases and employee absences in alignment with the County's High transmission rate. The Veterans Health Administration has instituted a new COVID operation plan that is currently in effect that defines certain restrictions based on transmission levels, to include posters at the GLA facility indicating a Red Health Protection Level that requires masking, self-screening, patient visitation with provider approval and physical distancing. Therefore, the VAGLAHS cannot approve non-mission essential visitation at this time.

As previously published in the **Federal Register** on 05/26/2022 and available online at *federalregister.gov/d/2022-11297,* and on *govinfo.gov*, GLA will support the planned in-person meeting of the VCOEB board with the tour and public facing meeting. *However, additional public personnel will no longer be allowed to attend in-person.* The execution of the Board's meeting will be done in a hybrid fashion. The Board will meet in person in the multipurpose room. Board members should be vaccinated or have evidence of a negative test before coming into the hospital (basic requirements for all visitation). The public members will access the meeting via WebEx for viewing and for the public comment session.

The meetings are open to the public and will be recorded. Members of the public can attend the meeting by joining the WebEx meeting at the link below. The link will be active from 8:00 a.m.–5:45 p.m. (PST) daily, 21–22 June 2022.

Meeting Link: https://veteransaffairs.webex.com/veteransaffairs/j.php?MTID=m0b563ed8e2d51624cedad8187f75700b.

Meeting Number: 2763 169 1071.

Join by video system: Dial *27631691071@veteransaffairs.webex.com;* You can also dial 207.182.190.20 and enter your meeting number.

Join by phone: 14043971596 USA Toll Number; Access code: 2763 169 1071; Global call-in numbers | Toll-free calling restrictions.

Time will be allocated for receiving public comments on June 22, at 11:15 a.m. PST. Public members wishing to make public comments should contact Chihung Szeto at (562) 708–9959 or at *Chihung.Szeto@va.gov* and are requested to submit a 1–2-page summary of their comments for inclusion in the official meeting record. In the interest of time, each speaker will be held to 5-minute time limit. The Board will accept written comments from interested parties on issues outlined in the meeting agenda, from June 22 through June 29, 2022. Individuals wishing to make public comments are required to register during the WEBEX registration process. If time expires and your name was not selected, or you did not register to provide public comment and would like to do so, you are asked to submit public comments via email at *VEOFACA@va.gov* for inclusion in the official meeting record.

Attempts to join the meeting will not work until the host opens the meeting approximately ten minutes prior to start time. Any member of the public seeking additional information should contact Mr. Eugene W. Skinner Jr. at (202) 631–7645 or at *Eugene.Skinner@va.gov.*

Dated: 6/3/2022.

Jelessa M. Burney,

Federal Advisory Committee Management Officer.

[FR Doc. 2022–12481 Filed 6–9–22; 8:45 am]

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Part II

Environmental Protection Agency

40 CFR Parts 60 and 63

National Emission Standards for Hazardous Air Pollutants: Gasoline Distribution Technology Review and Standards of Performance for Bulk Gasoline Terminals Review; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 60 and 63

[EPA–HQ–OAR–2020–0371; FRL–8202–01–OAR]

RIN 2060–AU97

National Emission Standards for Hazardous Air Pollutants: Gasoline Distribution Technology Review and Standards of Performance for Bulk Gasoline Terminals Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is proposing amendments to the National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Gasoline Distribution facilities and the Standards of Performance for Bulk Gasoline Terminals. The EPA is proposing to revise NESHAP requirements for storage tanks, loading operations, and equipment leaks to reflect cost-effective developments in practices, process, or controls. The EPA is also proposing New Source Performance Standards to reflect best system of emissions reduction for loading operations and equipment leaks. In addition, the EPA is proposing revisions related to emissions during periods of startup, shutdown, and malfunction; to add requirements for electronic reporting of performance test results, performance evaluation reports, and compliance reports; to revise monitoring and operating requirements for control devices; and to make other minor technical improvements. We estimate that these proposed amendments would reduce emissions of hazardous air pollutants from this source category by 2,220 tons per year (tpy) and would reduce emissions of volatile organic compounds by 45,400 tpy.

DATES: Comments must be received on or before August 9, 2022. Under the Paperwork Reduction Act (PRA), comments on the information collection provisions are best assured of consideration if the Office of Management and Budget (OMB) receives a copy of your comments on or before August 9, 2022.

Public hearing: If anyone contacts us requesting a public hearing on or before June 15, 2022, we will hold a virtual public hearing. See **SUPPLEMENTARY INFORMATION** for information on requesting and registering for a public hearing.

ADDRESSES: You may send comments, identified by Docket ID No. EPA–HQ–OAR–2020–0371, by any of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov/* (our preferred method). Follow the online instructions for submitting comments.
- *Email: a-and-r-docket@epa.gov.* Include Docket ID No. EPA–HQ–OAR–2020–0371 in the subject line of the message.
- *Fax:* (202) 566–9744. Attention Docket ID No. EPA–HQ–OAR–2020–0371.
- *Mail:* U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA–HQ–OAR–2020–0371, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- *Hand/Courier Delivery:* EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.–4:30 p.m., Monday–Friday (except federal holidays).

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received may be posted without change to *https://www.regulations.gov/,* including any personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For questions about this proposed action, contact Mr. Neil Feinberg, Sector Policies and Programs Division (E143–01), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone number: (919) 541–2214; fax number: (919) 541–0516; and email address: *feinberg.stephen@epa.gov.*

SUPPLEMENTARY INFORMATION:

Participation in virtual public hearing. Please note that because of current Centers for Disease Control and Prevention (CDC) recommendations, as well as state and local orders for social distancing to limit the spread of COVID–19, the EPA cannot hold in-person public meetings at this time.

To request a virtual public hearing, contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* If requested, the virtual hearing will be held on June 27, 2022. The hearing will convene at 11:00 a.m. Eastern Time (ET) and will conclude at 7:00 p.m. ET. The EPA may close a session 15 minutes after the last pre-registered speaker has testified if there are no additional speakers. The EPA will announce further details at *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards.*

If a public hearing is requested, the EPA will begin pre-registering speakers for the hearing no later than 1 business day after a request has been received. To register to speak at the virtual hearing, please use the online registration form available at *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards* or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov.* The last day to pre-register to speak at the hearing will be June 22, 2022. Prior to the hearing, the EPA will post a general agenda that will list pre-registered speakers in approximate order at: *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards.*

The EPA will make every effort to follow the schedule as closely as possible on the day of the hearing; however, please plan for the hearings to run either ahead of schedule or behind schedule.

Each commenter will have 5 minutes to provide oral testimony. The EPA encourages commenters to provide the EPA with a copy of their oral testimony electronically (via email) by emailing it to *feinberg.stephen@epa.gov.* The EPA also recommends submitting the text of your oral testimony as written comments to the rulemaking docket.

The EPA may ask clarifying questions during the oral presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral testimony and supporting information presented at the public hearing.

Please note that any updates made to any aspect of the hearing will be posted online at *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards.* While the EPA expects the hearing to go forward as set forth above, please monitor our website or contact the public hearing team at (888) 372–8699 or by email at *SPPDpublichearing@epa.gov* to determine if there are any updates. The EPA does not intend to publish a document in the **Federal Register** announcing updates.

If you require the services of a translator or a special accommodation

such as audio description, please pre-register for the hearing with the public hearing team and describe your needs by June 17, 2022. The EPA may not be able to arrange accommodations without advanced notice.

Docket. The EPA has established a docket for this rulemaking under Docket ID No. EPA–HQ–OAR–2020–0371. All documents in the docket are listed in *https://www.regulations.gov/.* Although listed, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy. With the exception of such material, publicly available docket materials are available electronically in *Regulations.gov* or in hard copy at the EPA Docket Center, Room 3334, WJC West Building, 1301 Constitution Avenue NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

Instructions. Direct your comments to Docket ID No. EPA–HQ–OAR–2020–0371. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *https://www.regulations.gov/,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *https://www.regulations.gov* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

The *https://www.regulations.gov/* website allows you to submit your comment anonymously, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov/,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *https://www.epa.gov/dockets.*

Submitting CBI. Do not submit information containing CBI to the EPA through *https://www.regulations.gov/.* Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, note the docket ID, mark the outside of the digital storage media as CBI and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* section of this document. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing services (*e.g.,* Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of Air Quality Planning and Standards (OAQPS) CBI Office at the email address *oaqpscbi@epa.gov,* and as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqpscbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: OAQPS Document Control Officer (C404–02), OAQPS, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA–HQ–OAR–2020–0371. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope. *Preamble acronyms and abbreviations.* Throughout this notice the use of ''we,'' ''us,'' or ''our'' is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

AVO audio, visual, or olfactory
BSER best system of emissions reduction
CAA Clean Air Act
CBI Confidential Business Information
CEMS continuous emission monitoring system
CFR Code of Federal Regulations
CO carbon monoxide
CO_2 carbon dioxide
DOT U.S. Department of Transportation
EJ environmental justice
EPA Environmental Protection Agency
ERT Electronic Reporting Tool
GACT generally available control technology
HAP hazardous air pollutant(s)
ICR information collection request
km kilometer
LDAR leak detection and repair
LEL lower explosive limit
mg/L milligrams per liter
MACT maximum achievable control technology
NAICS North American Industry Classification System
NESHAP national emission standards for hazardous air pollutants
NO_2 nitrogen oxides
NSPS new source performance standards
OAQPS Office of Air Quality Planning and Standards
OGI optical gas imaging
OMB Office of Management and Budget
ppm parts per million
ppmv parts per million by volume
PRA Paperwork Reduction Act
RFA Regulatory Flexibility Act
RIA Regulatory Impact Analysis
SO_2 sulfur dioxide
SSM startup, shutdown, and malfunction
TOC total organic carbon

tpy tons per year
U.S.C. United States Code
VCU vapor combustion unit
VOC volatile organic compound(s)
VRU vapor recovery unit

Organization of this document. The information in this preamble is organized as follows:

I. General Information

A. Executive Summary

1. Purpose of the Regulatory Action

The source categories that are the subject of this proposal are Gasoline Distribution regulated under 40 CFR part 63, subparts R and BBBBBB and Petroleum Transportation and Marketing regulated under 40 CFR part 60, subpart XX. The EPA set maximum achievable control technology (MACT) standards for the Gasoline Distribution major source category in 1994 and conducted the residual risk and technology review in 2006. The sources affected by the major source National Emissions Standards for Hazardous Air Pollutants (NESHAP) for the Gasoline Distribution source category (part 63, subpart R) are bulk gasoline terminals and pipeline breakout stations. The EPA set generally available control technology (GACT) standards for the Gasoline Distribution area source category in 2008. The sources affected by the area source NESHAP for the Gasoline Distribution source category (part 63, subpart BBBBBB) are bulk gasoline terminals, bulk gasoline plants, and pipeline facilities. The EPA set New Source Performance Standards (NSPS) for the Petroleum Transportation and Marketing source category in 1983. The sources affected by the current NSPS (part 60, subpart XX) are bulk gasoline terminals that commenced construction or modification after December 17, 1980.

The statutory authority for these proposed rulemakings is sections 111 and 112 of the Clean Air Act (CAA). Section 111(b)(1)(B) of the CAA requires the EPA to ''at least every 8 years review and, if appropriate, revise'' NSPS. Section 111(a)(1) of the CAA provides that performance standards are to ''reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' We refer to this level of control as the best system of emission reduction or ''BSER.'' Section 112(d)(6) of the CAA requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years following promulgation of those standards. This is referred to as a ''technology review'' and is required for all standards established under CAA section 112(d).

The proposed Standards of Performance for Bulk Gasoline Terminals and the proposed amendments to the NESHAP for Gasoline Distribution facilities fulfill the Agency's requirement, respectively, to review and, if appropriate, revise the NSPS and to review and revise as necessary the NESHAP at least every 8 years.

2. Summary of the Major Provisions of the Regulatory Action In Question

a. NESHAP Subpart R

We are proposing to require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period, depending on the cargo tank compartment size for gasoline cargo tanks. We are also proposing to require fitting controls for external floating roof tanks consistent with the requirement in NSPS subpart Kb. In addition, we are proposing to require semiannual instrument monitoring for major source gasoline distribution facilities.

b. NESHAP Subpart BBBBBB

We are proposing to lower the area source emission limits for loading racks at large bulk gasoline terminals to 35 milligrams of total organic carbon (TOC) per liter of gasoline loaded (mg/L) and require vapor balancing for loading storage vessels and gasoline cargo tanks at bulk gasoline plants with maximum design capacity throughput of 4,000 gallons per day or more. We are also proposing to require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period, depending on the cargo tank compartment size for gasoline cargo tanks. Additionally, we are proposing to require fitting controls for external floating roof tanks consistent with the requirement in NSPS subpart Kb. Also, we are proposing to require annual instrument monitoring for area source gasoline distribution facilities.

c. NSPS Subpart XXa

We are proposing in a new NSPS subpart XXa that facilities that commence construction after June 10, 2022) must meet a 1 mg/L limit and facilities that commence modification, or reconstruction after June 10, 2022 must meet a 10 mg/L limit. We are also proposing to require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period, depending on the cargo tank compartment size for gasoline cargo tanks. Also, we are proposing to

require quarterly instrument monitoring.

3. Costs and Benefits

To satisfy requirements of E.O. 12866, the EPA projected the emissions reductions, costs, and benefits that may result from these proposed rulemakings. These results are presented in detail in the regulatory impact analysis (RIA) accompanying this proposal developed in response to E.O. 12866. We present these results for each of the three rules included in this proposed action, and also cumulatively. This action is economically significant according to E.O. 12866 primarily due to the proposed amendments to NESHAP subpart BBBBBB. The RIA focuses on the elements of the proposed rulemaking that are likely to result in quantifiable cost or emissions changes compared to a baseline without the proposal that incorporates changes to regulatory requirements. We estimated the cost, emissions, and benefit impacts for the 2026 to 2040 period. We show the present value (PV) and equivalent annual value (EAV) of costs, benefits, and net benefits of this action in 2019 dollars.

The initial analysis year in the RIA is 2026 as we assume the large majority of impacts associated with the proposed rulemakings will be finalized in that year. The NSPS will take effect immediately upon the effective date of the final rule and impact sources constructed after publication of the proposed rule, but these impacts are much lower than those of the other two rulemakings in this action. The other two rules, both under the provisions of section 112 of the Clean Air Act, will take effect three years after their effective date, which will occur in 2026 given promulgation of this rulemaking in 2023. Therefore, their impacts will begin in 2026. The final analysis year is 2040, which allows us to provide 15 years of projected impacts after all of these rules are assumed to take effect.

The cost analysis presented in the RIA reflects a nationwide engineering analysis of compliance cost and emissions reductions, of which there are two main components. The first component is a set of representative or model plants for each regulated facility, segment, and control option. The characteristics of the model plant include typical equipment, operating characteristics, and representative factors including baseline emissions and the costs, emissions reductions, and product recovery resulting from each control option. The second component is a set of projections of data for affected facilities, distinguished by vintage, year, and other necessary attributes (*e.g.,* precise content of material in storage tanks). Impacts are calculated by setting parameters on how and when affected facilities are assumed to respond to a particular regulatory regime, multiplying data by model plant cost and emissions estimates, differencing from the baseline scenario, and then summing to the desired level of aggregation. In addition to emissions reductions, some control options result in gasoline recovery, which can then be sold where possible. Where applicable, we present projected compliance costs with and without the projected revenues from product recovery.

The EPA expects health benefits due to the emissions reductions projected under these proposed rulemakings. We expect that hazardous air pollutants (HAP) emission reductions will improve health and welfare associated with exposure by those affected by these emissions. In addition, the EPA expects that volatile organic compounds (VOC) emission reductions that will occur concurrent with the reductions of HAP emissions will improve air quality and are likely to improve health and welfare associated with exposure to ozone, particulate matter 2.5 ($PM_{2.5}$), and HAP. The EPA also expects disbenefits from secondary increases of carbon dioxide (CO_2), nitrogen oxides (NO_2), sulfur dioxide (SO_2), and carbon monoxide (CO) emissions associated with the control options included in the cost analysis. Discussion of the non-monetized benefits and climate disbenefits can be found in Chapter 4 of the RIA.

Tables 1 through 3 of this document presents the emission changes, and PV and EAV of the projected monetized benefits, compliance costs, and net benefits over the 2026 to 2040 period under the proposed rulemaking for each subpart. Table 4 of this document presents the same results for the cumulative impact of these rulemakings. All discounting of impacts presented uses discount rates of 3 and 7 percent.

TABLE 1—SHORT-TERM AND LONG-TERM MONETIZED BENEFITS, COSTS, NET BENEFITS, AND EMISSIONS REDUCTIONS OF THE PROPOSED NESHAP SUBPART BBBBBB AMENDMENTS, 2026 THROUGH 2040

[Dollar estimates in millions of 2019 dollars] [a]

	3 Percent discount rate		7 Percent discount rate	
	PV	EAV	PV	EAV
Benefits [b]	$180(ST) and $1,500(LT)	$15(ST) and $130(LT)	$110(ST) and $900(LT)	$12(ST) and $99(LT).
Climate Disbenefits (3%) [c]	$28	$2.3	$28	$2.0.
Net Compliance Costs [d]	−$70	−$5.0	−$42	−$5.0.
Compliance Costs	$140	$12	$98	$11.
Value of Product Recovery	$210	$17	$140	$16.
Net Benefits	$230(ST) and $1,500(LT)	$18(ST) and $130(LT)	$130(ST) and $910(LT)	$15(ST) and $100(LT).
Emissions Reductions (short tons)	2026–2040 Total.			
VOC	605,000.			
HAP	31,000.			
Secondary Emissions Increases (short tons)	2026–2040 Total.			
CO_2	490,000.			
NO_2	290.			
SO_2	3.5.			
CO	1,300.			
Non-monetized Impacts in this Table	HAP benefits from reducing 31,000 short tons of HAP from 2026–2040, VOC benefits from reductions outside of the ozone season (October–April). Health and climate disbenefits from increasing nitrogen oxides (NO_2) emissions by 290 short tons, sulfur dioxide (SO_2) by 3.5 short tons, and carbon monoxide (CO) by 1,300 short tons from 2026–2040. Visibility benefits. Reduced vegetation effects.			

[a] Values rounded to two significant figures. Totals may not appear to add correctly due to rounding. Short tons are standard English tons (2,000 pounds).

[b] Monetized benefits include ozone related health benefits associated with reductions in VOC emissions. The health benefits are associated with several point estimates and are presented at real discount rates of 3 and 7 percent for both short-(ST) and long-term (LT) benefits. The two benefits estimates are separated by the word ''and'' to signify that they are two separate estimates. The estimates do not represent lower- and upper-bound estimates. Benefits from HAP reductions and VOC reductions outside of the ozone season remain unmonetized and are thus not reflected in the table. Disbenefits from additional CO_2 emissions resulting from application of control options are monetized and included in the table as climate disbenefits. Climate disbenefits are monetized at a real discount rate of 3 percent. The unmonetized effects also include disbenefits resulting from the secondary impact of an increase in NO_2, SO_2, and CO emissions. Please see Section 4.6 of the RIA for more discussion of the climate disbenefits.

[c] Climate disbenefits are based on changes (increases) in CO_2 emissions and are calculated using four different estimates of the social cost of carbon ($SC–CO_2$) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). For the presentational purposes of this table, we show the disbenefits associated with the average $SC–CO_2$ at a 3 percent discount rate, but the Agency does not have a single central $SC–CO_2$ point estimate. We emphasize the importance and value of considering the disbenefits calculated using all four $SC–CO_2$ estimates; the additional disbenefit estimates range from PV (EAV) $5.4 million ($0.5 million) to $84 million ($7.0 million) from 2026–2040 for the proposed amendments. Please see Table 4–7 in the RIA for the full range of $SC–CO_2$ estimates. As discussed in Chapter 4 of the RIA, a consideration of climate disbenefits calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts.

[d] Net compliance costs are the rulemaking costs minus the value of recovered product. A negative net compliance costs occurs when the value of the recovered product exceeds the compliance costs.

TABLE 2—SHORT-TERM AND LONG-TERM MONETIZED BENEFITS, COMPLIANCE COSTS, NET BENEFITS, AND EMISSIONS REDUCTIONS OF THE PROPOSED NESHAP SUBPART R AMENDMENTS, 2026 THROUGH 2040

[Dollar estimates in millions of 2019 dollars] [a]

	3 Percent discount rate		7 Percent discount rate	
	PV	EAV	PV	EAV
Benefits [b]	$9.9(ST) and $81(LT)	$0.83(ST) and $6.8(LT)	$5.6(ST) and $48(LT)	$0.65(ST) and $5.3(LT).
Net Compliance Costs [c]	$23	$2.0	$15	$1.8.
Compliance Costs	$34	$2.9	$23	$2.6.
Value of Product Recovery	$11	$1.0	$8	$0.90.
Net Benefits	−$13(ST) and $58(LT)	−$1.2(ST) and $4.8(LT)	−$9.4(ST) and $33(LT)	−$1.2(ST) and $3.5(LT).
Emissions Reductions (short tons)	2026–2040 Total.			
VOC	32,000.			
HAP	2,010.			
Non-monetized Impacts in this Table	HAP benefits from reducing 2,010 short tons of HAP from 2026–2040, VOC benefits from reductions outside of the ozone season (October–April).			
	Visibility benefits.			
	Reduced vegetation effects.			

[a] Values rounded to two significant figures. Totals may not appear to add correctly due to rounding. Short tons are standard English tons (2,000 pounds).

[b] Monetized benefits include ozone related health benefits associated with reductions in VOC emissions. The health benefits are associated with several point estimates and are presented at real discount rates of 3 and 7 percent for both short-(ST) and long-term (LT) benefits. The two benefits estimates are separated by the word ''and'' to signify that they are two separate estimates. The estimates do not represent lower- and upper-bound estimates and should not be summed. Benefits from HAP reductions and VOC reductions outside of the ozone season remain unmonetized and are thus not reflected in the table.

[c] Net compliance costs are the rulemaking costs minus the value of recovered product. A negative net compliance costs occurs when the value of the recovered product exceeds the compliance costs.

TABLE 3—SHORT-TERM AND LONG-TERM MONETIZED BENEFITS, COSTS, NET BENEFITS, AND EMISSIONS REDUCTIONS OF PROPOSED NSPS SUBPART XXa, 2026 THROUGH 2040

[Dollar estimates in millions of 2019 dollars] [a]

	3 Percent discount rate		7 Percent discount rate	
	PV	EAV	PV	EAV
Benefits [b]	$29(ST) and $240(LT)	$2.4(ST) and $20(LT)	$16(ST) and $130(LT)	$1.7(ST) and $15(LT).
Climate Disbenefits (3%) [c]	$4.4	$0.37	$4.4	$0.37.
Net Compliance Costs [d]	$9.0	$0.70	$5.0	$0.60.
Compliance Costs	$41	$3.4	$26	$2.9.
Value of Product Recovery	$32	$2.7	$21	$2.3.
Net Benefits	$16(ST) and $230(LT)	$1.3(ST) and $19(LT)	$6.6(ST) and $130(LT)	$0.73(ST) and $14(LT).
Emissions Reductions (short tons)	2026–2040 Total.			
VOC	97,000.			
HAP	4,020.			
Secondary Emissions Increases (short tons)	2026–2040 Total.			
CO_2	74,000.			
NO_2	50.			
SO_2	42.			
CO	0.			
Non-monetized Impacts in this Table	HAP benefits from reducing 4,020 short tons of HAP from 2026–2040, VOC benefits from reductions outside of the ozone season (October–April).			
	Health and climate disbenefits from increasing NO_2 emissions by 50 short tons, and SO_2 by 42 short tons from 2026–2040.			
	Visibility benefits.			
	Reduced vegetation effects.			

[a] Values rounded to two significant figures. Totals may not appear to add correctly due to rounding. Short tons are standard English tons (2,000 pounds).

[b] Monetized benefits include ozone related health benefits associated with reductions in VOC emissions. The health benefits are associated with several point estimates and are presented at real discount rates of 3 and 7 percent for both short-(ST) and long-term (LT) benefits. The two benefits estimates are separated by the word ''and'' to signify that they are two separate estimates. The estimates do not represent lower- and upper-bound estimates. Benefits from HAP reductions and VOC reductions outside of the ozone season remain unmonetized and are thus not reflected in the table. Climate disbenefits are estimated at a real discount rate of 3 percent. The unmonetized effects also include disbenefits resulting from the secondary impact of an increase in NO_2, SO_2 and CO emissions. Please see Section 4.6 of the RIA for more discussion of the climate disbenefits.

[c] Climate disbenefits are based on changes (increases) in CO_2 emissions and are calculated using four different estimates of the social cost of carbon ($SC–CO_2$) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). For the presentational purposes of this table, we show the disbenefits associated with the average $SC–CO_2$ at a 3 percent discount rate, but the Agency does not have a single central $SC–CO_2$ point estimate. We emphasize the importance and value of considering the disbenefits calculated using all four $SC–CO_2$ estimates; the additional disbenefit estimates range from PV (EAV) $0.78 million ($0.08 million) to $13 million ($1.1 million) from 2026–2040 for the proposed amendments. Please see Table 4–7 for the full range of $SC–CO_2$ estimates. As discussed in Chapter 4 of the RIA, a consideration of climate disbenefits calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts.

[d] Net compliance costs are the rulemaking costs minus the value of recovered product. A negative net compliance costs occurs when the value of the recovered product exceeds the compliance costs.

TABLE 4—SHORT-TERM AND LONG-TERM CUMULATIVE MONETIZED BENEFITS, COSTS, NET BENEFITS, AND EMISSIONS REDUCTIONS OF THE PROPOSED RULEMAKINGS, 2026 THROUGH 2040

[Dollar estimates in millions of 2019 dollars] [a]

	3 Percent discount rate		7 Percent discount rate	
	PV	EAV	PV	EAV
Benefits [b]	$220(ST) and $1,800(LT)	$19(ST) and $150(LT)	$130(ST) and $1,100(LT)	$15(ST) and $120(LT).
Climate Disbenefits (3%) [c]	$32	$2.7	$32	$2.7.
Net Compliance Costs [d]	−$38	−$2.4	−$22	−$2.7.
Compliance Costs	$220	$18	$150	$17.
Value of Product Recovery	$250	$20	$170	$19.
Net Benefits	$230(ST) and $1,800(LT)	$19(ST) and $150(LT)	$120(ST) and $1,090(LT)	$15(ST) and $120(LT).
Emissions Reductions (short tons)	2026–2040 Total.			
VOC	730,000.			
HAP	37,000.			
Secondary Emissions Increases (short tons)	2026–2040 Total.			
CO_2	560,000.			
NO_2	340.			
SO_2	46.			
CO	1,300.			
Non-monetized Impacts in this Table	HAP benefits from reducing 37,000 short tons of HAP from 2026–2040, VOC benefits from reductions outside of the ozone season (October–April). Health and climate disbenefits from increasing NO_2 emissions by 340 short tons, SO_2 by 42 short tons, and CO by 1,300 short tons from 2026–2040. Visibility benefits. Reduced vegetation effects.			

[a] Values rounded to two significant figures. Totals may not appear to add correctly due to rounding. Short tons are standard English tons (2,000 pounds).

[b] Monetized benefits include ozone related health benefits associated with reductions in VOC emissions. The health benefits are associated with several point estimates and are presented at real discount rates of 3 and 7 percent for both short-(ST) and long-term (LT) benefits. The two benefits estimates are separated by the word ''and'' to signify that they are two separate estimates. The estimates do not represent lower- and upper-bound estimates and should not be summed. Benefits from HAP reductions and VOC reductions outside of the ozone season remain unmonetized and are thus not reflected in the table. Climate disbenefits are estimated at a real discount rate of 3 percent. The unmonetized effects also include disbenefits resulting from the secondary impact of an increase in NO_2, SO_2 and CO emissions. Please see Section 4.6 of the RIA for more discussion of the climate disbenefits.

[c] Climate disbenefits are based on changes (increases) in CO_2 emissions and are calculated using four different estimates of the social cost of carbon ($SC–CO_2$) (model average at 2.5 percent, 3 percent, and 5 percent discount rates; 95th percentile at 3 percent discount rate). For the presentational purposes of this table, we show the disbenefits associated with the average $SC–CO_2$ at a 3 percent discount rate, but the Agency does not have a single central $SC–CO_2$ point estimate. We emphasize the importance and value of considering the disbenefits calculated using all four $SC–CO_2$ estimates; the additional disbenefit estimates range from PV (EAV) $6.2 million ($0.6 million) to $97 million ($8.1 million) from 2026–2040 for the proposed amendments. Please see Table 4–7 of the RIA for the full range of $SC–CO_2$ estimates. As discussed in Chapter 4 of the RIA, a consideration of climate disbenefits calculated using discount rates below 3 percent, including 2 percent and lower, is also warranted when discounting intergenerational impacts.

[d] Net compliance costs are the rulemaking costs minus the value of recovered product. A negative net compliance costs occurs when the value of the recovered product exceeds the compliance costs.

B. Does this action apply to me?

The source categories that are the subject of this proposal are Gasoline Distribution regulated under 40 CFR part 63, subparts R and BBBBBB and Petroleum Transportation and Marketing regulated under 40 CFR part 60, subpart XX. The North American Industry Classification System (NAICS) codes for the Gasoline Distribution industry are 324110, 493190, 486910, and 424710. This list of NAICS codes is not intended to be exhaustive, but rather provides a guide for readers regarding the entities that this proposed action is likely to affect. The proposed standards, once promulgated, will be directly applicable to the affected sources. Federal, state, local, and tribal government entities would not be affected by this proposed action.

As defined in the *Initial List of Categories of Sources Under Section 112(c)(1) of the Clean Air Act Amendments of 1990* (see 57 FR 31576, July 16, 1992) and *Documentation for Developing the Initial Source Category List, Final Report* (see EPA–450/3–91–030, July 1992), the Gasoline Distribution (Stage 1) source category is any facility engaged in ''the storage and transfer facilities associated with the movement of gasoline. This category includes, but is not limited to, the gasoline vapor emissions associated with the loading of transport trucks or rail cars, storage tank emissions, and equipment leaks from leaking pumps, valves, and connections at bulk terminals, bulk plants, and pipeline facilities.'' Subsequently, on July 19, 1999, we added this category to the list of area source categories for regulation under a **Federal Register** publication for the Integrated Urban Air Toxics Strategy (64 FR 38706). The Gasoline Distribution (Stage 1) source category also includes storage tank filling operations that occur at public and private gasoline dispensing facilities (*e.g.,* service stations and convenience stores). Gasoline dispensing facilities are regulated under 40 CFR part 63, subpart CCCCCC. The EPA did not review the standards for gasoline dispensing facilities.

The EPA Priority List (40 CFR 60.16, 44 FR 49222, August 21, 1979) included Petroleum Transportation and Marketing as a source category for which standards of performance were to be promulgated under CAA section 111. The New Source Performance Standards for this source category applies to the total of all the loading racks at a bulk gasoline terminal that deliver liquid product into gasoline tank trucks. A bulk gasoline terminal is defined as any gasoline facility which receives gasoline

by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this action is available on the internet. Following signature by the EPA Administrator, the EPA will post a copy of this proposed action at *https://www.epa.gov/gasoline-distribution-mact-and-gact-national-emission-standards.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the proposal and key technical documents at this same website.

A redline strikeout version of each standard showing the edits that would be necessary to incorporate the changes to 40 CFR part 60, subparts XX and XXa and Part 63, subparts R and BBBBBB proposed in this action is available in the docket (Docket ID No. EPA–HQ–OAR–2020–0371). Following signature by the EPA Administrator, the EPA will also post a copy of these documents to *https://www.epa.gov/stationary-sources-air-pollution/gasoline-distribution-mact-and-gact-national-emission-standards.*

II. Background

A. What is the statutory authority for this action?

1. National Emissions Standards for Hazardous Air Pollutants (NESHAP)

The statutory authority for this action is provided by sections 112 and 301 of the CAA, as amended (42 U.S.C. 7401 *et seq.*). Section 112 of the CAA establishes a two-stage regulatory process to develop standards for emissions of hazardous air pollutants (HAP) from stationary sources. Generally, the first stage involves establishing technology-based standards and the second stage involves evaluating those standards that are based on MACT to determine whether additional standards are needed to address any remaining risk associated with HAP emissions. This second stage is commonly referred to as the ''residual risk review.'' In addition to the residual risk review, the CAA also requires the EPA to review standards set under CAA section 112 every 8 years and revise the standards as necessary taking into account any ''developments in practices, processes, or control technologies.'' This review is commonly referred to as the ''technology review,'' and is the subject of this proposal. The discussion that follows identifies the most relevant statutory sections and briefly explains the contours of the methodology used to implement these statutory requirements.

In the first stage of the CAA section 112 standard setting process, the EPA promulgates technology-based standards under CAA section 112(d) for categories of sources identified as emitting one or more of the HAP listed in CAA section 112(b). Sources of HAP emissions are either major sources or area sources, and CAA section 112 establishes different requirements for major source standards and area source standards. ''Major sources'' are those that emit or have the potential to emit 10 tons per year (tpy) or more of a single HAP or 25 tpy or more of any combination of HAP. All other sources are ''area sources.'' For major sources, CAA section 112(d)(2) provides that the technology-based NESHAP must reflect the maximum degree of emission reductions of HAP achievable (after considering cost, energy requirements, and nonair quality health and environmental impacts). These standards are commonly referred to as MACT standards. CAA section 112(d)(3) also establishes a minimum control level for MACT standards, known as the MACT ''floor.'' In certain instances, as provided in CAA section 112(h), the EPA may set work practice standards in lieu of numerical emission standards. The EPA must also consider control options that are more stringent than the floor. Standards more stringent than the floor are commonly referred to as beyond-the-floor standards. For categories of major sources and any area source categories subject to MACT standards, the second stage in standard-setting focuses on identifying and addressing any remaining (*i.e.,* ''residual'') risk pursuant to CAA section 112(f) and concurrently conducting a technology review pursuant to CAA section 112(d)(6). The EPA set MACT standards for the Gasoline Distribution major source category in 1994 and conducted the residual risk and technology review in 2006.

CAA section 112(d)(6) requires the EPA to review standards promulgated under CAA section 112 and revise them ''as necessary (taking into account developments in practices, processes, and control technologies)'' no less often than every 8 years following promulgation of those standards. This is referred to as a ''technology review'' and is required for all standards established under CAA section 112(d) including GACT standards that apply to area sources.[1] In conducting this review, the EPA is not required to recalculate the MACT floors that were established in earlier rulemakings. *Natural Resources Defense Council (NRDC)* v. *EPA,* 529 F.3d 1077, 1084 (D.C. Cir. 2008). *Association of Battery Recyclers, Inc.* v. *EPA,* 716 F.3d 667 (D.C. Cir. 2013). The EPA may consider cost in deciding whether to revise the standards pursuant to CAA section 112(d)(6). The EPA is required to address regulatory gaps, such as missing MACT standards for listed air toxics known to be emitted from major source categories, and any new MACT standards must be established under CAA sections 112(d)(2) and (3), or, in specific circumstances, CAA sections 112(d)(4) or (h). *Louisiana Environmental Action Network (LEAN)* v. *EPA,* 955 F.3d 1088 (D.C. Cir. 2020). This action constitutes the 112(d)(6) technology review for the Gasoline Distribution major source and area source NESHAP.

Several additional CAA sections are relevant to this action as they specifically address regulation of hazardous air pollutant emissions from area sources. Collectively, CAA sections 112(c)(3), (d)(5), and (k)(3) are the basis of the Area Source Program under the Urban Air Toxics Strategy, which provides the framework for regulation of area sources under CAA section 112.

Section 112(k)(3)(B) of the CAA requires the EPA to identify at least 30 HAP that pose the greatest potential health threat in urban areas with a primary goal of achieving a 75-percent reduction in cancer incidence attributable to HAP emitted from stationary sources. As discussed in the Integrated Urban Air Toxics Strategy (64 FR 38706, 38715, July 19, 1999), the EPA identified 30 HAP emitted from area sources that pose the greatest potential health threat in urban areas, and these HAP are commonly referred to as the ''30 urban HAP.''

Section 112(c)(3), in turn, requires the EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 urban HAP are subject to regulation. The EPA implemented these requirements through the Integrated Urban Air Toxics Strategy by identifying and setting standards for categories of area sources including the Gasoline Distribution source category that is addressed in this action.

CAA section 112(d)(5) provides that for area source categories, in lieu of setting MACT standards (which are

[1] For categories of area sources subject to GACT standards, CAA sections 112(d)(5) and (f)(5) provide that the CAA section 112(f)(2) residual risk review is not required. However, the CAA section 112(d)(6) technology review is required for such categories.

generally required for major source categories), the EPA may elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technology or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.'' In developing such standards, the EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for each area source category. Consistent with the legislative history, we can consider costs and economic impacts in determining what constitutes GACT.

GACT standards were set for the Gasoline Distribution area source category in 2008. As noted above, this proposed action presents the required CAA 112(d)(6) technology review for that source category.

2. NSPS

The statutory authority for this action is provided by section 111 of the CAA, which governs the establishment of standards of performance for stationary sources. Section 111(b)(1)(A) of the CAA requires the EPA Administrator to list categories of stationary sources that in the Administrator's judgement cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The EPA must then issue performance standards for new (and modified or reconstructed) sources in each source category pursuant to CAA section 111(b)(1)(B). These standards are referred to as new source performance standards, or NSPS. The EPA has the authority under CAA section 111(b) to define the scope of the source categories, determine the pollutants for which standards should be developed, set the emission level of the standards, and distinguish among classes, type and sizes within categories in establishing the standards.

Section 111(b)(1)(B) of the CAA requires the EPA to ''at least every 8 years review and, if appropriate, revise'' new source performance standards. Section 111(a)(1) of the CAA provides that performance standards are to ''reflect the degree of emission limitation achievable through the application of the best system of emission reduction which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' We refer to this level of control as the best system of emission reduction or ''BSER.'' The term ''standard of performance'' in CAA 111(a)(1) makes clear that the EPA is to determine both the BSER for the regulated sources in the source category and the degree of emission limitation achievable through application of the BSER. The EPA must then, under CAA section 111(b)(1)(B), promulgate standards of performance for new sources that reflect that level of stringency. Section 111(b)(5) of the CAA precludes the EPA from prescribing a particular technological system that must be used to comply with a standard of performance. Rather, sources can select any measure or combination of measures that will achieve the standard. Pursuant to the definition of new source in CAA 111(a), standards of performance apply to facilities that begin construction, reconstruction, or modification after the date of publication of such proposed standards in the **Federal Register**.

The EPA Priority List (44 FR 49222, August 21, 1979) included Petroleum Transportation and Marketing as a source category for which standards of performance were to be promulgated under CAA section 111. The NSPS for this source category was promulgated on August 18, 1983 (48 FR 37578) and applies to the total of all the loading racks at a bulk gasoline terminal that deliver liquid product into gasoline tank trucks. This proposed action presents the required CAA 111(b)(1)(B) review for the bulk gasoline terminals NSPS.

B. What are the source categories and how do the current standards regulate emissions?

1. NESHAP Subpart R

The sources affected by the current major source NESHAP for the Gasoline Distribution source category subpart R are bulk gasoline terminals and pipeline breakout stations. A bulk gasoline terminal is defined at 40 CFR 63.421 as ''any gasoline facility which receives gasoline by pipeline, ship, or barge, and has a gasoline throughput greater than 75,700 liters per day.'' [2] A pipeline breakout station is defined as ''a facility along a pipeline containing storage vessels used to relieve surges or receive and store gasoline from the pipeline for reinjection and continued transportation by pipeline or to other facilities.'' The HAP emitted by Gasoline Distribution sources are benzene, hexane, toluene, xylene, ethylbenzene, 2,2,4-trimethylpentane, cumene, and napthalene. The emission standards are the same for new sources and existing sources. Emissions from loading racks are controlled by vapor collection and processing systems meeting 10 milligrams (mg) total organic carbon (TOC) per liter (L) of gasoline loaded and the cargo tanks being loaded must be certified to be vapor tight. Emissions from storage vessels with a design capacity greater than or equal to 75 cubic meters are controlled by equipment designed to capture and control emissions. Equipment leaks are required to be repaired upon detection using audio, visual, or olfactory (AVO) methods.

2. NESHAP Subpart BBBBBB

The sources affected by the current area source NESHAP for the Gasoline Distribution source category subpart BBBBBB are bulk gasoline terminals, bulk gasoline plants, and pipeline facilities. A bulk gasoline terminal is defined at 40 CFR 63.11100 as ''any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank and has a gasoline throughput of 20,000 gallons per day or greater.'' A bulk gasoline plant is defined as ''any gasoline storage and distribution facility that receives gasoline by pipeline, ship or barge, or cargo tank, and subsequently loads the gasoline into gasoline cargo tanks for transport to gasoline dispensing facilities, and has a gasoline throughput of less than 20,000 gallons per day.'' A pipeline breakout station is defined as ''a facility along a pipeline containing storage vessels used to relieve surges or receive and store gasoline from the pipeline for re-injection and continued transportation by pipeline or to other facilities.'' A pipeline pumping station is defined as ''a facility along a pipeline containing pumps to maintain the desired pressure and flow of product through the pipeline, and not containing gasoline storage tanks other than surge control tanks.'' The HAP emitted by Gasoline Distribution sources are benzene, hexane, toluene, xylene, ethylbenzene, 2,24-trimethylpentane, cumene, and napthalene. The emission standards are the same for new sources and existing sources. Emissions from loading racks at large bulk gasoline terminals (those with gasoline throughput of 250,000 gallons per day or greater) are controlled by vapor collection and processing systems meeting 80 mg TOC per L of gasoline loaded (mg/L) and the cargo tanks being loaded must be certified to be vapor tight. Small bulk gasoline terminals and bulk gasoline plants must use submerged filling when loading gasoline. Emissions from storage vessels with a design capacity greater than or equal to 75 cubic meters are required to

[2] 75,700 liters per day is equal to 20,000 gallons per day.

be controlled by equipment designed to capture and control emissions. Equipment leaks are required to be repaired upon detection using AVO methods.

3. NSPS Subpart XX

The sources affected by the current NSPS for the Bulk Gasoline Terminals source category subpart XX are bulk gasoline terminals that commenced construction or modification after December 17, 1980. NSPS subpart XX at 40 CFR 60.501 defines bulk gasoline terminals as ''any gasoline facility which receives gasoline by pipeline, ship or barge, and has a gasoline throughput greater than 75,700 liters per day.'' Emissions from loading racks at bulk gasoline terminals are controlled by vapor collection and processing systems meeting 35 mg/L and the cargo tanks being loaded must be certified to be vapor tight.[3] Equipment leaks are required to be repaired upon detection using AVO methods. Emissions from storage vessels are regulated under a separate NSPS (40 CFR part 60, subpart K, Ka, or Kb).

C. What data collection activities were conducted to support this action?

The EPA used several data sources to determine the facilities that are subject to the Gasoline Distribution NESHAP and the Bulk Gasoline Terminals NSPS. We identified facilities in the 2017 National Emissions Inventory (NEI) and the Toxics Release Inventory system having a primary facility NAICS code beginning with 4247, Petroleum and Petroleum Products Merchant Wholesalers. We also used information from the original Gasoline Distribution NESHAP, Bulk Terminal list of petrochemical storage facilities from the Internal Revenue Service, the Office of Enforcement and Compliance Assurance's Enforcement and Compliance History Online tool (*https://echo.epa.gov*), and the Energy Information Administration. To inform our reviews for these emission sources, we reviewed the EPA's Reasonably Available Control Technology (RACT)/Best Available Control Technology (BACT)/Lowest Achievable Emission Rate (LAER) Clearinghouse (RBLC) and regulatory development efforts for similar sources published after the Gasoline Distribution NESHAP and Bulk Terminals NSPS were developed. The EPA also reviewed air permits to determine facilities subject to the Gasoline Distribution NESHAP and Bulk Gasoline Terminals NSPS.

We met with industry representatives from Marathon, the American Petroleum Institute, the International Liquid Terminals Association, and the International Fuel Terminal Operators Association to collect data and discuss industry practices. We also met with control device suppliers to obtain information on the cost and design of control devices. We met with representatives of the U.S. Department of Transportation (DOT) to discuss cargo tank requirements.

D. What other relevant background information and data are available?

We relied on certain technical reports and memoranda that the EPA developed for flares used as air pollution control devices in the Petroleum Refinery Sector residual risk and technology review and NSPS rulemaking (80 FR 75178, December 1, 2015). The Petroleum Refinery sector docket is at Docket ID No. EPA–HQ–OAR–2010–0682. For completeness of the rulemaking record for this action and for ease of reference in finding these items in the publicly available petroleum refinery sector rulemaking docket, we are including the most relevant technical support documents in the docket for this proposed action (Docket ID No. EPA–HQ–OAR–2020–0371) and including a list of the of all documents used to inform the original flare provision in the Petroleum Refinery Sector residual risk and technology review and NSPS rulemaking in Attachment 2 of the memorandum titled *Monitoring Options and Costs for Gasoline Distribution Facilities,* which is available in the docket for this rulemaking.

Additional information related to the promulgation and subsequent amendments of the NSPS and NESHAPs is available in Docket ID Nos. A–79–52, A–92–38, EPA–HQ–OAR–2002–0029, EPA–HQ–OAR–2004–0019, EPA–HQ–OAR–2004–0164, and EPA–HQ–OAR–2006–0406.

E. How does the EPA perform the NESHAP technology review and NSPS review?

1. NESHAP Technology Review

Our technology review primarily focuses on the identification and evaluation of developments in practices, processes, and control technologies that have occurred since the NESHAPs were promulgated. Where we identify such developments, we analyze their technical feasibility, estimated costs, energy implications, and nonair environmental impacts. We also consider the emission reductions associated with applying each development. This analysis informs our decision of whether it is ''necessary'' to revise the CAA section 112 emissions standards. In addition, we consider the appropriateness of applying controls to new sources versus retrofitting existing sources. For this exercise, we consider any of the following to be a ''development:''

- Any add-on control technology or other equipment that was not identified and considered during development of the original MACT and GACT standards;
- Any improvements in add-on control technology or other equipment (that were identified and considered during development of the original MACT and GACT standards) that could result in additional emissions reduction;
- Any work practice or operational procedure that was not identified or considered during development of the original MACT and GACT standards;
- Any process change or pollution prevention alternative that could be broadly applied to the industry and that was not identified or considered during development of the original MACT and GACT standards; and
- Any significant changes in the cost (including cost effectiveness) of applying controls (including controls the EPA considered during the development of the original MACT and GACT standards).

In addition to reviewing the practices, processes, and control technologies that were considered at the time we originally developed each NESHAP, we review a variety of data sources in our investigation of potential practices, processes, or controls to consider. We also review each NESHAP and the available data to determine if there are any unregulated emissions of HAP within the source categories, and evaluate these data for use in developing new emission standards. When reviewing MACT standards, we also address regulatory gaps, such as missing standards for listed air toxics known to be emitted from the source category. See sections II.C and II.D of this preamble for information on the specific data sources that were reviewed as part of the technology review.

2. NSPS Review

As noted in the section II.A.2 of this document, CAA section 111 requires the EPA, at least every 8 years to review and, if appropriate revise the standards of performance applicable to new, modified, and reconstructed sources. If the EPA revises the standards of

[3] Allowance is provided to meet 80 mg/L for affected facilities with an ''existing vapor processing system.''

performance, they must reflect the degree of emission limitation achievable through the application of the BSER taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements. CAA section 111(a)(1).

In reviewing an NSPS to determine whether it is ''appropriate'' to revise the standards of performance, the EPA evaluates the statutory factors including the following information:

- Expected growth for the source category, including how many new facilities, reconstructions, and modifications may trigger NSPS in the future.
- Pollution control measures, including advances in control technologies, process operations, design or efficiency improvements, or other systems of emission reduction, that are ''adequately demonstrated'' in the regulated industry.
- Available information from the implementation and enforcement of current requirements indicating that emission limitations and percent reductions beyond those required by the current standards are achieved in practice.
- Costs (including capital and annual costs) associated with implementation of the available pollution control measures.
- The amount of emission reductions achievable through application of such pollution control measures.
- Any nonair quality health and environmental impact and energy requirements associated with those control measures.

In evaluating whether the cost of a particular system of emission reduction is reasonable, the EPA considers various costs associated with the particular air pollution control measure or a level of control, including capital costs and operating costs, and the emission reductions that the control measure or particular level of control can achieve. The agency considers these costs in the context of the industry's overall capital expenditures and revenues. The agency also considers cost-effectiveness analysis as a useful metric, and a means of evaluating whether a given control achieves emission reduction at a reasonable cost. A cost-effectiveness analysis allows comparisons of relative costs and outcomes (effects) of two or more options. In general, cost-effectiveness is a measure of the outcomes produced by resources spent. In the context of air pollution control options, cost-effectiveness typically refers to the annualized cost of implementing an air pollution control option divided by the amount of pollutant reductions realized annually.

After the EPA evaluates the factors described above, the EPA then compares the various systems of emission reductions and determines which system is ''best''. The EPA then establishes a standard of performance that reflects the degree of emission limitation achievable through the implementation of the BSER. In doing this analysis, the EPA can determine whether subcategorization is appropriate based on classes, types, and sizes of sources, and may identify a different BSER and establish different performance standards for each subcategory. The result of the analysis and BSER determination leads to standards of performance that apply to facilities that begin construction, reconstruction, or modification after the date of publication of the proposed standards in the **Federal Register**. Because the new source performance standards reflect the best system of emission reduction under conditions of proper operation and maintenance, in doing its review, the EPA also evaluates and determines the proper testing, monitoring, recordkeeping and reporting requirements needed to ensure compliance with the emission standards.

See section II.C of this preamble for information on the specific data sources that were reviewed as part of this action.

III. Proposed Rule Summary and Rationale

A. What are the results and proposed decisions based on our technology reviews and NSPS review, and what is the rationale for those decisions?

We evaluated developments in practices, processes, and control technologies for loading operations, storage vessels, and equipment leaks for NESHAP subpart R and NESHAP subpart BBBBBB. For the NSPS XX, we evaluated BSER for loading operations and equipment leaks. We analyzed costs and impacts for each emission source (*e.g.,* loading operations) by each subpart. We also included product recovery in the cost calculation, where appropriate. We based the product recovery on the average pre-tax retail price of regular conventional gasoline in 2019 at a value of gasoline recovered of $1.50 per gallon.[4] This yielded a product recovery of $480 per ton of VOC. For NSPS, we determined cost-effectiveness, cost per ton of emissions reduced, on a VOC basis. For NESHAP, we determined cost-effectiveness on a HAP basis from the VOC emissions. In general, gasoline (liquid) is approximately 20 weight percent HAP, but gasoline vapors are only 3 to 4 weight percent HAP. We estimated that loading operation VOC emissions were 4 weight percent HAP, storage vessel VOC emissions were 5 weight percent HAP, and equipment leak VOC emissions were 10 weight percent HAP. Although we considered the options cumulatively, we also calculated the incremental cost effectiveness, which allowed us to assess the impacts of the incremental change between the options under consideration.

1. Standards for Loading Racks

We evaluated the control efficiency and costs of common control systems used for loading racks, including thermal/vapor combustion units (VCUs), carbon adsorption vapor recovery units (VRUs), flares, and refrigerated condensers. We assessed the loading rates to the control systems based on both splash loading and submerged loading for 5 different ''model plant'' gasoline throughputs. We also assessed cost for vapor balancing controls. Our assessment of control systems is summarized in the memorandum ''Control Options for Loading Operations at Gasoline Distribution Facilities'' included in EPA Docket No. EPA–HQ–OAR–2020–0371.

We did not identify any new control technologies, but we did identify some state and local permits that required emission limits as low as 1 mg/L (less than the most stringent federal limit of 10 mg/L). We therefore considered the costs for upgrades needed to retrofit a current control system to achieve more stringent emission limits for each of the current rules. The emission limits assessed included 80 mg/L, 35 mg/L, 10 mg/L, and 1 mg/L, depending on the emission limits for each subpart, which are discussed in detail in sections III.A.1.a–c. We also assessed alternative means of expressing the loading rack emissions limit. The emissions limit expressed in terms of mg TOC/L of gasoline loaded is difficult to directly monitor continuously as discussed below. As such, the emission limit is generally assessed via an initial

[4] The VOC recovery credit was calculated based on the average retail price of regular conventional gasoline in 2019, which was $2.50/gallon, and that 60 to 70 percent of retail price is for taxes and distribution/marketing costs (*https://www.eia.gov/petroleum/gasdiesel/*; EIA, 2021). Therefore, we estimated the value of gasoline recovered to be $1.50/gallon ($2.50 × 0.60). Using a density of gasoline of 6.25 lb/gallon, this yields a VOC credit of $480/ton [($1.50/6.25) × 2000]. The average refiner's wholesale spot price for all gasoline types in 2019 was $1.85/gallon (*https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=EMA_EPM0_PBR_NUS_DPG&f=M;* EIA, 2021).

performance test, with operating limits established as means to ensure continuous compliance. Alternative means to express the emission limit may make the emission limit more amenable to direct monitoring.

a. NESHAP Subpart R

We identified one development for loading racks which is an emission limit of 1 mg/L using the same types of control that we expect are used to meet the current major source emission limit of 10 mg/L of gasoline loaded. Therefore, we assessed maintaining the 10 mg/L emission limit or reducing it to 1 mg/L. For the major source NESHAP subpart R impacts analysis, we estimated that most facilities used VRUs and that approximately 75 percent of the facilities could comply with the 1 mg/L emission limit by modifying their operating characteristics (cycle times) and 25 percent would need to upgrade their control system.

Table 5 of this document summarizes the resulting impacts for the control option considered for 210 major source (NESHAP subpart R) facilities. Based on the costs associated with further HAP emission reductions, we determined it is not cost-effective to lower the 10 mg/L standard, since the cost effectiveness of the option is over $100,000 per ton of HAP reduced—a level that is over an order of magnitude higher than we have considered cost-effective in previous rulemakings to limit organic HAP. Accordingly, we are not proposing any changes to the current emission limit for loading operations for the NESHAP subpart R. Our assessment of control options is summarized in the memorandum ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

As noted in section V of this preamble, the EPA requests public comment on all aspects of this proposed rule, including our evaluation of the costs and efficacy of control options for loading operations under NESHAP subpart R. Among other issues, EPA requests comment on whether we have accurately assessed the costs, pollution reduction benefits, and cost-effectiveness of applying a 1 mg/L emission limit to major sources subject to this NESHAP; experience from implementing state regulations or local ordinances for these sources that could inform this technology review; and whether there are other factors that EPA should consider that would support a revision of the current NESHAP subpart R. For example, we note that there are at least 5.9 million people located within 5 km of these sources (see Table 18 of this document), and the EPA is concerned that these communities may already be overburdened by air pollution from multiple sources. Information on the contributions that HAPs from these sources make to overall pollution burdens in neighboring communities may be useful in determining whether a more stringent standard is warranted.

TABLE 5—CONTROL OPTION IMPACTS FOR LOADING OPERATIONS FOR NESHAP SUBPART R

Emission limit	VOC emission reduction [a] (tpy)	TCI [b] ($)	AOC [c] ($/yr)	TAC [d] w/o product recovery ($/yr)	TAC [d] w/product recovery ($/yr)	CE [e] ($/ton VOC)	CE [e] ($/ton HAP) [f]
1 mg/L	1,686	34,160,000	5,764,000	8,677,000	7,868,000	4,667	116,700

[a] Compared to baseline (10 mg/L) emissions of 1,873 tpy.
[b] Total capital investment (TCI).
[c] Annualized operating costs (AOC).
[d] Total annualized cost (TAC) considering annual operating costs and annualized cost of capital.
[e] Cost effectiveness (CE) as compared to baseline (10 mg/L).
[f] HAP content of gasoline vapors assumed to be 4% of VOC.

In our review of the developments in practices, processes, or control technologies, we noted that there were inconsistencies regarding continuous parameter monitoring requirements associated with complying with the loading standard as expressed in terms of 10 mg/L of gasoline loaded. For example, most VRUs have a continuous TOC concentration monitor, but do not have flow meters needed to convert the concentration limit to a mass emission rate that can be used to calculate the emissions in terms of mg/L. State and local permitting agencies set continuous concentration limits based on performance tests, but also factor in more variability to account for different loading rates and operational characteristics of the VRU. While we noted some variability in exhaust flow rates with product loading rates, the exhaust flow rate is well correlated with the product loading rates, such that a direct concentration limit can be established that is equivalent to the 10 mg/L standard. We determined that the concentration limit for VRU has several advantages to the 10 mg/L emission limit. First, a concentration limit could be directly and continuously monitored. In this case, the TOC monitor would be used as a continuous emission monitoring system (CEMS) and exceedances of the concentration limit would be a violation of the emission limit. When the emission limit is expressed in mg/L, the TOC monitor is used as a continuous parameter monitoring system (CPMS) and exceedance of the concentration limit is a deviation of the operating limit. Thus, the concentration-based standard provides improved enforceability of the emission limit. Second, providing a concentration limit directly in the rule reduces the variability in the way the operating limits are established in different states and localities. Thus, it provides consistent implementation of the federal standard when considering continuous compliance requirements. The potential disadvantage of a concentration limit is the ability to draw in ambient air to dilute the exhaust gas concentration.

Upon careful consideration of the potential options to improve continuous compliance monitoring requirements, we are proposing to express the emission limit for VRUs in terms of a concentration limit of 5,500 parts per million by volume (ppmv) TOC as propane on a three-hour rolling average. As noted previously, this provides a more enforceable and consistent continuous compliance requirement that is directly related to the emissions limit. To prevent dilution, we are proposing that only vacuum breaker valves can be used to introduce ambient air into the VRU control system.

Because of the need for combustion air and products of combustion, this concentration limit is not directly applicable for VCUs. We considered developing an equivalent concentration limit for VCUs, but this would require

both a TOC monitor and an oxygen monitor, to correct the concentration limit to 0 percent excess oxygen. This standard becomes problematic at low TOC loading rates, where the oxygen concentration may approach that of the ambient air. We consider that periodic performance test along with continuous monitoring of combustion zone temperature provides adequate assurance that the VCU is operating in a manner consistent with the TOC emissions limit. NESHAP subpart R already includes requirements for using a temperature operating limit to demonstrate continuous compliance with the 10 mg/L emission limit; however, these requirements do not provide adequate instructions on how to establish the operating limit, particularly with respect to the averaging time. For example, the performance test requires readings be taken every 5 minutes over a 6-hour test period, but there are no instructions on how to develop the temperature operating limit from these readings. At times, the 5-minute temperature readings can fluctuate significantly, particularly during periods of low loading rates. Establishing the operating limit based on the lowest 5-minute reading during a time of little or no loading of product into gasoline cargo tanks can lead to erroneously low temperature operating limits that do not ensure adequate combustion efficiencies. We considered establishing a minimum operating temperature, such as 1,400 °F or 1,500 °F as required for VCU in general standards for closed vent system and control devices [see 40 CFR 63.985(b)(1)(i)(B) or 40 CFR 60.482–10a(c)]. However, we recognized that there is a wide variety of VCU designs and that a single set temperature operating limit may not be appropriate for all applications. Therefore, we elected to maintain that the temperature operating limit be set during the performance test, but we are proposing additional instructions on how to develop and assess the temperature operating limit. First, we are proposing the temperature operating limit be established and evaluated on a 3-hour rolling average basis. We are proposing that, for each 5-minute block of the performance test, the combustion (flame) zone must be determined, either via a single temperature reading or an average temperature of all readings during the 5-minute block), and a record of the volume of liquid product loading into gasoline cargo tanks must be kept. We are proposing that hourly average combustion zone temperatures be developed from the 5-minute measurements using only those 5-minute periods when product is loaded into gasoline cargo tanks. From those hourly averages, 3-hour rolling averages are to be determined. During the 6-hour performance test, 4 different 3-hour rolling averages will be determined. We are proposing that the temperature operating limit be established as the lowest of the 3-hour averages. We consider that this approach will establish a temperature operating limit that is indicative of VCU performance while accounting for variability in loading operations. We are proposing that compliance with the operating limit will be determined on a 3-hour rolling average basis following the same procedures used during the performance tests (5-minute measurements used to calculate 1-hour average values considering only 5-minute periods when product was loaded into gasoline cargo tanks).

We also determined that periodic emission testing should be required to help ensure continuous compliance. Currently, facilities conduct a one-time performance test and then monitor operating limits. We are proposing to require on-going performance tests at a minimum frequency of once every 5 years to supplement the parameter monitoring and ensure emission controls continue to operate as demonstrated during the initial performance test. Our assessment of monitoring options is summarized in the memorandum ''Monitoring Options and Costs for Gasoline Distribution Facilities'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

Finally, we expect all or nearly all facilities use submerged loading as they fill product into cargo tanks. However, the NESHAP subpart R does not require submerged filling. The lack of a direct requirement for submerged loading may cause problems for several reasons. First, organic loading rates to the control system when using splash loading are expected to be more than double that of the organic loading rates when using submerged loading. With the preponderance of use of submerged loading, performance tests would almost certainly be conducted when the cargo tanks are loaded via submerged fill. The periodic performance test and operating limits may not be adequate to ensure compliance while splash loading is used. We also note that the 10 mg/L emission limit is essentially equivalent to 98 percent TOC control efficiency when using submerged fill, but requires over 99 percent control efficiency when splash loading is used. Because the flare requirements were specifically developed to ensure a 98 percent flare destruction efficiency, the flare operating limits are not considered adequate to ensure compliance with the 10 mg/L emissions limit when splash loading is used. Therefore, we are proposing to expressly include submerged fill requirements as an integral part of the loading rack standards.

b. NESHAP Subpart BBBBBB

The requirements for loading racks at area source gasoline distribution facilities are dependent on the total throughput capacity of all racks. Large gasoline bulk terminals have loading racks with a combined throughput of 250,000 gallons per day or greater and are required to reduce emissions of TOC to less than or equal to 80 mg/L of gasoline loaded. Small gasoline bulk terminals, which have loading racks with a combined throughput between 20,000 and 250,000 gallons per day, are required to use submerged filling with a submerged fill pipe that is no more than 6 inches from the bottom of the cargo tank. Bulk gasoline plants are facilities with gasoline throughput of 20,000 gallons per day or less and are required to use submerged filling in all gasoline storage tanks with a capacity of greater than 250 gallons and in all cargo tanks.

For large bulk gasoline terminals at area sources (*i.e.,* combined throughput of 250,000 gallons per day or greater), we evaluated control options of either maintaining the current 80 mg/L control option or lowering that limit to either 35 mg/L, 10 mg/L, or 1 mg/L. Table 6 of this document presents the estimated nationwide impacts of these alternative emission limits for 232 large bulk gasoline terminals at area sources. The cost-effectiveness and incremental cost-effectiveness of reducing the area source emission limit for large bulk gasoline terminals to 35 mg/L are $9,700 per ton of HAP emissions reduced, which we determined is cost-effective. The cost-effectiveness and incremental cost effectiveness of reducing the area source emission limit for large bulk gasoline terminals to 10 mg/L are approximately $12,000 and $13,000 per ton of HAP emissions reduced, respectively, which we determined is not cost-effective. Therefore, we are proposing to lower the area source emission limits for loading racks at large bulk gasoline terminals to 35 mg/L.

We note, however, that there are at least 35.7 million people located within 5 km of these sources (see Table 19 of this document), and EPA is concerned that this population has the potential to be overburdened from air pollution from multiple sources. In this case, we have

identified a more stringent standard (*i.e.,* 10 mg/L) that could further reduce HAP emissions exposure in communities near these large bulk terminals. We project that this more stringent standard would impose slightly higher, but not unreasonable, capital and annualized costs on these terminals. EPA seeks comment on whether this more protective standard, although it is less cost effective for these type of HAP emissions controls than we would typically find acceptable, is nevertheless appropriate given the reductions in HAPs that would occur in potentially over-burdened communities surrounding these large bulk terminals. EPA also requests information on the costs, efficacy, and feasibility of control options for loading racks at area source gasoline distribution facilities, and the contributions of these sources to overall pollution burdens in surrounding communities, to inform our consideration of whether a more protective area source standard is warranted. Our assessment of control options is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

As in the major source rule, we are proposing to replace the current mass-based limits with a direct concentration limit for facilities operating VRUs because it provides consistent implementation of the federal standard when considering continuous compliance requirements. The corresponding concentration limit equivalent to a 35 mg/L emission limit is 19,200 ppmv as propane. Therefore, we are proposing to express the emission limit for VRUs in terms of a concentration limit of 19,200 ppmv TOC as propane on a three-hour rolling average. As noted previously, a concentration limit provides a more enforceable and consistent continuous compliance requirement that is directly related to the emissions limit. To prevent dilution, we are proposing that only vacuum breaker valves can be used to introduce ambient air into the VRU control system. Our assessment of monitoring options is summarized in the memorandum ''Monitoring Options and Costs for Gasoline Distribution Facilities'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

Because of the need for combustion air, this concentration limit is not directly applicable for VCUs. We considered developing an equivalent concentration limit for VCUs, but this would require both a TOC monitor and an oxygen monitor, to correct the concentration limit to 0 percent excess oxygen. This standard becomes problematic at low TOC loading rates, where the oxygen concentration may approach that of the ambient air.[5] Because most VCUs used at area source gasoline distribution facilities are enclosed, air-assisted flares, we determined that operating limits, either temperature operating limits (as described for the major sources NESHAP subpart R) or flare operating limits (net combustion zone heating value and air-assist dilution parameter values, as provided in the Petroleum Refinery MACT rule: 40 CFR part 63, subpart CC) are the most appropriate. We anticipate that facilities electing to meet the flare operating limits for their VCU would conduct two-week sampling to assess the variability of heat content while loading gasoline and develop minimum natural gas assist rates as a means of demonstrating continuous compliance. Alternatively, facilities may elect to install a calorimeter to monitor heat content and only add natural gas as needed if the vent gas stream falls below the minimum required heat content. We are proposing to require VCUs at area source facilities to monitor temperature or meet the flare operating limits in 40 CFR part 63, subpart CC.

TABLE 6—CONTROL OPTION IMPACTS FOR LOADING OPERATIONS AT LARGE AREA SOURCE BULK GASOLINE TERMINALS

Emission limit	VOC emission reduction [a] (tpy)	TCI [b] ($1,000)	AOC [c] ($/yr)	TAC [d] w/o product recovery ($/yr)	TAC [d] w/product recovery ($/yr)	CE [e] ($/ton HAP) [f]	ICE [g] ($/ton HAP) [f]
35 mg/L	820	0	385,000	385,000	319,000	9,742	9,742
10 mg/L	2,619	1,878	1,371,000	1,531,000	1,275,000	12,170	13,270
1 mg/L	3,945	68,400	15,560,000	21,400,000	20,990,000	133,000	371,900

[a] Compared to baseline (80 mg/L) emissions of 4,097 tpy.
[b] Total capital investment (TCI).
[c] Annual operating costs (AOC).
[d] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[e] Cost effectiveness (CE) compared to baseline (80 mg/L).
[f] HAP content assumed to be 4% of VOC.
[g] Incremental cost effectiveness (ICE) compared to previous option in table.

Similarly, for small bulk gasoline terminals at area sources (*i.e.,* combined throughput between 20,000 and 250,000 gallons per day), we evaluated control options of maintaining the current submerged loading requirements and potentially adding loading rack emission limits of either 80 mg/L, 35 mg/L, 10 mg/L, or 1 mg/L. Table 7 of this document presents the estimated nationwide impacts of these alternative emission limits for 858 small bulk gasoline terminals at area sources. We evaluated the 80 mg/L emission limit for loading racks, but the cost-effectiveness of this option exceeds $24,000 per ton of HAP emissions reduced. The other options are less cost-effective. Based on this analysis, we are not proposing any changes to the current area source provisions for small bulk gasoline terminals subject to NESHAP subpart BBBBBB.

However, as noted above in the context of large bulk gasoline terminals at area sources, EPA is concerned about the large number of people living within 5 km of these facilities and the potential for these affected populations to be located in communities that already face a significant burden of air pollution from multiple sources. Although we estimate that a standard of 80 mg/L or less would have a cost per ton that is higher than we have traditionally

[5] Some VCU are essentially enclosed flares that do not have a means to reduce air inlet draft at low TOC loading rates.

considered to be acceptable for organic HAP, it is also possible that other cost metrics we have discretion to consider—such as total capital and operating costs—could support the reasonableness of such an emissions limit. EPA therefore seeks comment on whether an emissions limit of 80 mg/L or less would be appropriate in light of these alternative cost metrics and the reductions in HAPs that would occur in potentially over-burdened communities surrounding these small bulk terminals. EPA also requests information on the costs, efficacy, and feasibility of control options for these sources, and the contributions of these sources to overall pollution burdens in surrounding communities, to inform our consideration of whether it is appropriate to establish an emissions limit for loading operations at small area source bulk gasoline terminals. Our assessment of control options is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 7—CONTROL OPTION IMPACTS FOR LOADING OPERATIONS AT SMALL AREA SOURCE BULK GASOLINE TERMINALS

Emission limit	VOC emission reduction [a] (tpy)	TCI [b] ($1,000)	AOC [c] ($/yr)	TAC [d] w/o product recovery ($/yr)	TAC [d] w/product recovery ($/yr)	CE [e] ($/ton HAP) [f]	ICE [g] ($/ton HAP) [f]
80 mg/L	2,015	11,870	1,909,000	2,922,000	1,954,000	24,250	24,250
35 mg/L	2,974	12,370	3,758,000	4,813,000	4,457,000	37,460	65,240
10 mg/L	5,056	38,470	9,579,000	12,860,000	12,260,000	60,600	93,650
1 mg/L	5,789	326,400	43,310,000	71,140,000	70,450,000	304,200	1,984,000

[a] Compared to baseline (submerged loading) emissions of 5,870 tpy.
[b] Total capital investment (TCI).
[c] Annual operating costs (AOC).
[d] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[e] Cost effectiveness (CE) compared to baseline (submerged loading).
[f] HAP content assumed to be 4% of VOC.
[g] Incremental cost effectiveness (ICE) compared to previous option in table.

We expect that storage tanks at bulk gasoline plants typically have fixed roofs. As such, vapor balancing is a potential control option for bulk gasoline plants. In reviewing state and local requirements, we found that a number of state requirements include requirements for vapor balancing at bulk gasoline plants but have a minimum applicability threshold of 4,000 gallons per day. Therefore, we evaluated the costs of requiring vapor balancing for a variety of differently-sized bulk gasoline plants. Vapor balancing is projected to result in a net cost savings relative to submerged loading (when considering the value of gasoline vapors not emitted) for bulk gasoline plants with throughput of about 8,000 to 10,000 gallons per day or more. The cost effectiveness of vapor balancing begins to diminish at smaller bulk gasoline plants, exceeding $10,000 per ton of HAP reduced at bulk plants with throughputs less than 4,000 gallon per day. Considering the state rules and diminishing cost effectiveness for small bulk gasoline plants, we are proposing to require vapor balancing both for loading storage vessels and for loading cargo tanks, for bulk gasoline plants with maximum design capacity throughput of 4,000 gallons per day or more. Bulk gasoline plants with capacities below 4,000 gallons per day would retain the requirement to use submerge fill.

We also considered including loading rack emission limits of either 80 mg/L, 35 mg/L, 10 mg/L, or 1 mg/L. Table 8 of this document presents the estimated nationwide impacts of the alternative emission limits considered for 5,913 bulk gasoline plants. Note that vapor balancing is projected to achieve emission reductions similar to that achieved by an emission limit of 35 mg/L, but at much lower costs. Each loading rack emission limit option at bulk gasoline plants had a cost-effectiveness exceeding $275,000 per ton of HAP emissions reduced. Based on this analysis, we are not proposing to add an emission limit for bulk gasoline plants subject to NESHAP subpart BBBBBB. Our assessment of control options is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 8—CONTROL OPTION IMPACTS FOR LOADING OPERATIONS AT AREA SOURCE BULK PLANTS

Emission limit	VOC emission reduction [a] (tpy)	TCI [b] ($1,000)	AOC [c] ($1,000/yr)	TAC [d] w/o product recovery ($/yr)	TAC [d] w/product recovery ($/yr)	CE [e] ($/ton HAP) [f]	ICE [g] ($/ton HAP) [f]
Vapor Balancing	23,739	42,310	2,116	7,140	-4,255	-4,481	-4,481
80 mg/L	20,215	455,800	247,900	286,800	277,100	342,600	[h] 342,600
35 mg/L	23,100	455,800	247,900	286,800	275,700	298,400	-12,000
10 mg/L	24,969	455,800	247,900	286,800	274,800	275,100	-12,000
1 mg/L	25,627	1,367,000	297,500	414,100	401,800	392,000	4,824,000

[a] Compared to baseline (uncontrolled) emissions of 25,700 tpy.
[b] Total capital investment (TCI).
[c] Annual operating costs (AOC).
[d] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[e] Cost effectiveness (CE) compared to baseline (uncontrolled).
[f] HAP content assumed to be 4% of VOC.
[g] Incremental cost effectiveness (ICE) compared to previous option in table.
[h] ICE compared to submerged fill rather than previous option of vapor balancing.

c. NSPS Subpart XXa

The current NSPS (40 CFR part 60, subpart XX [6]) that applies to bulk gasoline terminals (gasoline throughput exceeding 20,000 gallons per day) has a loading rack emission limit of 35 mg/L of gasoline loaded.[7] We are proposing to add a new subpart at part 60, subpart XXa that would be applicable to bulk gasoline terminals that commenced construction, modification or reconstruction after June 10, 2022.

In 40 CFR 60.501''gasoline tank'' is defined as ''. . . a delivery tank truck. . . .'' The major and area source NESHAP definition of ''gasoline cargo tank'' includes loading of tank trucks and railcars. In NSPS subpart XXa, we are proposing nomenclature revisions to generalize the loading requirements similar to the NESHAP definitions which apply to a ''gasoline cargo tank'' rather than just a ''gasoline tank'' to expressly include railcar loading operations. The control techniques and costs of control for loading operations apply equally to tank truck and rail car loading racks and we therefore find no basis for excluding rail car loading operations at bulk gasoline terminals from the NSPS requirements.

Additionally, we assessed either maintaining the current NSPS 35 mg/L emission limit for loading operations or reducing it to either 10 mg/L or 1 mg/L. We assessed costs differently between facilities that are new versus modified or reconstructed, because the incremental cost of designing a system to meet 1 mg/L versus 10 mg/L for a new system is small, but the costs for upgrading an existing control system that currently meets a 10 mg/L or 35 mg/L emissions limit to meet 1 mg/L can be high and may require complete replacement of the existing controls.

We projected nationwide impacts for different control options in the fifth year of the NSPS considering separately 5 newly constructed bulk gasoline terminals and 15 modified or reconstructed facilities that currently meet a 35 or 80 mg/L emission limit. These costs are summarized in Table 9 of this document. Considering the expected range of throughputs for newly constructed bulk gasoline terminals, the incremental cost to meet a 1 mg/L limit rather than a 10 mg/L limit is about $1,300 per ton of VOC reduced, which we determined is cost-effective. As shown in Table 9 of this document, the incremental cost for modified or reconstructed facilities to meet a 1 mg/L limit rather than a 10 mg/L limit exceeds $8,300 per ton of VOC reduced, which we determined is not cost-effective. The incremental cost for modified or reconstructed facilities to meet a 10 mg/L limit, on the other hand, rather than a 35 mg/L limit is about $350 per ton of VOC reduced, which we determined is cost-effective. Therefore, we are proposing in the proposed subpart XXa that facilities that commence construction after June 10, 2022) must meet a 1 mg/L limit and facilities that commence modification, or reconstruction after June 10, 2022 must meet a 10 mg/L limit. Our assessment of control options is summarized in the memorandum ''New Source Performance Standards Review for Bulk Gasoline Terminals'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 9—CONTROL OPTION IMPACTS FOR LOADING OPERATIONS AT NSPS BULK GASOLINE TERMINALS

Emission limit	VOC emissions (tpy)	VOC emission reduction (tpy)	TCI [a] ($1,000)	AOC [b] ($/yr)	TAC [c] w/o product recovery ($/yr)	TAC [c] w/product recovery ($/yr)	CE [d] ($/ton VOC)	ICE [e] ($/ton VOC)
New:								
Submerged Loading	2,402							
35 mg/L	171	2,231	5,900	671,000	1,170,000	103,000	46	46
10 mg/L	48	2,354	6,210	706,000	1,240,000	106,000	45	23
1 mg/L	5	2,397	6,830	730,000	1,310,000	162,000	67	1,290
Modified/Reconstructed:								
Submerged Loading	332							
35 mg/L	286	46	0	19,500	19,500	−2,330	−51	−51
10 mg/L	144	188	351	107,000	137,000	46,900	250	346
1 mg/L	14	317	6,530	725,000	1,280,000	1,130,000	3,560	8,350

[a] Total capital investment (TCI).
[b] Annual operating costs (AOC).
[c] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[d] Cost effectiveness (CE) compared to the first option listed.
[e] Incremental cost effectiveness (ICE) compared to previous option in table.

2. Standards for Cargo Tank Vapor Tightness

The area source NESHAP subpart BBBBBB and the NSPS subpart XX both have vapor tightness requirements for cargo tanks that allow up to 3 inches of water pressure drop over a 5-minute period. The major source NESHAP subpart R has a graduated vapor tightness certification that allows from 1 to 2.5 inches (″) of water pressure drop over a 5-minute period, depending on the compartment size in the cargo tank. Further, DOT requirements that were last amended in 2003 (see 68 FR 19285, April 18, 2003) indicate ''A cargo tank used to transport a petroleum distillate fuel that is equipped with vapor recovery equipment may be leakage tested in accordance with 40 CFR 63.425(e)'' [49 CFR 178.346–5]. As such, it appears that most cargo tanks (those less than 18 years of age) are minimally required to comply with the major source NESHAP vapor tightness requirements pursuant to the DOT requirements. In discussion with industry representatives, facility operators indicated there generally is a single vapor-tightness certification and cargo tanks are not certified for NSPS subpart XX or the area source NESHAP separate from cargo tanks certified for the major source NESHAP. Since cargo tanks can be used across gasoline distribution facilities subject to different standards, we considered cargo tank vapor-tightness requirements consistently across all rules.

Another development we identified is state requirements for vapor tightness that have allowable pressure drops that

[6] Part 60, subpart XX applies to bulk gasoline terminals that commenced construction, modification or construction after December 17, 1980. This proposal would modify subpart XX so that it applies to bulk gasoline terminals that commenced construction, modification or reconstruction after December 17, 1980 and on or before the publication date of the proposed part 60, subpart XXa.

[7] Allowance is provided to meet 80 mg/L for affected facilities with an ''existing vapor processing system.''

are half those allowed under the major source NESHAP subpart R. As such, we assessed options ranging from maintaining current requirements (which has different requirements for facilities subject to NESHAP subpart BBBBBB and NSPS subpart XX than for NESHAP subpart R); requiring NESHAP subpart R limits for all gasoline distribution facilities (including facilities subject to NESHAP subpart BBBBBB and NSPS subpart XX); and requiring more stringent vapor tightness requirements based on state requirements (half those in NESHAP subpart R) for all gasoline distribution facilities (across all three rules). Table 10 of this document summarizes the results of these analyses. Based on these results, we concluded that the state rule requirements (one-half the current NESHAP subpart R requirements) are cost-effective developments that would further harmonize certification requirements across all gasoline distribution facilities and cargo tank operators. We also considered requiring even more stringent vapor tightness requirements, at about one-quarter of those in NESHAP subpart R, but these required allowable pressure drop limits that were less than the allowable precision of EPA Method 27. As such, we determined that further reductions of the vapor tightness requirements beyond those identified in state requirements have not been demonstrated in practice. Therefore, we are proposing to require a graduated vapor tightness certification from 0.5 to 1.25 inches of water pressure drop over a 5-minute period, depending on the cargo tank compartment size for gasoline cargo tanks subject to NSPS subpart XXa, NESHAP subpart R and NESHAP subpart BBBBBB. Our assessment of control options is summarized in the memorandum ''Control Options for Loading Operation at Gasoline Distribution Facilities'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 10—IMPACTS FOR 10,000 CARGO TANKS UNDER DIFFERENT CONTROL OPTIONS

Option	VOC emissions (tpy)	VOC emission reduction (tpy)	TAC [a] w/o product recovery ($/year)	TAC [a] w/product recovery ($/year)	CE [b] ($/ton VOC)	CE [b] ($/ton HAP) [c]	ICE [d] ($/ton VOC)	ICE [d] ($/ton HAP) [c]
3″ water	33,602	0	250,000	250,000				
NESHAP Subpart R (1″–2.5″ water)	28,047	5,555	997,375	−1,669,14	−300	−7,512	−345	−8,637
State Rule (0.5″–1.25″ water)	25,718	7,883	1,766,000	−2,017,984	−256	−6,400	−150	−3,746

[a] Total annualized costs (TAC) considering annualized operating costs.
[b] Cost effectiveness (CE) compared to baseline (3″ water).
[c] HAP content assumed to be 4% of VOC.
[d] Incremental cost effectiveness (ICE) compared to previous option in table.

3. Standards for Gasoline Storage Vessels

The area source and major source NESHAP (subparts R and BBBBBB) have standards for storage vessels that are largely based on the requirements for volatile organic liquid storage vessels in 40 CFR part 60, subpart Kb (NSPS subpart Kb), but include some exceptions to the NSPS subpart Kb requirements, primarily related to floating roof deck fitting controls. Because VOC emissions from storage vessels are regulated under NSPS subpart Kb, storage vessels are not part of affected facilities under NSPS subpart XX.

We reviewed Federal, state, and local requirements for gasoline storage vessels. We identified potential improvements in the requirements for primary seals, secondary seals (for internal floating roofs), and improved fitting controls (particularly for guidepoles) as developments in practices and processes. Additionally, we identified a new practice for monitoring internal floating roof storage vessels using a lower explosive limit (LEL) monitor to identify floating roofs with poorly functioning seals or fitting controls. We assessed the cost and impacts of moving from the current standards to full compliance with NSPS subpart Kb requirements and for including LEL monitoring. Our assessments for each subpart are detailed in the following subsections. For more information on the storage vessel assessments, see memorandum ''Control Options for Storage Tanks at Gasoline Distribution Facilities'' available in Docket No. EPA–HQ–OAR–2020–0371.

a. NESHAP Subpart R

The major source rule contains standards for gasoline storage vessels at bulk gasoline terminals and pipeline breakout stations. The standards cross-reference NSPS subpart Kb requirements but exclude fitting control requirements in NSPS subpart Kb provided the storage vessel was already equipped with a floating roof meeting the seal requirements in NSPS subpart Kb. We estimated that about 95 percent of storage vessels in the gasoline distribution industry are equipped with internal floating roofs based on review of NEI data. We assessed costs and impacts of requiring fitting controls separately for internal and external floating roofs. Specifically, we evaluated the control options of (1) requiring upgrades of fitting requirements for external floating roofs and (2) requiring upgrades of fitting requirements for both external and internal floating roofs. Table 11 of this document summarizes the national impacts projected for major source gasoline distribution facilities. Based on our analysis, we determined installing/upgrading fitting controls for external floating roof tanks is cost effective. On the other hand, the projected cost-effectiveness of installing/upgrading fitting controls for internal floating roof tanks is approximately $350,000 per ton of HAP emissions reduced (incremental costs between Option 1 and 2), and therefore, we determined these controls are not cost effective. Accordingly, we are proposing to require fitting controls for external floating roof tanks consistent with the requirements in NSPS subpart Kb and are not proposing to require fitting controls for internal floating roof tanks. Our assessment of control options is summarized in the memorandum ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 11—CONTROL OPTION IMPACTS FOR STORAGE VESSELS AT MAJOR SOURCE GASOLINE DISTRIBUTION FACILITIES
[Bulk terminals and pipeline breakout stations]

Control option	VOC emission reduction [a] (tpy)	TCI [b] ($1,000)	TAC [c] w/o product recovery ($1,000/yr)	TAC [c] w/product recovery ($1,000/yr)	CE [d] ($/ton VOC)	CE [d] ($/ton HAP) [e]	ICE [f] ($/ton VOC)	ICE [f] ($/ton HAP) [e]
Upgrade EFRT fittings [g]	546	1,857	173	−89	−164	−3,272	−164	−3,272
Upgrade IFRT and EFRT fittings [g]	772	45,240	4,205	3,835	4,966	99,320	17,330	346,500

[a] Compared to baseline emissions of 4,977 tpy.
[b] Total capital investment (TCI).
[c] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[d] Cost effectiveness (CE) compared to baseline.
[e] HAP content assumed to be 5% of VOC.
[f] Incremental cost effectiveness (ICE) compared to previous option in table.
[g] EFRT = external floating roof tank; IFRT = internal floating roof tank.

While we are not directly proposing additional fitting controls for internal floating roof tanks, we identified the use of LEL monitoring within the headspace of an internal floating roof tank as a means to enhance the annual inspections and more readily identify malfunctioning internal floating roofs. We estimated the cost of the LEL monitoring requirement based on the additional time needed to monitor LEL during the annual inspections. We estimated the impacts of annual LEL monitoring based on the number of internal floating roof tanks at major source gasoline distribution facilities and assuming LEL monitoring identifies defects in about 2 percent of internal floating roofs resulting in a 2 percent reduction in baseline emissions of internal floating roofs. Based on our review of available LEL monitoring data, we expect that this is a conservative estimate of the emission reductions that would be achieved. Table 12 of this document summarizes the projected impact of requiring annual LEL monitoring for internal floating roof tanks as part of the annual roof-top inspections.

The added cost for conducting LEL monitoring is under $70 per year per tank and LEL monitoring is expected to result in cost-effective emission reductions for major source gasoline distribution facilities (costs of $4,200 per ton of HAP reduced). Therefore, we are proposing to require LEL monitoring as part of the annual visual inspections conducted for internal floating roof tanks at major source gasoline distribution facilities. Our assessment of LEL monitoring at major sources is summarized in the memorandum ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 12—LEL MONITORING IMPACTS AT NATIONWIDE MAJOR SOURCE FACILITIES

Facility type	VOC emission reduction (tpy)	TAC [a] w/o product recovery ($/yr)	TAC [a] w/product recovery ($/yr)	CE [b] ($/ton VOC)	CE [b] ($/ton HAP) [c]
Total Major Source Facilities	82	56,290	17,130	210	4,200

[a] Total annualized cost (TAC) considering annual operating costs; there are no annualized cost of capital for this option.
[b] Cost effectiveness (CE).
[c] HAP content assumed to be 5% of VOC.

b. NESHAP Subpart BBBBBB

The area source rule contains standards for gasoline storage tanks at bulk gasoline plants, bulk gasoline terminals, and pipeline breakout stations. The current requirements for bulk gasoline plants require the use of submerged filling for all gasoline storage tanks with a capacity of greater than 250 gallons. As noted in section III.A.1.b of this preamble, we are proposing to require vapor balancing at bulk plants, both when filling cargo tanks and when unloading cargo tanks (*i.e.,* filling storage tanks). The use of vapor balancing when unloading cargo tanks into the storage tanks will reduce the working losses from the storage tanks. Several state and local agencies already require the use of vapor balancing when filling storage tanks at bulk plants with a maximum design capacity throughput of 4,000 gallons per day or more. Bulk plants with capacities below 4,000 gallons per day would retain the requirement to use submerge fill.

The storage tank standards for area source bulk gasoline terminals and pipeline breakout stations cross-reference NSPS subpart Kb requirements or the National Emission Standards for Storage Vessels at 40 CFR part 63, subpart WW, but exclude the floating roof fitting control requirements for both internal and external floating roofs and secondary seal requirements for internal floating roofs with a vapor-mounted primary seal. We assessed costs and impacts of requiring fitting controls separately for internal and external floating roofs. Specifically, we evaluated the control options of (1) requiring upgrades of fitting requirements for external floating roofs consistent with NSPS subpart Kb requirements and (2) requiring upgrades of fitting requirements for external floating roof tanks plus requiring upgrades of fitting and seal requirements for internal floating roofs tanks consistent with NSPS subpart Kb requirements. Table 13 of this document summarizes the national impacts projected for area source gasoline distribution facilities. Again, based on our analysis, we consider adding fitting controls for external floating roof tanks at area source gasoline distribution facilities to be cost effective. Alternatively, the projected cost effectiveness of installing secondary seals and fitting controls for internal floating roof tanks is approximately $45,000 per ton of HAP emissions reduced (incremental costs between Option 1 and 2) and therefore, we determined these controls are not cost effective. Accordingly, we are proposing to require fitting controls for external

floating roof tanks consistent with the requirements in NSPS subpart Kb and are not proposing to revise the secondary seal and fitting control requirements for internal floating roof tanks. Our assessment of control options is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 13—CONTROL OPTION IMPACTS FOR STORAGE VESSELS AT AREA SOURCE GASOLINE DISTRIBUTION FACILITIES

[Bulk terminals and pipeline breakout stations]

Control option	VOC emission reduction [a] (tpy)	TCI [b] ($1,000)	TAC [c] w/o product recovery ($1,000/yr)	TAC [c] w/product recovery ($1,000/yr)	CE [d] ($/ton VOC)	CE [d] ($/ton HAP) [e]	ICE [f] ($/ton VOC)	ICE [f] ($/ton HAP) [e]
(1) Upgrade EFRT fittings [g]	3,338	9,488	882	−720	−216	−4,315	−216	−4,315
(2) Upgrade IFRT and EFRT fittings [g]	10,143	211,100	19,630	14,760	1,455	29,100	2,275	45,500

[a] Compared to baseline emissions of 26,510 tpy.
[b] Total capital investment (TCI).
[c] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[d] Cost effectiveness (CE) compared to baseline.
[e] HAP content assumed to be 5% of VOC.
[f] Incremental cost effectiveness (ICE) compared to previous option in table.
[g] EFRT = external floating roof tank; IFRT = internal floating roof tank.

As noted for major source gasoline distribution facilities, we identified the use of LEL monitoring within the headspace of an internal floating roof tank as a means to enhance the annual inspections and more readily identify malfunctioning internal floating roofs. We estimated the cost of the LEL monitoring requirement based on the additional time needed to monitor LEL during the annual inspections. We estimated the impact of annual LEL monitoring based on the number of internal floating roof tanks at area source gasoline distribution facilities and assuming LEL monitoring identifies defects in 2 percent of internal floating roofs resulting in a 2 percent reduction in the baseline emissions for internal floating roof tanks. Based on our review of available LEL monitoring data, we expect that this is a conservative estimate of the emission reductions that would be achieved. Table 14 of this document summarizes the projected impact of requiring annual LEL monitoring for internal floating roof tanks as part of the annual roof-top inspections for different types of area source gasoline distribution facilities. Our assessment of LEL monitoring at area sources is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 14—NATIONWIDE LEL MONITORING IMPACTS FOR AREA SOURCE FACILITIES

Facility type	VOC emission reduction (tpy)	TAC [a] w/o product recovery ($/yr)	TAC [a] w/product recovery ($/yr)	CE [b] ($/ton VOC)	CE [b] ($/ton HAP) [c]
Total Area Source Facilities	430	353,200	146,700	341	6,820

[a] Total annualized costs (TAC) considering annual operating costs; there are no annualized cost of capital for this option.
[b] Cost effectiveness (CE).
[c] HAP content assumed to be 5% of VOC.

Because area source gasoline distribution facilities are expected to have smaller storage tanks on average than major source facilities, LEL monitoring is expected to be somewhat less cost-effective for area source facilities than major source facilities. Nonetheless, LEL monitoring is projected to have costs of $6,800 per ton of HAP reduced when applied to internal floating roof tanks at area source gasoline distribution facilities. We consider these costs to be reasonable. Therefore, we are proposing to require LEL monitoring as part of the annual visual inspections conducted for internal floating roof tanks at area source bulk gasoline terminals and pipeline breakout stations.

4. Standards for Equipment Leaks

All gasoline distribution rules (40 CFR part 60, subpart XX; 40 CFR part 63, subparts R and BBBBBB) have standards for equipment leaks from equipment components in gasoline or gasoline vapor service. The current leak detection and repair (LDAR) program requirements rely on identifying leaks using AVO methods. We reviewed Federal, state, and local requirements for identifying and repairing equipment leaks. Although the option to use optical gas imaging (OGI) for monitoring equipment leaks has been available since 2008 in the General Provisions to 40 CFR parts 60 and 63 as part of an alternative work practice to EPA Method 21 monitoring, the EPA has only recently proposed the use of OGI in leak detection surveys (40 CFR part 60, Appendix K; see 86 FR 63110, November 15, 2021). Therefore, we considered OGI monitoring as a potential development in equipment leak monitoring. For each subpart, we assessed LDAR programs based on AVO, EPA Method 21, and OGI. We developed a Monte Carlo model to randomly initiate leaks from individual equipment components present at gasoline distribution facilities. We assumed no leaks were present initially and randomly generated leaks at the facility on a monthly basis for a period of 5 years. We assessed the emissions that occurred in the 5th year of the simulation to assess the relative performance of different LDAR programs. For more information on the Monte Carlo model and modeling assumptions used to assess alternative

equipment LDAR programs, see memorandum entitled ''Control Options for Equipment Leaks at Gasoline Distribution Facilities'' available in Docket No. EPA–HQ–OAR–2020–0371.

Based on our Monte Carlo simulations, we found that periodic monitoring using EPA Method 21 with a leak definition of 10,000 ppmv achieved similar emission reductions as OGI monitoring at the same frequency. We evaluated options of (1) maintaining the monthly AVO inspections, (2) using instrument monitoring (EPA Method 21 or OGI following Appendix K) on an annual basis, (3) using instrument monitoring on a semiannual basis, and (4) using instrument monitoring on a quarterly basis. The periodic instrument requirement also includes a requirement to fix any readily identified leaks observed using AVO methods during the normal duties. The results of our assessment of alternative LDAR programs by rule are detailed in the following subsections.

Costs for EPA Method 21 monitoring and OGI monitoring were developed based on information collected from equipment leak monitoring contractors. OGI monitoring contractors commonly include a daily instrument rental charge, but they can monitor many more components per day than EPA Method 21 monitoring contractors. For facilities with a large number of equipment components to be monitored, OGI monitoring costs less than EPA Method 21 monitoring (the savings in time to conduct OGI monitoring more than makes up for the equipment rental charge). However, for facilities with a small number of equipment components to be monitored, EPA Method 21 monitoring costs less than OGI monitoring because the time saving to conduct OGI monitoring is not significant enough to cover the added equipment rental charge. When evaluating ''instrument monitoring'' costs for different types of gasoline distribution facilities, we assumed facilities would elect to use the lowest cost instrument monitoring option between EPA Method 21 and OGI. For more information on the cost assumptions used to assess alternative equipment LDAR programs, see memorandum ''Control Options for Equipment Leaks at Gasoline Distribution Facilities'' available in Docket No. EPA–HQ–OAR–2020–0371.

a. NESHAP Subpart R

The major source rule contains equipment leak standards for bulk gasoline terminals and pipeline breakout stations. Prior to the initial performance test, the major source rule requires equipment leak monitoring to be conducted using EPA Method 21 using a leak definition of 500 parts per million (ppm). The major source rule also requires subsequent monitoring monthly and allows the use of any leak identification method, including AVO techniques. We evaluated the current monthly AVO inspection requirements with LDAR programs based on periodic instrument monitoring.

Table 15 of this document summarizes the projected impacts of requiring periodic instrument monitoring combined with a general requirement to fix any leaks identified (via AVO methods) during normal duties. For the major source gasoline distribution facilities (bulk gasoline terminals and pipeline breakout stations), OGI is the least costly of the instrument monitoring alternatives. Annual OGI instrument monitoring was projected to result in cost savings compared to monthly AVO inspections and semi-annual instrument monitoring was projected to be about the same cost as monthly AVO inspections. Even with uncertainty in the relative performance of monthly AVO monitoring, we conclude that periodic instrument monitoring along with a general requirement to fix any readily identified leaks during the normal course of activities yields similar to better reductions at a net cost savings. Our assessment of control options is summarized in the memorandum ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 15—ESTIMATED EMISSIONS AND COST IMPACTS OF EQUIPMENT LEAK CONTROL OPTIONS FOR MAJOR SOURCE GASOLINE DISTRIBUTION FACILITIES

Option	VOC emissions (tpy)	VOC emission reduction (tpy)	TCI [a] ($1000)	TAC [b] w/o product recovery ($1000/yr)	TAC [b] w/product recovery ($1000/yr)	CE [c] ($/ton VOC)	CE [c] ($/ton HAP) [d]	ICE [e] ($/ton VOC)	ICE [e] ($/ton HAP) [d]
AVO (monthly inspection)	1,124								
Annual instrument [f]	664	461	217.5	−380	−602	−1,310	−13,100	−1,310	−13,100
Semiannual instrument [f]	439	686	217.5	−47.8	−377	−550	−5,550	999	9,990
Quarterly instrument [f]	309	816	217.5	557	166	203	2,030	4,170	41,700

[a] Total capital investment (TCI).
[b] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[c] Cost effectiveness (CE) compared to baseline (AVO).
[d] HAP content assumed to be 10% of VOC.
[e] Incremental cost effectiveness (ICE) compared to previous option in table.
[f] Facilities would be allowed to select EPA Method 21 or OGI monitoring. If EPA Method 21 is selected, valves and pumps would be required to be monitored at the frequency specified, however, connectors are only monitored annually. If OGI is selected, all applicable valves, pumps, and connectors would be required to be monitored at the frequency specified.

The semiannual instrument monitoring is projected to yield a net cost savings compared to monthly AVO inspections. The incremental cost-effectiveness from going from annual to semiannual instrument monitoring is just under $10,000 per ton of HAP emissions reduced. Taken together, we determined that semiannual instrument monitoring is cost effective. The incremental cost-effectiveness of going to quarterly instrument monitoring is over $40,000 per ton of HAP emissions reduced; therefore, we determined this option is not cost-effective. Considering the developments in equipment leak monitoring practices, we are proposing to require semiannual instrument monitoring for major source gasoline distribution facilities.

b. NESHAP Subpart BBBBBB

The area source rule contains equipment leak standards for bulk gasoline terminals, pipeline breakout stations, bulk gasoline plants, and pipeline pumping stations. Prior to the initial performance test, the area source

rule requires equipment leak monitoring to be conducted using EPA Method 21 using a leak definition of 500 ppm. The area source rule requires subsequent monitoring monthly and allows the use of any leak identification method, including AVO techniques. We evaluated the current monthly AVO inspection requirements with LDAR programs based on periodic instrument monitoring.

Table 16 of this document shows the estimated impacts of applying instrument monitoring for equipment leaks at area source gasoline distribution facilities. For the smaller area source facilities, EPA Method 21 was generally less costly than OGI as an instrument monitoring method. For the larger area sources, we expect facilities to use OGI. The annual instrument monitoring requirement combined with a general requirement to fix any leaks identified (via AVO methods) during the normal course of activities is projected to be less costly than monthly AVO and yield additional emission reductions. Thus, we determined that annual instrument monitoring is cost effective. The relative cost of moving from annual monitoring to semi-annual monitoring is approximately $18,000 per ton of HAP removed which we determined is not cost-effective. Therefore, semi-annual instrument monitoring was rejected because of the high incremental cost-effectiveness compared to annual instrument monitoring and we are proposing to require annual instrument monitoring combined with a requirement to repair any leaks identified (*i.e.,* observed using AVO methods) during the course of regular business activities. Again, EPA is seeking comment on adopting more protective standards at costs above levels that we generally consider to be cost effective for these type of HAP given that many of these sources are located in highly populated areas where the communities surrounding these facilities already have the potential to be overburdened from multiple sources of air pollution. Our assessment of control options is summarized in the memorandum ''Area Source Technology Review for the Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 16—ESTIMATED EMISSIONS AND COST IMPACTS OF EQUIPMENT LEAK CONTROL OPTIONS FOR AREA SOURCE GASOLINE DISTRIBUTION FACILITIES

Option	VOC emissions (tpy)	VOC emission reduction (tpy)	TCI [a] ($1000)	TAC [b] w/o product recovery ($1000/yr)	TAC [b] w/product recovery ($1000/yr)	CE [c] ($/ton VOC)	CE [c] ($/ton HAP) [d]	ICE [e] ($/ton VOC)	ICE [e] ($/ton HAP) [d]
AVO	17,080								
Annual instrument [f]	9,800	7,280	5,750	−4,180	−7,670	−1,050	−10,500	−1,050	−10,500
Semiannual instrument [f]	6,950	10,100	5,750	2,290	−2,570	−254	−2,540	1,790	17,900
Quarterly instrument [f]	5,320	11,800	5,750	14,600	8,980	764	7,640	7,100	71,000

[a] Total capital investment (TCI).
[b] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[c] Cost effectiveness (CE) compared to baseline (AVO).
[d] HAP content assumed to be 10% of VOC.
[e] Incremental cost effectiveness (ICE) compared to previous option in table.
[f] Facilities would be allowed to select EPA Method 21 or OGI monitoring. If EPA Method 21 is selected, valves and pumps would be required to be monitored at the frequency specified, however, connectors are only monitored annually. If OGI is selected, all applicable valves, pumps, and connectors would be required to be monitored at the frequency specified.

c. NSPS Subpart XXa

The NSPS subpart XX contains equipment leak standards for bulk gasoline terminals. Prior to the initial performance test, the NSPS requires monitoring to be conducted of the vapor collection system using EPA Method 21 using a leak definition of 10,000 ppm. The NSPS also requires subsequent monitoring of the loading racks, vapor collection system and vapor processing system monthly using any leak identification method, including AVO techniques.

Regarding monitoring requirements prior to performance tests, we determined that these requirements are effective requirements for the closed vent system used to transfer vapors from the loading racks to the control system. Generally, the EPA requires these closed vent systems to operate with no detectable emissions (which is defined as less than 500 ppmv above background using EPA Method 21). Both major and area source NESHAP subparts R and BBBBBB require the monitoring of the vapor collection system prior to a performance test using this no detectable emissions threshold (500 ppmv using EPA Method 21). Consistent with current practices for closed vent systems, we are proposing in subpart XXa to require that monitoring of the vapor collection system prior to a performance test be conducted using EPA Method 21 and that the vapor collection system be operated with no detectable emissions (no leaks greater than 500 ppmv).

For the ongoing leak monitoring requirements, we evaluated the current monthly AVO inspection requirements compared to LDAR programs based on periodic instrument monitoring along with a general requirement to fix any leaks identified (via AVO methods) during the normal course of activities. Table 17 of this document provides estimated costs for newly affected bulk gasoline terminals. When considering VOC emission impacts, the overall cost effectiveness of the quarterly monitoring option is $259 per ton VOC reduced and the incremental cost effectiveness of quarterly monitoring compared to semi-annual monitoring is $4,020 per ton of VOC reduced. Taken together, we determined that quarterly instrument monitoring is cost effective for reducing VOC emissions. Therefore, we are proposing to require quarterly monitoring for bulk gasoline terminals in NSPS subpart XXa along with a general requirement to fix any leaks identified (via AVO methods) during normal duties. Our assessment of control options is summarized in the memorandum ''New Source Performance Standards Review for Bulk Gasoline Terminals'' in EPA Docket No. EPA–HQ–OAR–2020–0371.

TABLE 17—ESTIMATED EMISSIONS AND COST IMPACTS OF EQUIPMENT LEAK CONTROL OPTIONS PER NEWLY AFFECTED BULK GASOLINE TERMINAL

Option	VOC emissions (tpy)	VOC emission reduction (tpy)	TCI [a] ($)	TAC [b] w/o product recovery ($/yr)	TAC [b] w/product recovery ($/yr)	CE [c] ($/ton VOC)	ICE [d] ($/ton VOC)
AVO (monthly inspection)	4.47						
Annual instrument [e]	2.64	1.83	1,000	−1,240	−2,120	−1,160	−1,160
Semiannual instrument [e]	1.74	2.73	1,000	60	−1,250	−458	962
Quarterly instrument [e]	1.22	3.25	1,000	2,405	843	259	4,020

[a] Total capital investment (TCI).
[b] Total annualized costs (TAC) considering annual operating costs and annualized cost of capital.
[c] Cost effectiveness (CE) compared to baseline (AVO).
[d] Incremental cost effectiveness (ICE) compared to previous option in table.
[e] Facilities would be allowed to select EPA Method 21 or OGI monitoring. If EPA Method 21 is selected, valves and pumps would be required to be monitored at the frequency specified, however, connectors are only monitored annually. If OGI is selected, all applicable valves, pumps, and connectors would be required to be monitored at the frequency specified.

B. What other actions are we proposing, and what is the rationale for those actions?

In addition to the proposed actions described above, we are proposing to remove exemptions from the requirement to comply during periods of startup, shutdown, and malfunction (SSM). We also are proposing changes to the recordkeeping and reporting requirements to require the use of electronic reporting of performance test reports and semiannual reports. We also are proposing to correct section reference errors and make other minor editorial revisions. Our rationale and proposed changes related to these issues are discussed below.

1. SSM

In its 2008 decision in *Sierra Club* v. *EPA,* 551 F.3d 1019 (DC Cir. 2008), the United States Court of Appeals for the District of Columbia Circuit (the court) vacated portions of two provisions in the EPA's CAA section 112 regulations governing the emissions of HAP during periods of SSM. Specifically, the court vacated the SSM exemption contained in 40 CFR 63.6(f)(1) and (h)(1), holding that under section 302(k) of the CAA, emissions standards or limitations must be continuous in nature and that the SSM exemption violates the CAA's requirement that some section 112 standards apply continuously. With the issuance of the mandate in *Sierra Club* v *EPA,* the exemption language in 63.6(f)(1) and (h)(1) are null and void and any cross reference to those provisions have no effect.

In March 2021, the EPA issued a rule [8] to reflect the court vacatur that revised the 40 CFR part 63 General Provisions to remove the SSM exemptions at 40 CFR 63.6(f)(1) and (h)(1). In this action, we are proposing to eliminate references to these SSM exemptions that are null and void, remove any additional SSM exemptions or references to SSM exemptions, and remove any cross-references to provisions in 40 CFR part 63 (General Provisions) that are unnecessary, inappropriate or redundant in the absence of the SSM exemption. The EPA determined the reasoning in the court's decision in *Sierra Club* applies equally to CAA section 111. Consistent with *Sierra Club* v. *EPA,* the standards that we are proposing in NSPS subpart XXa would apply at all times.

a. Proposed Elimination of the SSM Exemption in NESHAP Subpart R

We are proposing the elimination of the vacated exemption provision and several revisions to Table 1 of this document, (the General Provisions Applicability Table to subpart R of part 63, hereafter referred to as the ''General Provisions table to subpart R'') as is explained in more detail below. For example, we are proposing to eliminate the incorporation of the General Provisions' requirement that the source develop an SSM plan. We also are proposing to eliminate and revise certain recordkeeping and reporting requirements related to the SSM exemption. The EPA has attempted to ensure that the provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption.

The EPA considers that processes at Gasoline Distribution facilities are not continuous and that there will be variation in emission stream characteristics over time. The standards consider this variation and provide sources the ability to meet the standards at all times. Therefore, we have not proposed alternate standards for startup and shutdown.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead, they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 60.2 and 63.2) (definition of malfunction). The EPA interprets CAA section 112 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 112 standards and this reading has been upheld as reasonable by the D.C. Circuit in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (2016). Therefore, the standards that apply during normal operation apply during periods of malfunction.

We are also proposing the following revisions to the General Provisions table to subpart R as detailed below.

1. General Duty

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.6(e) by changing the ''yes'' in column 2 to ''no.'' Section 63.6(e) describes the general duty to minimize emissions and requirements for an SSM plan. Some of the language in that section is no longer necessary or appropriate in light of the elimination of the SSM exemption. We are proposing instead to add general duty regulatory text at 40 CFR 63.420(k) that reflects the general duty to minimize emissions while eliminating the reference to periods covered by an SSM exemption. The current language in 40 CFR 63.6(e)(1)(i) characterizes what the

[8] U.S. EPA, *Court Vacatur of Exemption From Emission Standards During Periods of Startup, Shutdown, and Malfunction.* (86 FR 13819, March 11, 2021).

general duty entails during periods of SSM. With the elimination of the SSM exemption, there is no need to differentiate between normal operations, startup and shutdown, and malfunction events in describing the general duty. Section 63.6(e)(1)(ii) imposes requirements that are not necessary with the elimination of the SSM exemption or are redundant with the general duty requirement being added at 40 CFR 63.420(k). Therefore, in addition to changing the applicability of 63.6(e) from ''yes'' to ''no'' in the table, the language the EPA is proposing for 40 CFR 63.420(k) does not include the language from 40 CFR 63.6(e)

2. SSM Plan

As noted in the previous paragraph, the proposed revisions to the General Provisions table to subpart R for 40 CFR 63.6(e) will also remove provisions to that require an SSM plan. Generally, the paragraphs under 40 CFR 63.6(e)(3) require development of an SSM plan and specify SSM recordkeeping and reporting requirements related to the SSM plan. As noted, the EPA is proposing to remove the SSM exemptions. Therefore, affected units are subject to an emission standard during such events. The applicability of a standard during such events will ensure that sources have ample incentive to plan for and achieve compliance and thus the SSM plan requirements are no longer necessary.

3. Compliance With Standards

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.6(f)(1) from ''yes'' in column 2 to ''no.'' As noted above, with the issuance of the mandate in *Sierra Club* v *EPA,* the exemption language in 63.6(f)(1) and (h)(1) are null and void and any cross reference to those provisions have no effect. The EPA amended 40 CFR 63.6(f)(1) and (h)(1) on March 11, 2021, to reflect the court order and revise the CFR to remove the SSM exemption. However, the second sentence of 40 CFR 63.6(f)(1) contains language that is premised on the existence of an exemption and is inappropriate in the absence of the exemption. Thus, rather than cross-referencing 63.6(f)(1), we are adding the language of 63.6(f)(1) that requires compliance with standards at all times to the regulatory text at 40 CFR 63.420(k). The court in *Sierra Club* vacated the exemptions contained in this provision and held that the CAA requires that some CAA section 112 standards apply continuously.

As noted in the General Provisions table to subpart R entry for 40 CFR 63.6(h), there are no opacity standards in NESHAP subpart R, so the General Provisions at 40 CFR 63.6(h) were marked as ''no'' in column 2. There are visible emissions observations for flares, so we are proposing to revise the comment in column 3 to note that NESHAP subpart R specifies the requirements for visible emissions observations for flares.

4. Performance Testing

We are proposing to revise the General Provisions table to subpart R of Part 63 entry for 40 CFR 63.7(e)(1) by changing the ''yes'' in column 2 to a ''no.'' Section 63.7(e)(1) describes performance testing requirements. The EPA is instead proposing to add a performance testing requirement at 40 CFR 63.425(a). The performance testing requirements we are proposing to add differ from the General Provisions performance testing provisions in several respects. The regulatory text does not include the language in 40 CFR 63.7(e)(1) that restated the SSM exemption and language that precluded startup and shutdown periods from being considered ''representative'' for purposes of performance testing. The proposed performance testing provisions specifically note the batch operation of gasoline loading operations and include periods when cargo tanks are being changed out when a full cargo tank is disconnected, and a new cargo tank is moved into position for loading. As in 40 CFR 63.7(e)(1), performance tests conducted under this subpart should not be conducted during malfunctions because conditions during malfunctions are often not representative of normal operating conditions. The EPA is proposing to add language that requires the owner or operator to record the process information that is necessary to document operating conditions during the test and include in such record an explanation to support that such conditions represent normal operation. Section 63.7(e)(1) requires that the owner or operator make such records ''as may be necessary to determine the condition of the performance test'' available to the Administrator upon request but does not specifically require the information to be recorded. The regulatory text the EPA is proposing to add to this provision builds on that requirement and makes explicit the requirement to record the information.

5. Monitoring

We are proposing to revise the General Provisions table to subpart R of Part 63 by adding separate entries for 40 CFR 63.8(c)(1)(i) and (iii) and including a ''no'' in column 2. The cross-references to the general duty and SSM plan requirements in those subparagraphs are not necessary in light of other requirements of 40 CFR 63.8 that require good air pollution control practices (40 CFR 63.8(c)(1)) and that set out the requirements of a quality control program for monitoring equipment (40 CFR 63.8(d)).

We are proposing to revise the major source General Provisions table to subpart R of Part 63 by splitting the entry for 40 CFR 63.8(d) into two separate entries, one for 40 CFR 63.8(d)(1) and (2) and retaining the ''yes'' in column 2 and one for 40 CFR 63.8(d)(3) and including a ''no'' in column 2. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is proposing to add provisions to subpart R at 40 CFR 63.428(d)(4) that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: ''The program of corrective action should be included in the plan as required under § 63.8(d)(2).''

6. Recordkeeping

We are proposing to revise the General Provisions table to subpart R of Part 63 by adding a separate entry for 40 CFR 63.10(b)(2)(i), (ii), (iv) and (v) and including a ''no'' in column 2.

- Section 63.10(b)(2)(i) describes the recordkeeping requirements for startup and shutdown periods when the source exceeds any applicable emission limitation in a relevant standard and section 63.10(b)(2)(ii) describes the recordkeeping requirements for malfunctions. We are instead proposing to add recordkeeping and reporting requirements of for all exceedances.

The EPA is proposing to add such requirements to 40 CFR 63.428(g). The regulatory text we are proposing to add differs from the General Provisions it is replacing in that the General Provisions requires the creation and retention of a record of the occurrence and duration of each malfunction of process, air pollution control, and monitoring equipment. The EPA is proposing that this requirement apply to any failure to meet an applicable standard and is requiring that the source record the date, time, and duration of the failure rather than the ''occurrence.'' The EPA is also proposing to add requirements to 40 CFR 63.428(g) that sources keep records that include a list of the affected source or equipment and actions taken to minimize emissions, an estimate of the quantity of each regulated pollutant emitted over the standard for which the source failed to meet the standard, and

a description of the method used to estimate the emissions. Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing to require that sources keep records of this information to ensure that there is adequate information to allow the EPA to determine the severity of any failure to meet a standard, and to provide data that may document how the source met the general duty to minimize emissions when the source has failed to meet an applicable standard.

- We are proposing to revise the General Provisions table to subpart R of Part 63 entry for 40 CFR 63.10(b)(2)(iv) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(iv), when applicable, requires sources to record actions taken during SSM events when actions were inconsistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required. The requirement previously applicable under 40 CFR 63.10(b)(2)(iv)(B) to record actions to minimize emissions and record corrective actions is now applicable by the proposed requirements in 40 CFR 63.428(g).
- We are proposing to revise the General Provisions table to subpart R of Part 63 entry for 40 CFR 63.10(b)(2)(v) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(b)(2)(v), when applicable, requires sources to record actions taken during SSM events to show that actions taken were consistent with their SSM plan. The requirement is no longer appropriate because SSM plans will no longer be required.
- We are proposing to revise the General Provisions table to subpart R of Part 63 by adding a separate entry for 40 CFR 63.10(c)(15) and including a ''no'' in column 2. The EPA is proposing that 40 CFR 63.10(c)(15) no longer apply. When applicable, the provision allows an owner or operator to use the affected source's SSM plan or records kept to satisfy the recordkeeping requirements of the SSM plan, specified in 40 CFR 63.6(e), to also satisfy the requirements of 40 CFR 63.10(c)(10) through (12). The EPA is proposing to eliminate this requirement because SSM plans would no longer be required, and, therefore, 40 CFR 63.10(c)(15) no longer serves any useful purpose for affected units.

7. Reporting

We are proposing to revise the General Provisions table to subpart R of Part 63 entry for 40 CFR 63.10(d)(5) by changing the ''yes'' in column 2 to a ''no.'' Section 63.10(d)(5) describes the reporting requirements for SSM. To replace the General Provisions reporting requirement, the EPA is proposing to add reporting requirements to 40 CFR 63.428(m). The replacement language differs from the General Provisions requirement in that it eliminates periodic SSM reports as a stand-alone report. We are proposing language that requires sources that fail to meet an applicable standard at any time to report the information concerning such events in the semiannual report already required under this rule. We are proposing that the report must contain the number, date, time, duration, and the cause of such events (including unknown cause, if applicable), a list of the affected source or equipment, an estimate of the quantity of each regulated pollutant emitted over any emission limit, and a description of the method used to estimate the emissions.

Examples of such methods would include product-loss calculations, mass balance calculations, measurements when available, or engineering judgment based on known process parameters. The EPA is proposing this requirement to ensure that there is adequate information to determine compliance, to allow the EPA to determine the severity of the failure to meet an applicable standard, and to provide data that may document how the source met the general duty to minimize emissions during a failure to meet an applicable standard.

We will no longer require owners or operators to determine whether actions taken to correct a malfunction are consistent with an SSM plan, because plans would no longer be required. The proposed amendments at 63.10(d)(5), therefore, eliminate the cross-reference to 40 CFR 63.10(d)(5)(i) that contains the description of the previously required SSM report format and submittal schedule from this section. These specifications are no longer necessary because the events will be reported in otherwise required reports with similar format and submittal requirements.

The proposed amendments at 63.10(d)(5) will also eliminate the cross-reference to 40 CFR 63.10(d)(5)(ii). Section 63.10(d)(5)(ii) describes an immediate report for startups, shutdown, and malfunctions when a source failed to meet an applicable standard but did not follow the SSM plan. We will no longer require owners or operators to report when actions taken during a startup, shutdown, or malfunction were not consistent with an SSM plan, because plans would no longer be required.

b. Proposed Revisions To Address SSM Provisions in NESHAP Subpart BBBBBB

We are proposing to remove references to malfunction throughout NESHAP subpart BBBBBB. Specifically, we are removing the requirements at 40 CFR 63.11092(b)(1)(i)(B)(*2*)(*iv*), 63.11092(b)(1)(iii)(B)(*2*)(*iv*), 63.11092(d)(4), 63.11095(b)(4), and 63.11095(d) and revising the requirements at 40 CFR 63.11092(b)(1)(i)(B)(*2*)(*v*), 63.11092(b)(1)(iii)(B)(*2*)(*v*), 63.11092(d), 63.11092(d)(3), 63.11094(f)(4), and 63.11094(g). We are also proposing limited revisions to Table 4 of this document (as proposed, formerly Table 3), the General Provisions Applicability Table to subpart BBBBBB of part 63, hereafter referred to as the ''General Provisions table to subpart BBBBBB'' to address selected SSM provisions. NESHAP subpart BBBBBB was amended on January 24, 2011 (76 FR 4156) to address SSM provisions. We are proposing one additional SSM revision. Specifically, we are proposing to revise the area source General Provisions table to subpart BBBBBB by splitting the entry for 40 CFR 63.8(d) into two separate entries, one for 40 CFR 63.8(d)(1)–(2) and retaining the ''yes'' in column 2 and one for 40 CFR 63.8(d)(3) and including a ''no'' in column 2. The final sentence in 40 CFR 63.8(d)(3) refers to the General Provisions' SSM plan requirement which is no longer applicable. The EPA is proposing to add provisions to subpart BBBBBB at 40 CFR 63.11094(h) that is identical to 40 CFR 63.8(d)(3) except that the final sentence is replaced with the following sentence: ''The program of corrective action should be included in the plan as required under § 63.8(d)(2).''

c. Proposal of NSPS Subpart XXa Without SSM Exemptions

We are proposing standards in the NSPS subpart XXa that apply at all times. We are proposing that emission limits will apply at all times, including during SSM. The NSPS general provisions in 40 CFR 60.8(c) contains an exemption from non-opacity standards. We are proposing in NSPS subpart XXa specific requirements at 40 CFR 60.500a(c) that override the general provisions for SSM. We are proposing that all standards in NSPS subpart XXa apply at all times.

In proposing the standards in this rule, the EPA has taken into account startup and shutdown periods and, for the reasons explained below, has not proposed alternate standards for those periods. Startups and shutdowns are part of normal operations at Bulk

Gasoline Terminals. The proposed emission standards adequately control emissions during these startup and shutdown periods.

Periods of startup, normal operations, and shutdown are all predictable and routine aspects of a source's operations. Malfunctions, in contrast, are neither predictable nor routine. Instead they are, by definition, sudden, infrequent, and not reasonably preventable failures of emissions control, process, or monitoring equipment. (40 CFR 60.2). The EPA interprets CAA section 111 as not requiring emissions that occur during periods of malfunction to be factored into development of CAA section 111 standards. Nothing in CAA section 111 or in case law requires that the EPA consider malfunctions when determining what standards of performance reflect the degree of emission limitation achievable through ''the application of the best system of emission reduction'' that the EPA determines is adequately demonstrated. While the EPA accounts for variability in setting emissions standards, the EPA is not required to treat a malfunction in the same manner as the type of variation in performance that occurs during routine operations of a source. A malfunction is a failure of the source to perform in a ''normal or usual manner'' and no statutory language compels EPA to consider such events in setting section 111 standards of performance. The EPA's approach to malfunctions in the analogous circumstances (setting ''achievable'' standards under section 112) has been upheld as reasonable by the D.C. Circuit in *U.S. Sugar Corp.* v. *EPA,* 830 F.3d 579, 606–610 (D.C. Cir. 2016).

2. Electronic Reporting

The EPA is proposing that owners and operators of gasoline distribution facilities submit electronic copies of required performance test reports, performance evaluation reports, and semi-annual reports through the EPA's Central Data Exchange (CDX) using the Compliance and Emissions Data Reporting Interface (CEDRI). A description of the electronic data submission process is provided in the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* available in the docket for this action.

The proposed rules require that performance test results collected using test methods that are supported by the EPA's Electronic Reporting Tool (ERT) as listed on the ERT website [9] at the time of the test be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance test results be submitted in portable document format (PDF) using the attachment module of the ERT. Similarly, performance evaluation results of CEMS measuring relative accuracy test audit pollutants that are supported by the ERT at the time of the test must be submitted in the format generated through the use of the ERT or an electronic file consistent with the xml schema on the ERT website, and other performance evaluation results be submitted in PDF using the attachment module of the ERT.

For semi-annual reports, the proposed rules require that owner and operators use the appropriate spreadsheet template to submit information to CEDRI. A draft version of the proposed templates for these reports are included in the docket for this action.[10] The EPA specifically requests comment on the content, layout, and overall design of the templates.

Additionally, the EPA has identified two broad circumstances in which electronic reporting extensions may be provided. These circumstances are (1) outages of the EPA's CDX or CEDRI which preclude an owner or operator from accessing the system and submitting required reports and (2) *force majeure* events, which are defined as events that will be or have been caused by circumstances beyond the control of the affected facility, its contractors, or any entity controlled by the affected facility that prevent an owner or operator from complying with the requirement to submit a report electronically. Examples of *force majeure* events are acts of nature, acts of war or terrorism, or equipment failure or safety hazards beyond the control of the facility. The EPA is providing these potential extensions in NSPS subpart XXa to protect owners and operators from noncompliance in cases where they cannot successfully submit a report by the reporting deadline for reasons outside of their control. In both circumstances, the decision to accept the claim of needing additional time to report is within the discretion of the Administrator, and reporting should occur as soon as possible. These potential extensions are not necessary to add to NESHAP subpart R and NESHAP subpart BBBBBB, because they were recently added to the part 63, subpart A, General Provisions at 40 CFR 63.9(k).

The electronic submittal of the reports addressed in these proposed rulemakings will increase the usefulness of the data contained in those reports, is in keeping with current trends in data availability and transparency, will further assist in the protection of public health and the environment, will improve compliance by facilitating the ability of regulated facilities to demonstrate compliance with requirements and by facilitating the ability of delegated state, local, tribal, and territorial air agencies and the EPA to assess and determine compliance, and will ultimately reduce burden on regulated facilities, delegated air agencies, and the EPA. Electronic reporting also eliminates paper-based, manual processes, thereby saving time and resources, simplifying data entry, eliminating redundancies, minimizing data reporting errors, and providing data quickly and accurately to the affected facilities, air agencies, the EPA, and the public. Moreover, electronic reporting is consistent with the EPA's plan [11] to implement Executive Order 13563 and is in keeping with the EPA's Agency-wide policy [12] developed in response to the White House's Digital Government Strategy.[13] For more information on the benefits of electronic reporting, see the memorandum *Electronic Reporting Requirements for New Source Performance Standards (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAP) Rules,* referenced earlier in this section.

3. Technical and Editorial Changes

We are proposing several technical amendments and definition revisions to improve the clarity and enforceability of the provision of the gasoline distribution facility standards. These additional proposed revisions and our rationale for the proposed revisions are described in this section.

[9] *https://www.epa.gov/electronic-reporting-air-emissions/electronic-reporting-tool-ert.*

[10] See Gasoline Distribution Semiannual Reporting Template, available at Docket ID. No. EPA–HQ–OAR–2020–0371.

[11] EPA's Final Plan for Periodic Retrospective Reviews, August 2011. Available at: *https://www.regulations.gov/document?D=EPA-HQ-OA-2011-0156-0154.*

[12] E-Reporting Policy Statement for EPA Regulations, September 2013. Available at: *https://www.epa.gov/sites/production/files/2016-03/documents/epa-ereporting-policy-statement-2013-09-30.pdf.*

[13] Digital Government: Building a 21st Century Platform to Better Serve the American People, May 2012. Available at: *https://obamawhitehouse.archives.gov/sites/default/files/omb/egov/digital-government/digital-government.html.*

a. Applicability Equations in NESHAP Subpart R

The current major source rule includes applicability equations that can be used to exempt facilities from the major source requirements. The equations exclude all bulk gasoline terminals or pipeline breakout stations with an emissions screening factor (E_t or E_p, respectively) of less than one. Upon reviewing the applicability equations, we determined the equations can potentially exempt facilities that are major sources of HAP emissions. Specifically, it is possible for gasoline storage tanks to be larger and have higher emissions than the model tanks used to derive the applicability equation. Additionally, the terms used in the different equations, particularly the fixed roof tank term, are different. A combination of tanks that exceeds 1 (indicating major source facility) using the equation in paragraph 40 CFR 63.420(b) for pipeline breakout stations can be below 1 (suggesting an area source facility) using the equation in paragraph 40 CFR 63.420(a) for bulk gasoline terminals. Thus, it appears some true major source facilities may only need to comply with major equipment counts associated with these applicability equations and not have ongoing requirements to ensure, for example, their floating roof seals are intact. Additionally, facilities that used these equations to become exempt from the major source rule are not covered by the area source rule if they are truly major sources of HAP emissions. In meeting with industry representatives, none of the industry representatives indicated that they used these equations to determine applicability with the rule. Therefore, we are proposing to remove the applicability equations in the major source rule to ensure that all major sources are subject to the emission limitations in NESHAP subpart R.

b. Definitions of Bulk Gasoline Terminal, Pipeline Breakout Station, and Pipeline Pumping Station

The major source rule applies to bulk gasoline terminals and to pipeline breakout stations. These terms are defined, but there appears to be significant potential overlap in these definitions. Based on the applicability equations and the fact that the loading rack requirements apply only to bulk gasoline terminals, the key difference between a bulk gasoline terminal and a pipeline breakout station is the presence (or absence) of gasoline loading racks. Application of subpart R requirements to ''pipeline breakout station'' facilities that have loading racks is inconsistent. We identified a title V permit that considers these separate affected facilities, with one portion of the facility regulated as a pipeline breakout station and the loading racks (and perhaps associated tanks and equipment) regulated as a bulk gasoline terminal. We also identified a title V permit where the loading racks at a pipeline breakout station were listed as having no applicable Federal requirements. To ensure consistent application of the rule and to clarify that all loading racks at major source facilities are to comply with the loading rack requirements in 40 CFR 63.422, we are proposing to clarify the definitions of ''bulk gasoline terminal'' to clearly delineate that these facilities load gasoline into cargo tanks (*i.e.,* have gasoline loading racks). Similarly, we are proposing to clarify the definitions of ''pipeline breakout stations'' to clearly delineate that these facilities do not have gasoline loading racks and that if a facility loads gasoline into cargo tanks, that facility is a bulk gasoline terminal. Since the requirements for storage vessels and equipment leak are the same for these facility types, the only difference the proposed revisions make is to clarify that loading racks at facilities that primarily transport gasoline via pipeline are still required to be meet the emission limitations for gasoline loading racks.

We are also proposing similar definitions for area source standards (NESHAP subpart BBBBBB) and for NSPS subpart XXa. At 40 CFR 63.11088 of the area source NESHAP, the header includes bulk gasoline terminals, pipeline breakout stations and pipeline pumping stations. However, Table 2 to subpart BBBBBB only specifies loading rack control requirements for ''bulk gasoline terminal loading rack(s).'' The proposed revisions to bulk gasoline terminals, pipeline breakout stations and pipeline pumping stations clarify that pipeline breakout stations and pipeline pumping stations do not contain loading racks. We are also proposing to revise the header of 40 CFR 63.11088 to delete reference to pipeline breakout stations or pipeline pumping stations. For the NSPS subpart XXa, we are simply proposing the definition of bulk gasoline terminals consistent with the definitions being proposed in the major and area source NESHAP.

c. Definition of Gasoline

We are also proposing to add a definition of gasoline to NESHAP subpart R to clarify the definition of gasoline that applies to this subpart. The proposed definition is based on the definition in NSPS subpart XX and is consistent with the definition of gasoline in both NSPS subpart XXa and NESHAP subpart BBBBBB.

d. Definition of Submerged Filling

Because we are proposing in NSPS subpart XXa and NESHAP subpart R to require submerged filling when loading cargo tanks, we are also proposing to add a definition of ''submerged filling'' similar to the definition include in NESHAP subpart BBBBBB to clearly define this term for use in complying with the proposed requirements for submerged filling. Specifically, submerged filling is either the use of a pipe whose discharge is no more than the 6 inches from the bottom of the tank or the use of bottom filling. The proposed definitions of ''submerged filling'' in NSPS subpart XXa and NESHAP subpart R do not include references to stationary storage tanks that are included in the NESHAP subpart BBBBBB definition of ''submerged filling'' because NSPS subpart XXa and NESHAP subpart R do not require submerged filling of storage tanks (although the floating roof requirements essentially demand use of submerged filling).

e. Definition of Flare and Thermal Oxidation System

We are proposing to further clarify the distinction between a flare and a thermal oxidation system. For the gasoline distribution rules, the term flare refers to thermal combustion system using an open flame (without enclosure), whereas a thermal oxidation system has an enclosed combustion chamber. Some flares may have shrouds or other ''partial'' enclosures, which make it difficult to classify these devices based on the current definitions. We are proposing to clarify the definition of a flare to include shrouded flares or flares with partial enclosures that are insufficient to capture the emitted pollutants and convey them to the atmosphere in a conveyance that can be used to conduct a performance test to determine the emissions. Thus, a performance test cannot be performed on a flare. We are also proposing to clarify that thermal oxidation systems are enclosed to the point that the pollutants are emitted through a conveyance that affords quantification of emissions through application of performance tests. This clarification is consistent with the current requirements to conduct initial performance tests for thermal oxidation systems but not for flares.

f. Additional Part 63 General Provision Revisions

We are proposing to correct a typographical error in the General Provisions table to subpart R entry for 40 CFR ''63.1(a)(6)(8)'' to delete ''(8)''. We expect that this was meant to reference paragraphs ''(a)(6)–(8)'' but paragraphs (a)(7) and (8) are reserved. Therefore, we are proposing to delete the ''(8)'' from this entry and add reference to paragraphs (a)(7) and (8) with the existing reference to 40 CFR 63.1(a)(9) so the entry reads ''63.1(a)(7)–(a)(9). We are proposing to revise the comment in column 3 to note these sections (plural) are reserved.

We are proposing to correct a typographical error in the General Provisions table to subpart R entry for 40 CFR ''63.1(a)(12))–(14)'' to delete '')–(14)''. Paragraph (a)(12) is the last paragraph in 40 CFR 63.1(a) and the added '')'' is a typographical error.

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.1(b)(3) to change the ''no'' in column 2 to ''yes'' and revise the comment in column 3. Paragraph (b)(3) requires records be kept for stationary sources within the source category, but not subject to the relevant standard. The comment explaining the ''no'' indicated that ''Subpart R specifies reporting and recordkeeping for some large area sources in § 63.428.'' As noted in section III.B.3.a, we are proposing to remove the applicability equations and related recordkeeping and reporting requirements. Therefore, we are proposing that the General Provisions requirements in 40 CFR 63.1(b)(3) apply and revising the comment to note ''Except that subpart R specifies additional reporting and recordkeeping for some large area sources in § 63.428. These additional requirements only apply prior to the date the applicability equations are no longer applicable.''

We are proposing to revise the General Provisions table to subpart R and General Provisions table to subpart BBBBBB to add a row for 40 CFR 63.7(a)(4) and indicating a ''yes'' in the appropriate column. This is a recently added paragraph in the NESHAP General Provisions that describes procedures for requesting an extension in the case a *force majeure* event delays required performance testing. This paragraph did not exist in the NESHAP General Provisions when the major source and area source standards were developed, so no reference to this paragraph was included. We consider these provisions reasonable and should be available for Gasoline Distribution facilities in the unlikely event performance testing is delayed due to a force majeure event.

We are proposing to revise the General Provisions table to subpart R and General Provisions table to subpart BBBBBB entries for 40 CFR 63.7(g) and 63.8(e) to add that subparts R and BBBBBB specify how and when the performance test and performance evaluation results are reported. We are revising these comments to note that there are specific performance test and performance evaluation results reporting requirements in the major source and area source rules.

We are proposing to revise the General Provisions table to subpart R rows for 40 CFR 63.1(c)(4), 63.5(b)(5), and 63.9(b)(3) from ''yes'' in column 2 to ''no'' because these paragraphs are reserved. We are proposing to indicate these paragraphs are reserved in column 3. We are also proposing to revise the General Provisions table to subpart R row for 40 CFR ''63.4(a)(1)–(a)(3)'' to ''63.4(a)(1)–(a)(2)'' because 40 CFR 63.4(a)(3) is reserved and no longer applies. We are also proposing to revise the General Provisions table to subpart R row for 40 CFR ''63.4(a)(4)'' to ''63.4(a)(3)–(a)(5)'' to add reference to paragraph (a)(3) which we are proposing to remove from the previous table entry and to add reference to paragraph (a)(5) and delete the entry for 40 CFR 63.4(a)(5). Paragraph (a)(5) is also reserved and no longer applies. We are proposing to revise the comment in column 3 for ''63.4(a)(3)–(a)(5)'' to note these sections (plural) are reserved.

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.9(b)(2) from ''no'' in column 2 to ''yes'' and revising the comment to, ''Except subpart R allows additional time for existing sources to submit initial notification. Sec. 63.428(a) specifies submittal by 1 year after being subject to the rule or December 16, 1996, whichever is later.''

We are proposing to revise the General Provisions table to subpart BBBBBB to add a row for 40 CFR 63.9(b)(3) and indicating that this paragraph is reserved. This follows the manner in which reserved sections are included elsewhere in the General Provisions table to subpart R and General Provisions table to subpart BBBBBB (rather than being omitted).

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.9(h)(1) through (3) to add that subpart R specifies how to submit the Notification of Compliance Status. We are revising this comment to note that there are specific submittal requirements in the major source rule.

We are proposing to revise the General Provisions table to subpart BBBBBB entry for 40 CFR 63.9(h)(1)–(6) to provide separate entry ''63.9(h)(4)'' from ''63.9(h)(1)–(3), (5)–(6)'' and including ''[Reserved]'' in column 2 of the new 40 CFR 63.9(h)(4) entry because this General Provision paragraph is reserved. We are also proposing to revise the note for the revised entry 40 CFR 63.9(h)(1)–(3), (5)–(6) to read ''Yes, except as specified in § 63.11095(c)'' rather than ''Yes, except as specified in § 63.11095(a)(4); also, there are no opacity standards'' because we proposed revisions to reporting requirements in 40 CFR 63.11095 and proposed visible emission requirements for flares.

We are proposing to revise the General Provisions table to subpart R and the General Provisions table to subpart BBBBBB entries for 40 CFR 63.9(k) to delete, ''only as specified in § 63.9(j).''

We are also proposing to clarify the General Provisions table to subpart BBBBBB entry for 40 CFR 63.10(c) to include ''Subpart BBBBBB specifies CMS records.'' As described in section III.B.1 of this preamble, we are also proposing revisions to NESHAP subpart BBBBBB recordkeeping requirements that detail the CMS records that must be kept, and we are proposing to include this additional note to clarify that these recordkeeping requirements apply rather than those outlined in the General Provisions.

We are proposing to revise the General Provisions table to subpart R and General Provisions table to subpart BBBBBB entries for 40 CFR 63.10(d)(2) from ''yes'' to ''no'' because the subparts specify how and when the performance test results are reported. We are revising these comments to note that there are specific performance test and performance evaluation results reporting requirements in the major source and area source rules.

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.10(d)(3) from ''yes'' to ''no'' because subpart R specifies reporting requirements for visible emissions observations for flares.

We are proposing to revise the General Provisions table to subpart R to provide separate entries for 40 CFR 63.10(e)(1) and (e)(2) through (4) and by changing the entries for 40 CFR 63.10(e)(2) through (4) from ''yes'' in column 2 to a ''no.'' We are also proposing to revise the General Provisions table to subpart BBBBBB to revise the entries for 40 CFR 63.10(e)(3)(i)–(iii), (iv)–(v), (vi)–(viii), and (e)(4) from ''yes'' in column 4 to a

''no.'' Given the transition to electronic reporting as described in section III.B.2 of this preamble, we are also proposing to include electronic reporting for CEMS performance evaluations in the major and area source rules so the reporting requirements in 40 CFR 63.10(e)(2) are no longer applicable. Also, as described in section III.B.1 of this preamble, we are proposing all relevant CEMS deviation reporting requirements directly in 40 CFR 63.428(l) and similar reporting requirements in 40 CFR 63.11095(e), rather than relying on cross-reference to 40 CFR 63.10(e)(3). These edits are not expected to alter the reporting burden; however, the direct inclusion of the 40 CFR 63.10(e)(3) reporting requirements into 40 CFR 63.428(l) and 40 CFR 63.11095(e) will provide clarity of the reporting requirements to gasoline distribution owners and operators.

We are proposing to revise the General Provisions table to subpart R entry for 40 CFR 63.11(a)–(b) to add the comment, ''Except these provisions no longer apply upon compliance with the provisions in § 63.425(a)(2) for flares to meet the requirements specified in §§ 60.502a(c)(3) and 60.504a(c) of this chapter.''

We are proposing to revise the General Provisions table to subpart BBBBBB to include missing entries for 40 CFR 63.11(a) and 63.11(c)–(e). 40 CFR 63.11(a) specifies the applicability of § 63.11 and we are proposing to include ''yes'' in column 4 to clarify that this paragraph applies. 40 CFR 63.11(c)–(e) describe alternative work practice standards for using optical gas imaging as an alternative to EPA Method 21 for monitoring equipment for leaks. We are proposing to include ''no'' in column 4 because the proposed leak monitoring provisions specifically allow the use of optical gas imaging for leak detection.

We are also proposing for revise the comment in column 4 of the entry for 40 CFR 63.11(b) to read, ''Yes, until compliance with the flare provisions in Item 2.b of Table 3 to Subpart BBBBBB.'' As described in Section III.A.1 of this preamble, we are proposing more detailed provisions for operating and monitoring flares to ensure the performance of flares used as control devices. After compliance with these flare provisions in Item 2.b of Table 3 to Subpart BBBBBB, the provisions in NESHAP subpart BBBBBB apply rather than those specified in for 40 CFR 63.11(b).

We are proposing to revise the General Provisions table to subpart R to revise the entries for 40 CFR 63.12(a)–(c) from ''63.12(a)–(c)'' to ''63.12'', for 40 CFR 63.13(a)–(c) from ''63.13(a)–(c)'' to ''63.13'', for 40 CFR 63.14(a)–(b) from ''63.14(a)–(b)'' to ''63.14'', and for 40 CFR 63.15(a)–(b) from ''63.15(a)–(b)'' to ''63.15''.

We are proposing to revise the General Provisions table to subpart R and the General Provisions table to subpart BBBBBB to add a row for 40 CFR 63.16 and indicating a ''yes'' in the appropriate column. This paragraph in the NESHAP General Provisions, which describes special reporting provision for Performance Track member facilities procedures, was missing from the major source and area source General Provisions tables and adding it provides clarity regarding the applicability of these special provisions.

g. Editorial Corrections

The EPA is proposing an additional change that addresses technical and editorial corrections for 40 CFR part 63, subpart BBBBBB as follows.

- Revise 40 CFR 63.11100, definition of ''vapor-tight gasoline cargo tank'' to update cross-reference to annual certification test requirements from in § 63.11092(f) to § 63.11092(g) based on location of this provision in the proposed amendments.

C. What compliance dates are we proposing, and what is the rationale for the proposed compliance dates?

1. NESHAP Subpart R

The EPA is not proposing to revise the primary loading rack emission limits for the major source NESHAP subpart R; however, we are proposing to revise the format of the standard and certain testing and monitoring provisions. We are proposing to maintain the current compliance options until the time that a new performance test or performance evaluation is conducted. We are proposing that performance tests for loading racks with thermal oxidation systems be required at least once every 60 months. We are proposing that owners or operators must conduct a performance test within three years of the promulgation of the proposed standards if the thermal oxidation system has not been tested by that time in the past 60 months. Because we are proposing to revise the ongoing performance requirements in some cases, we consider three years is as expedient as can be required for facilities that may have to purchase and install new monitoring systems. For vapor recovery systems, we are proposing to revise the format of the standard and require a CEMS to demonstrate continuous compliance. While we expect most vapor recovery systems have continuous TOC monitors, some owners or operators may need to upgrade their monitoring system to comply with the proposed CEMS requirements. We consider 3 years is as expedient as can be required considering the potential need to upgrade or replace TOC monitoring systems. For facilities using flares, we are proposing to require the more detailed requirements in the Refinery MACT Rule (40 CFR part 63, subpart CC). For these provisions, we allow up to 3 years to meet the new operating and monitoring requirements, consistent with the timeframe we provided for petroleum refineries when first proposing those requirements. The new requirements may require substantial upgrades to monitoring systems and 3 years is as expedient as can be required considering the number of monitoring systems to be upgraded.

We are proposing revisions to the cargo tank vapor tightness requirements apply no later than 3 years after the promulgation date of the proposed standards. Facilities that conduct the cargo tank certifications will need time to review and implement the new vapor tightness requirements and it will take at least one year after they implement the new vapor tightness requirements before the fleet of cargo tanks can be certified at the new vapor tightness levels.

We are proposing revisions to the storage vessel requirements for both internal and external floating roofs. For external floating roofs, we are proposing to require fitting controls, which will require the degassing of the storage vessel. We are proposing that these controls be installed at the first degassing of the storage vessel after 3 years from the promulgation date of the proposed standards, but in no case more than 10 years from the promulgation date of the proposed standards. We are allowing 3 years to identify storage vessels that need to be upgraded and identify appropriate fitting control systems that need to be installed. We are allowing up to 10 years in order to align the installation of the controls with a planned degassing event, to the extent practicable, to minimize the offsetting emissions that occur due to a degassing event solely to install the fitting controls. For internal floating roofs, we are proposing to add LEL monitoring requirements. Compliance with this requirement may require significant upgrades of the internal floating roof. For example, internal floating roofs are typically installed in pieces, with the pieces either welded or riveted together. Welded roofs do not have ''seam'' emissions whereas riveted roofs have emission losses from these seams. While

the current rule requirements do not prohibit the use of riveted seams for the internal floating roof, poor rivet closures along the seams could result in excess emissions wherein the LEL limit may be exceeded. In these cases, it is likely a new roof would need to be installed, or at minimum, the seams repaired or welded. Because the LEL emissions limitation may require full replacement of existing internal floating roofs, we are proposing to provide up to 3 years to comply with these new requirements.

We are proposing new requirements to conduct instrument monitoring to identify equipment leaks. This requirement will require owners or operators to identify all affected equipment components, implement training on the new requirements, and identify contractors to conduct the instrument monitoring. Therefore, we are proposing to provide up to 3 years to comply with these new requirements.

We are proposing to phase out the applicability equations. While we expect very few facilities may be using these equations while otherwise being a major source, facilities that may be using these equations could require significant upgrades to their existing control systems. As such, we determined that three years be provided for the phase out of these applicability equations.

We are proposing to revise the General Provisions applicability table to remove references to vacated provisions. As these provisions have been vacated for several years, we are proposing that these revisions be applicable upon promulgation. We do not expect any of the proposed revisions will increase burden to any facility and can be implemented without delay.

We are proposing to require electronic reporting. We are providing up to 3 years to comply with these new provisions. Because we are proposing to allow owners or operators to comply with existing requirements and electronic reporting forms will not be available for the existing reporting requirements, it is expedient to harmonize the timing of the proposed revisions to the electronic reporting requirements with the revisions to the requirements.

2. NESHAP Subpart BBBBBB

The EPA is proposing to revise the primary loading rack emission limits for the large bulk gasoline terminals and bulk plants at area source gasoline distribution facilities subject to NESHAP subpart BBBBBB. We are also proposing to revise the format of the standard and certain testing and monitoring provisions. We are proposing up to 3 years to meet the new emission limits and operating and monitoring requirements. These revisions may require significant control system upgrades and monitoring system installations. We determined that 3 years is as expedient as can be required considering the number of control systems and monitoring systems to be upgraded.

We are proposing revisions to the cargo tank vapor tightness requirements apply no later than 3 years after the promulgation date of the proposed standards. Facilities that conduct the cargo tank certifications will need time to review and implement the new vapor tightness requirements and it will take at least one year after they implement the new vapor tightness requirements before the fleet of cargo tanks can be certified at the new vapor tightness levels.

We are proposing revisions to the storage vessel requirements for both internal and external floating roofs. For external floating roofs, we are proposing to require fitting controls, which will require the degassing of the storage vessel. We are proposing that these controls be installed at the first degassing of the storage vessel after 3 years from the promulgation date of the proposed standards, but in no case more than 10 years from the promulgation date of the proposed standards. We are allowing 3 years to identify storage vessels that need to be upgraded and identify appropriate fitting control systems that need to be installed. We are allowing up to 10 years in order to align the installation of the controls with a planned degassing event, to the extent practicable, to minimize the offsetting emissions that occur due to a degassing event solely to install the fitting controls. For internal floating roofs, we are proposing to add LEL monitoring requirements. Compliance with these requirements may require significant upgrades of the internal floating roof. Therefore, we are proposing to provide up to 3 years to comply with these new requirements.

We are proposing new requirements to conduct instrument monitoring to identify equipment leaks. This requirement will require owners/operators to identify all affected equipment components, implement training on the new requirements, and identify contractors to conduct the instrument monitoring. Therefore, we are proposing to provide up to 3 years to comply with these new requirements.

We are proposing to revise the General Provisions applicability table to remove references to vacated provisions. As these provisions have been vacated for several years, we are proposing that these revisions be applicable upon promulgation. We do not expect any of the proposed revisions will increase burden to any facility and can be implemented without delay.

We are proposing to require electronic reporting. We are providing up to 3 years to comply with these new provisions. Because we are proposing to allow owners or operators to comply with existing requirements and electronic reporting forms will not be available for the existing reporting requirements, it is expedient to harmonize the timing of the proposed revisions to the electronic reporting requirements with the revisions to the requirements.

3. NSPS Subpart XXa

We are proposing that all bulk gasoline terminal sources that commenced construction, reconstruction, or modification on or after June 10, 2022, would need to meet the requirements of 40 CFR part 60, subpart XXa upon startup of the new, reconstructed or modified facility or the effective date of the final rule, whichever is later. This proposed compliance schedule is consistent with the requirements in Section 111(e) of the CAA.

IV. Summary of Cost, Environmental, and Economic Impacts

A. What are the affected sources?

There are approximately 9,500 facilities subject to the Gasoline Distribution NESHAP and the Bulk Gasoline Terminals NSPS. An estimated 210 facilities are classified as major sources and more than 9,250 are area sources. We estimated there would be 5 new facilities and 15 modified/reconstructed subject to the NSPS in the next 5 years.

B. What are the air quality impacts?

This proposed action would reduce HAP and VOC emissions from the Gasoline Distribution NESHAP and the Bulk Gasoline Terminals NSPS sources. In comparison to baseline emissions of 6,110 tpy HAP and 121,000 tpy VOC, the EPA estimates HAP and VOC emission reductions of approximately 2,220 and 45,400 tpy, respectively, based on our analysis of the proposed action described in sections III.A and B in this preamble. Emission reductions and secondary impacts (*e.g.,* emission increases associated with supplemental fuel or additional electricity) by subpart are listed below.

1. NESHAP Subpart R

For the major source rule, the EPA estimates HAP and VOC emission reductions of approximately 134 and 2,160 tpy, respectively, compared to baseline HAP and VOC emissions of 845 and 18,200 tpy. The EPA estimates that the proposed action would not have any secondary pollutant impacts. More information about the estimated emission reductions and secondary impacts of this proposed action for the major source rule can be found in the document, ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP.''

2. NESHAP Subpart BBBBBB

For the area source rule, the EPA estimates HAP and VOC emission reductions of approximately 2,090 and 40,300 tpy, respectively, compared to baseline HAP and VOC emissions of 5,260 and 99,400 tpy. The EPA estimates that the proposed action would result in additional emissions of 32,400 tpy of carbon dioxide, 19 tpy of nitrogen oxides, and 86 tpy of carbon monoxide. More information about the estimated emission reductions and secondary impacts of this proposed action for the area source rule can be found in the document, ''Area Source Technology Review for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP.''

3. NSPS Subpart XXa

For the NSPS, the EPA estimates VOC emission reductions of approximately 2,950 tpy compared to baseline emissions of 3,890 tpy. The EPA estimates that the proposed action would result in additional emissions of 2,229 tpy of carbon dioxide, 2 tpy of nitrogen oxides, and 1 tpy of sulfur dioxide. More information about the estimated emission reductions and secondary impacts of this proposed action for the NSPS can be found in the document, ''New Source Performance Standards Review for Bulk Gasoline Terminals.''

C. What are the cost impacts?

This proposed action would cost (in 2019 dollars) approximately $66.8 million in total capital costs and total annualized cost savings of $3.42 million per year (including product recovery), based on our analysis of the proposed action described in sections III.A and B of this preamble. Costs by rule are listed below.

1. NESHAP Subpart R

For the major source rule, the EPA estimates this proposed action would cost approximately $2.07 million in total capital costs and $2.11 million per year in total annualized costs (including product recovery). More information about the estimated cost of this proposed action for the major source rule can be found in the document, ''Major Source Technology Review for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations) NESHAP.''

2. NESHAP Subpart BBBBBB

For the area source rule, the EPA estimates this proposed action would cost approximately $57.6 million in total capital costs and have cost savings of $5.91 million per year in total annualized costs (including product recovery). More information about the estimated cost of this proposed action for the area source rule can be found in the document, ''Area Source Technology Review for Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities NESHAP.''

3. NSPS Subpart XXa

For the NSPS, the EPA estimates this proposed action would cost approximately $7.20 million in total capital costs and $387,000 per year in total annualized costs (including product recovery). More information about the estimated cost of this proposed action for the NSPS can be found in the document, ''New Source Performance Standards Review for Bulk Gasoline Terminals.''

D. What are the economic impacts?

The EPA conducted economic impact analyses for this proposal, Regulatory Impact Analysis, which is available in the docket for this action. The economic impact analyses contain two parts. The economic impacts of the proposal on small entities are calculated as the percentage of total annualized costs incurred by affected ultimate parent owners to their revenues. This ratio provides a measure of the direct economic impact to ultimate parent owners of Gasoline Distribution facilities while presuming no impact on consumers. We estimate the average small entity impacted by the proposal will incur total annualized costs of 0.42 percent of their revenue, with none exceeding 6.75 percent. We estimate fewer than 10 percent of impacted small entities will incur total annualized costs greater than 1 percent of their revenue, and fewer than 5 percent will incur total annualized costs greater than 3 percent of their revenue. This is based on a conservative estimate of costs imposed on ultimate parent companies, where total annualized costs are imposed on a facility are at the upper bound of what is possible under the rule and do not include product recovery as a credit. More explanation of these economic impacts can be found in the Regulatory Flexibility Act (RFA) later in this preamble and in the Regulatory Impact Analysis (RIA) for this proposed rulemaking.

The EPA also prepared a model of the U.S. gasoline market in order to project changes caused by the rulemaking to the price and quantity of gasoline sold from 2026 to 2040. Using this model, the price of gasoline is projected to rise by less than .003 percent in all years from 2026 to 2040, whereas the quantity of gasoline consumed is projected to fall by less than .001 percent in all years from 2026 to 2040. These projections consider the costs imposed by amendments to NESHAP subpart BBBBBB, NESHAP subpart R, and amendments to NSPS subpart XX (as proposed in subpart XXa).

Thus, these economic impacts are low for affected companies and the industries impacted by this proposed rulemaking, and there will not be substantial impacts on the markets for affected products. The costs of the proposal are not expected to result in a significant market impact, regardless of whether they are passed on to the purchaser or absorbed by the firms. The RIA for this proposed rulemaking includes more details and discussion of these projected impacts.

E. What are the benefits?

The emission controls installed to comply with these proposed rules are expected to reduce VOC emissions which, in conjunction with nitrogen oxides and in the presence of sunlight, form ground-level ozone (O_3). This section reports the estimated ozone-related benefits of reducing VOC emissions in terms of the number and value of avoided ozone-attributable deaths and illnesses.

As a first step in quantifying O_3-related human health impacts, the EPA consults the *Integrated Science Assessment for Ozone* (Ozone ISA) [14] as summarized in the Technical Support Document for the Final Revised Cross

[14] U.S. EPA (2020). Integrated Science Assessment for Ozone and Related Photochemical Oxidants. U.S. Environmental Protection Agency. Washington, DC. Office of Research and Development. EPA/600/R–20/012. Available at: *https://www.epa.gov/isa/integrated-science-assessment-isa-ozone-and-related-photochemical-oxidants.*

State Air Pollution Rule Update.[15] This document synthesizes the toxicological, clinical, and epidemiological evidence to determine whether each pollutant is causally related to an array of adverse human health outcomes associated with either acute (*i.e.,* hours or days-long) or chronic (*i.e.,* years-long) exposure. For each outcome, the Ozone ISA reports this relationship to be causal, likely to be causal, suggestive of a causal relationship, inadequate to infer a causal relationship, or not likely to be a causal relationship.

In brief, the Ozone ISA found short-term (less than one month) exposures to ozone to be causally related to respiratory effects, a ''likely to be causal'' relationship with metabolic effects and a ''suggestive of, but not sufficient to infer, a causal relationship'' for central nervous system effects, cardiovascular effects, and total mortality. The Ozone ISA reported that long-term exposures (one month or longer) to ozone are ''likely to be causal'' for respiratory effects including respiratory mortality, and a ''suggestive of, but not sufficient to infer, a causal relationship'' for cardiovascular effects, reproductive effects, central nervous system effects, metabolic effects, and total mortality.

For all estimates, we summarized the monetized ozone-related health benefits using discount rates of 3 percent and 7 percent for both short-term and long-term effects for the 15-year analysis period of these rules discounted back to 2022 rounded to 2 significant figures. For the full set of underlying calculations see the Gasoline Distribution Benefits workbook (docket number EPA–HQ–OAR–2020–0371). In addition, we include the monetized disbenefits from additional CO2 emissions using a 3 percent rate, which occur with NESHAP subpart BBBBBB and NSPS XXa, but not NESHAP subpart R since there are no additional CO2 emissions as a result of this proposed rule. Monetization of the benefits of reductions in cancer incidences requires several important inputs, including central estimates of cancer risks, estimates of exposure to carcinogenic HAP, and estimates of the value of an avoided case of cancer (fatal and non-fatal). Due to methodology and data limitations, we did not attempt to monetize the health benefits of reductions in HAP in this analysis. A qualitative discussion of the health effects associated with HAP emitted from sources subject to control under the proposed action is included in the Regulatory Impact Analysis for the proposed action.

1. NESHAP Subpart R

The PV of the benefits for the proposed amendments for NESHAP subpart R are $9.9 million at the 3 percent discount rate to $5.6 million at the 7 percent discount rate for short-term effects and $81 million at the 3 percent discount rate to $48 million at the 7 percent discount rate for long-term effects. The EAV of the benefits for the proposed amendments for NESHAP subpart R are $0.83 million at the 3 percent discount rate to $0.65 million at the 7 percent discount rate for short-term effects and $6.8 million at the 3 percent discount rate to $5.3 million at the 7 percent discount rate for long-term effects.

2. NESHAP Subpart BBBBBB

The PV of the net benefits (monetized health benefits minus monetized climate disbenefits) for the proposed amendments for NESHAP BBBBBB are $160 million at the 3 percent discount rate to $83 million at the 7 percent discount rate for short-term effects and $1,500 million at the 3 percent discount rate to $870 million at the 7 percent discount rate for long-term. The EAV of the benefits for the proposed amendments for NESHAP BBBBBB are $13 million at the 3 percent discount rate to $9.7 million at the 7 percent discount rate for short-term effects and $120 million at the 3 percent discount rate to $97 million at the 7 percent discount rate for long-term effects.

3. NSPS Subpart XXa

Because the estimated emissions reductions due to this rule are small and because we cannot be confident of the location of new facilities under the NSPS, the EPA elected to use the benefit per-ton (BPT) approach. BPT estimates provide the total monetized human health benefits (the sum of premature mortality and premature morbidity) of reducing one ton of the VOC precursor for ozone from a specified source. Specifically, in this analysis, we multiplied the estimates from the ''Gasoline Distribution'' sector by the corresponding emission reductions.

The PV of the net benefits (monetized health benefits minus monetized climate disbenefits) for the proposed NSPS subpart XXa are $25 million at the 3 percent discount rate to $12 million at the 7 percent discount rate for short-term effects and $240 million at the 3 percent discount rate to $130 million at the 7 percent discount rate for long-term effects. The EAV of the benefits for the proposed NSPS subpart XXa are $2.0 million at the 3 percent discount rate to $1.4 million at the 7 percent discount rate for short-term effects and $20 million at the 3 percent discount rate to $15 million at the 7 percent discount rate for long-term effects.

F. What analysis of environmental justice did we conduct?

Consistent with EPA's commitment to integrating environmental justice (EJ) in the Agency's actions, and following the directives set forth in multiple Executive Orders, the Agency has carefully considered the impacts of this action on communities with EJ concerns.

Executive Order 12898 directs EPA to identify the populations of concern who are most likely to experience unequal burdens from environmental harms; specifically, minority populations, low-income populations, and indigenous peoples (59 FR 7629, February 16, 1994). Additionally, Executive Order 13985 is intended to advance racial equity and support underserved communities through federal government actions (86 FR 7009, January 20, 2021). The EPA defines EJ as ''the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.'' [16] The EPA further defines fair treatment to mean that ''no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies''. In recognizing that minority and low-income populations often bear an unequal burden of environmental harms and risks, the EPA continues to consider ways of protecting them from adverse public health and environmental effects of air pollution.

For this proposal, the EPA examined the potential for Gasoline Distribution facilities to pose potential concerns to EJ communities by analyzing the distribution of demographic groups living in close proximity to these facilities in the baseline. Specifically, the EPA conducted a demographic screening analysis that shows that the proportion of the population of people of color living in proximity to these facilities is significantly higher than the

[15] U.S. EPA. 2021. Technical Support Document (TSD) for the Final Revised Cross-State Air Pollution Rule Update for the 2008 Ozone Season NAAQS Estimating $PM_{2.5}$- and Ozone-Attributable Health Benefits. *https://www.epa.gov/sites/default/files/2021-03/documents/estimating_pm2.5-_and_ozone-attributable_health_benefits_tsd.pdf.*

[16] *https://www.epa.gov/environmentaljustice.*

national average. The EPA expects that the National Emission Standards for Hazardous Air Pollutants: Gasoline Distribution Technology Review and Standards of Performance for Bulk Gasoline Terminals Review will reduce VOC and HAP emissions by 45,400 and 2,200 tpy, respectively. The EPA is proposing to require stricter cargo tank vapor tightness standards, improved storage vessel fittings, equipment leak instrument monitoring, lower emission limits for loading operations at large area source bulk gasoline terminals and NSPS subpart XXa affected facilities, and vapor balancing at bulk gasoline plants. These proposed changes to control requirements for affected facilities are anticipated to improve human health exposures for most populations, including for surrounding communities with EJ concerns.

Based on these analyses of potentially exposed populations and actions taken to reduce adverse human health impacts, the EPA anticipates that this action is not likely to result in disproportionate impacts on minority populations and/or low-income populations, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994) and referenced in Executive Order 13985 (86 FR 7009, January 20, 2021). EPA remains committed to engaging with communities and stakeholders throughout the development of air pollution regulations. Following is a more detailed description of how the agency considers EJ in the context of regulatory development, and specific actions taken to address EJ concerns for this action.

1. NESHAP Subpart R

As a starting point, to examine the potential for any EJ issues that might be associated with Gasoline Distribution facilities, we performed a baseline demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 kilometers (km) and 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

The results of the demographic analysis (see Table 18 of this document) indicate that, for populations within 5 km of the 117 major source Gasoline Distribution facilities,[17] the percent minority population (being the total population minus the white population) is larger than the national average (59 percent versus 40 percent). This difference is largely driven by the percent Hispanic or Latino population that is significantly higher than the national average (33 percent versus 19 percent). The percent of the population that is African American (15 percent) and Other and Multiracial (10 percent) are slightly above the national averages (12 percent and 8 percent, respectively). The percent of people living below the poverty level (17 percent) and those over 25 without a high school diploma (18 percent) are higher than the national averages (13 percent and 12 percent, respectively). The percent of people living in linguistic isolation was higher than the national average (9 percent versus 5 percent).

The results of the analysis of populations within 50 km of the 117 major source Gasoline Distribution facilities was similar to the 5 km analysis for minorities, with higher total minorities being driven by a larger Hispanic or Latino population. However, the percent of the population living below the poverty level and the percent of the population over 25 without a high school diploma were similar to the national averages. The percent of people living in linguistic isolation was still higher than the national average (8 percent versus 5 percent).

A summary of the proximity demographic assessment performed for the major source Gasoline Distribution Facilities is included as Table 18. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near Gasoline Distribution Facilities,* available in this docket for this action (Document ID EPA–HQ–OAR–2020–0371).

TABLE 18—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR MAJOR SOURCE GASOLINE DISTRIBUTION FACILITIES

Demographic group	Nationwide	Population within 50 km of 117 facilities	Population within 5 km of 117 facilities
Total Population	328,016,242	114,588,509	5,884,976
White and Minority by Percent			
White	60%	50%	41%
Minority	40%	50%	59%
Minority by Percent			
African American	12%	15%	15%
Native American	0.7%	0.3%	0.4%
Hispanic or Latino (includes white and nonwhite)	19%	24%	33%
Other and Multiracial	8%	11%	10%
Income by Percent			
Below Poverty Level	13%	13%	17%
Above Poverty Level	87%	87%	83%
Education by Percent			
Over 25 and without a High School Diploma	12%	13%	18%
Over 25 and with a High School Diploma	88%	87%	82%
Linguistically Isolated by Percent			
Linguistically Isolated	5%	8%	9%

Notes:

[17] The EPA estimates there are approximately 210 major source Gasoline Distribution facilities; however, we had location information for only 117 of the facilities.

• The nationwide population count and all demographic percentages are based on the Census' 2015–2019 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
• Minority population is the total population minus the white population.
• To avoid double counting, the ''Hispanic or Latino'' category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

As noted above, the EPA determined that the standards should be revised to reflect cost-effective developments in practices, process, or controls. Typically, the EPA would seek to estimate the impact of the proposed changes by either estimating the emissions changes likely to result from the adoption of new controls by specific sources or groups of sources, or (where data is more limited, as is typically the case) by analyzing a model plant scenario. In this case, we evaluated the impact of these standards by applying the revised standards to a set of model plants. Because we based the analysis of the impacts and emission reductions on model plants, we are not able to ascertain specifically how the potential benefits will be distributed across the population. Thus, we are limited in our ability to estimate the potential EJ impacts of this proposed rule. However, we anticipate the proposed changes to NESHAP subpart R will generally improve human health exposures for populations in surrounding communities, including those communities with higher percentages of people of color. The proposed changes will have beneficial effects on air quality and public health for populations exposed to emissions from Gasoline Distribution facilities and will provide additional health protection for most populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities.

2. NESHAP Subpart BBBBBB

As a starting point, to examine the potential for any EJ issues that might be associated with Gasoline Distribution facilities, we performed a baseline demographic analysis, which is an assessment of individual demographic groups of the populations living within 5 km and 50 km of the facilities. The EPA then compared the data from this analysis to the national average for each of the demographic groups.

The results of the demographic analysis (see Table 19 of this document) indicate that, for populations within 5 km of 1,229 area source Gasoline Distribution facilities,[18] the percent minority population (being the total population minus the white population) is larger than the national average (54 percent versus 40 percent). This difference is largely driven by the Hispanic or Latino (26 percent) and African American (18 percent) populations that are significantly larger than the national averages (19 percent and 12 percent, respectively). The percent of the population that is Other and Multiracial (10 percent) is slightly above the national average (8 percent). The percent of people living below the poverty level (18 percent) and those over 25 without a high school diploma (16 percent) were higher than the national averages (13 percent and 12 percent, respectively). The percent of people living in linguistic isolation was higher than the national average (9 percent versus 5 percent).

The results of the analysis of populations within 50 km of the 1,229 area source Gasoline Distribution facilities were similar to the national averages for all demographics. This is due to the fact that the large number of facilities (1,229) and larger study area (50 km) captured approximately 75% of the national population.

A summary of the proximity demographic assessment performed for the area source Gasoline Distribution facilities is included as Table 19. The methodology and the results of the demographic analysis are presented in a technical report, *Analysis of Demographic Factors for Populations Living Near Gasoline Distribution Facilities,* available in this docket for this action (Document ID EPA–HQ–OAR–2020–0371).

TABLE 19—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR AREA SOURCE GASOLINE DISTRIBUTION FACILITIES

Demographic group	Nationwide	Population within 50 km of 1,229 facilities	Population within 5 km of 1,229 facilities
Total Population	328,016,242	252,008,837	35,679,430
White and Minority by Percent			
White	60%	58%	46%
Minority	40%	42%	54%
Minority by Percent			
African American	12%	13%	18%
Native American	0.7%	0.5%	0.5%
Hispanic or Latino (includes white and nonwhite)	19%	20%	26%
Other and Multiracial	8%	9%	10%
Income by Percent			
Below Poverty Level	13%	13%	18%
Above Poverty Level	87%	87%	82%
Education by Percent			
Over 25 and without a High School Diploma	12%	12%	16%
Over 25 and with a High School Diploma	88%	88%	84%

[18] The EPA estimates there are approximately 9,260 area source Gasoline Distribution facilities; however, we had location information for only 1,229 of the facilities.

TABLE 19—PROXIMITY DEMOGRAPHIC ASSESSMENT RESULTS FOR AREA SOURCE GASOLINE DISTRIBUTION FACILITIES—Continued

Demographic group	Nationwide	Population within 50 km of 1,229 facilities	Population within 5 km of 1,229 facilities
Linguistically Isolated by Percent			
Linguistically Isolated	5%	6%	9%

Notes:
• The nationwide population count and all demographic percentages are based on the Census' 2015–2019 American Community Survey five-year block group averages and include Puerto Rico. Demographic percentages based on different averages may differ. The total population counts within 5 km and 50 km of all facilities are based on the 2010 Decennial Census block populations.
• Minority population is the total population minus the white population.
• To avoid double counting, the ''Hispanic or Latino'' category is treated as a distinct demographic category for these analyses. A person is identified as one of five racial/ethnic categories above: White, African American, Native American, Other and Multiracial, or Hispanic/Latino. A person who identifies as Hispanic or Latino is counted as Hispanic/Latino for this analysis, regardless of what race this person may have also identified as in the Census.

As noted above, the EPA determined that the standards should be revised to reflect cost-effective developments in practices, process, or controls. Typically, the EPA would seek to estimate the impact of the proposed changes by either estimating the emissions changes likely to result from the adoption of new controls by specific sources or groups of sources, or (where data is more limited, as is typically the case) by analyzing a model plant scenario. In this case, we evaluated the impact of these standards by applying the revised standards to a set of model plants. Because we based the analysis of the impacts and emission reductions on model plants, we are not able to ascertain specifically how the potential benefits will be distributed across the population. Thus, we are limited in our ability to estimate the potential EJ impacts of this proposed rule. However, we anticipate the proposed changes to NESHAP subpart BBBBBB will generally improve human health exposures for populations in surrounding communities, including those communities with higher percentages of people of color. The proposed changes will provide additional health protection for all populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities. The proposed changes will have beneficial effects on air quality and public health for populations exposed to emissions from Gasoline Distribution facilities that are area sources and will provide additional health protection for most populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities.

3. NSPS Subpart XXa

The locations of any new Bulk Gasoline Terminals that would be subject to NSPS subpart XXa are not known. In addition, it is not known which existing Bulk Gasoline Terminals may be modified or reconstructed and subject to NSPS subpart XXa. Thus, we are limited in our ability to estimate the potential EJ impacts of this proposed rule. However, we anticipate the proposed changes to NSPS XXa will generally improve human health exposures for populations in surrounding communities, including those communities with higher percentages of people of color. See Subsections 2 and 3 of this section for a summary of the demographic analysis results for major and area sources.

The proposed changes to NSPS subpart XXa will improve human health exposures for populations in these demographic groups. The EPA determined that the standards should be revised to reflect BSER. The proposed changes will have beneficial effects on air quality and public health for populations exposed to emissions from Gasoline Distribution facilities with new, modified or reconstructed sources and will provide additional health protection for most populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities.

V. Request for Comments

We solicit comments on this proposed action. In this proposal, EPA has noted multiple times where we are concerned that this source category impacts large populations of people that have the potential to be overburdened by air pollution from multiple sources. In reviewing standards for this source category, we have identified more stringent standards that could further reduce HAP emissions exposure in communities but impose higher capital and annualized costs. The cost per ton of HAP of these options is greater than what we have considered cost-effective for these type of HAP in previous rulemakings. EPA seeks comment on whether these more protective standards, although less cost effective for these type of HAP emissions controls than we would typically find acceptable, are nevertheless appropriate given the reductions in HAPs that would occur in potentially over-burdened communities surrounding these sources. EPA also requests information on the costs, efficacy, and feasibility of control options for major and area source gasoline distribution facilities, and the contributions of these sources to overall pollution burdens in surrounding communities, to inform our consideration of whether more protective standards are warranted.

In addition to general comments on this proposed action, we are also interested in additional data that may improve the analyses. We are specifically interested in receiving any information regarding developments in practices, processes, and control technologies that reduce emissions. We are also interested in receiving information on costs, emissions, and product recovery. Finally, the EPA attempted to ensure that the SSM provisions we are proposing to eliminate are inappropriate, unnecessary, or redundant in the absence of the SSM exemption and are specifically seeking comment on whether we have successfully done so.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This action is a significant regulatory action that was submitted to OMB for review. This action is a significant regulatory action because it likely to

have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Any changes made in response to OMB recommendations have been documented in the docket for this action. The EPA has prepared an economic analysis that is included in the Regulatory Impact Analysis which is available in the docket for these proposed rules.

B. Paperwork Reduction Act (PRA)

1. NESHAP Subpart R

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. You can find a copy of the Information Collection Request (ICR) in the docket for this rule, and it is briefly summarized here.

The EPA is proposing amendments that revise provisions pertaining to emissions during periods of SSM, add requirements for electronic reporting of periodic reports, and performance test results, and make other minor clarifications and corrections. This information will be collected to assure compliance with the Gasoline Distribution NESHAP subpart R.

- *Respondents/affected entities:* Owners or operators of gasoline distribution facilities. *Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart R).
- *Estimated number of respondents:* 210 (assumes no new respondents over the next 3 years). *Frequency of response:* Initially, semiannually, and annually.
- *Total estimated burden:* 16,300 (per year) to comply with the proposed amendments in the NESHAP. Burden is defined at 5 CFR 1320.3(b).
- *Total estimated cost:* $1,263,464 (per year), including no annualized capital or operation and maintenance costs, to comply with the proposed amendments in the NESHAP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than August 9, 2022. The EPA will respond to any ICR-related comments in the final rule.

2. NESHAP Subpart BBBBBB

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The EPA is proposing amendments that revise provisions to add requirements for electronic reporting of periodic reports, and performance test results, and make other minor clarifications and corrections. This information will be collected to assure compliance with the Gasoline Distribution NESHAP subpart BBBBBB.

- *Respondents/affected entities:* Owners or operators of gasoline distribution facilities. *Respondent's obligation to respond:* Mandatory (40 CFR part 63, subpart BBBBBB).
- *Estimated number of respondents:* 9,263 (assumes no new respondents over the next 3 years). *Frequency of response:* Initially, semiannually, and annually.
- *Total estimated burden:* 83,882 hours (per year) to comply with the proposed amendments in the NESHAP. Burden is defined at 5 CFR 1320.3(b).
- *Total estimated cost:* $6,501,788 (per year), including no annualized capital or operation and maintenance costs, to comply with the proposed amendments in the NESHAP.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than August 9, 2022. The EPA will respond to any ICR-related comments in the final rule.

3. NSPS Subpart XXa

The information collection activities in this proposed rule have been submitted for approval to the OMB under the PRA. You can find a copy of the ICR in the docket for this rule, and it is briefly summarized here.

The EPA is proposing provisions to require electronic reporting of periodic reports, and performance test results, and make other minor clarifications and corrections. This information will be collected to assure compliance with the Gasoline Distribution NSPS subpart XXa.

- *Respondents/affected entities:* Owners or operators of bulk gasoline terminals. Respondent's obligation to respond: Mandatory (40 CFR part 60, subpart XXa).
- *Estimated number of respondents:* 12 (assumes four new respondents each year over the next 3 years). Frequency of response: Initially, semiannually, and annually.
- *Total estimated burden:* 1,132 hours (per year) to comply with all of the requirements in the NSPS. Burden is defined at 5 CFR 1320.3(b).
- *Total estimated cost:* $86,899 (per year), including no annualized capital or operation and maintenance costs, to comply with all of the requirements in the NSPS.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for the EPA's regulations in 40 CFR are listed in 40 CFR part 9.

Submit your comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden to the EPA using the docket identified at the beginning of this rule. You may also send your ICR-related comments to OMB's Office of Information and Regulatory Affairs via email to *OIRA_submission@omb.eop.gov,* Attention: Desk Officer for the EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after receipt, OMB must receive comments no later than August 9, 2022. The EPA will respond to any ICR-related comments in the final rule.

C. Regulatory Flexibility Act (RFA)

I certify that each of the rules included in this proposed action will not have a significant economic impact on a substantial number of small entities under the RFA. The small entities

subject to the requirements of this proposed rulemaking are all small businesses. For NESHAP subpart R, EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. The Agency has determined that two small entities are affected by these proposed amendments, which is 4.9 percent of all affected ultimate parent companies. Neither of these small entities is projected to incur costs from this rule greater than 1 percent of their sales. For NESHAP subpart BBBBBB, EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. The Agency has determined that 111 small entities are affected by these proposed amendments, which is 42 percent of all affected ultimate parent businesses. Less than 10 percent of these small entities (10 total) are projected to incur costs from the proposed rules of greater than 1 percent of their annual sales, and less than 4 percent (4 total) are projected to incur costs greater than 3 percent of their annual sales (with a maximum of 6.75 percent). Finally, for NSPS subpart XXa, EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities under the RFA. The Agency has not identified any small entities that are affected by this proposed NSPS and does not project that any entities affected by the proposed NSPS will incur costs greater than 1 percent of their annual sales. Details of the analyses for each proposed rule are presented in the Regulatory Impact Analysis for these proposed rulemakings.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain an unfunded mandate of $100 million or more as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. The action imposes no enforceable duty on any state, local or tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. None of the facilities that have been identified as being affected by this action are owned or operated by tribal governments or located within tribal lands. Thus, Executive Order 13175 does not apply to this action. However, consistent with the *EPA Policy on Consultation and Coordination with Indian Tribes,* the EPA will offer government-to-government consultation with tribes as requested.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This action is not subject to Executive Order 13045 because the EPA does not believe that the environmental health risks or safety risks addressed by this action present a disproportionate risk to children. The proposed rules lower the emissions of gasoline and gasoline vapors and are projected to improve overall health including children.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The EPA expects this proposed action would not reduce crude oil supply, fuel production, coal production, natural gas production, or electricity production. We estimate that this proposed action would have minimal impact on the amount of imports or exports of crude oils, condensates, or other organic liquids used in the energy supply industries. Given the minimal impacts on energy supply, distribution, and use as a whole nationally, no significant adverse energy effects are expected to occur. For more information on these estimates of energy effects, please refer to the Regulatory Impact Analysis for this proposed rulemaking.

I. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. The EPA proposes to use EPA Method 18. While the EPA identified ASTM 6420–18 as being potentially applicable, the Agency does not propose to use it. The use of this voluntary consensus standard would be impractical because it has a limited list of analytes and is not suitable for analyzing many compounds that are expected to occur in gasoline vapor.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this decision is contained in sections III, IV.E, and IV.F of this preamble. All relevant documents are available in the docket for this action (Docket ID No. EPA–HQ–OAR–2020–0371).

The assessment of populations in close proximity of gasoline distribution facilities shows some demographic groups that are higher than the national average, however, we determined that the human health impacts are not disproportionate for these groups because this action proposes changes to the standards that will increase protection for communities. The EPA determined that the standards should be revised to reflect cost-effective developments in practices, process, or controls and BSER. The proposed changes will provide additional health protection for all populations, including communities already overburdened by pollution, which are often minority, low-income, and indigenous communities. The proposed changes will have beneficial effects on air quality and public health for populations exposed to emissions from facilities in the source category. Further, this rulemaking complements other actions already taken by the EPA to reduce emissions and improve health outcomes for overburdened and underserved communities.

Michael S. Regan,

Administrator.

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