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Contents

Federal Register

Vol. 87, No. 119

Wednesday, June 22, 2022

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders:

Memorandums:

Memorandum of June 16, 2022 37431

7 CFR

Proposed Rules:

981 37240

10 CFR

170 37197

171 37197

Proposed Rules:

430 37240

14 CFR

39 (2 documents) 37226, 37228

71 37231

Proposed Rules:

39 (2 documents) 37247, 37249

71 37252

17 CFR

Proposed Rules:

270 37254

275 37254

23 CFR

Proposed Rules:

680 37262

33 CFR

165 (2 documents) 37232, 37234

40 CFR

52 37235

Proposed Rules:

52 37280

174 37287

180 37287

47 CFR

9 37237

49 CFR

Proposed Rules:

563 37289

50 CFR

Proposed Rules:

17 37378

Rules and Regulations

Federal Register
Vol. 87, No. 119
Wednesday, June 22, 2022

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2020–0031]

RIN 3150–AK44

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2022

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees. These amendments are necessary to implement the Nuclear Energy Innovation and Modernization Act, which requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of its annual budget less certain amounts excluded from this fee-recovery requirement.

DATES: This final rule is effective on August 22, 2022.

ADDRESSES: Please refer to Docket ID NRC–2020–0031 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2020–0031.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209 or 301–415–4737, or by email to *pdr.resource@nrc.gov*. For the convenience of the reader, the ADAMS accession numbers are provided in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *pdr.resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Anthony Rossi, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–7341; email: *Anthony.Rossi@nrc.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) the Independent Offices Appropriation Act, 1952 (IOAA) (31 U.S.C. 9701), and (2) the Nuclear Energy Innovation and Modernization Act (NEIMA) (42 U.S.C. 2215). The IOAA authorizes and encourages Federal agencies to recover, to the fullest extent possible, costs attributable to services provided to identifiable recipients. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of its annual budget, less the budget authority for excluded activities. Under Section 102(b)(1)(B) of NEIMA, ''excluded activities'' include any fee-relief activity as identified by the Commission, generic homeland security activities, waste incidental to reprocessing activities, Nuclear Waste Fund activities, advanced reactor regulatory infrastructure activities, Inspector General services for the Defense Nuclear Facilities Safety Board, research and development at universities in areas relevant to the NRC's mission, and a nuclear science and engineering grant program.

In fiscal year (FY) 2022, the fee-relief activities identified by the Commission are consistent with prior fee rules and include Agreement State oversight, regulatory support to Agreement States, medical isotope production infrastructure, fee exemptions for non-profit educational institutions, costs not recovered from small entities under § 171.16(c) of title 10 of the *Code of Federal Regulations* (10 CFR), generic decommissioning/reclamation activities, the NRC's uranium recovery program and unregistered general licenses, potential U.S. Department of Defense Program Memorandum of Understanding activities (Military Radium-226), and non-military radium sites. In addition, the resources for import and export licensing are identified as a fee-relief activity to be excluded from the fee-recovery requirement.

Under NEIMA, the NRC must use its IOAA authority first to collect service fees for NRC work that provides specific benefits to identifiable recipients (such as licensing work, inspections, and special projects). The NRC's regulations in 10 CFR part 170, ''Fees for Facilities, Materials, Import and Export Licenses, and Other Regulatory Services Under the Atomic Energy Act of 1954, as Amended,'' explain how the agency collects service fees from specific beneficiaries. Because the NRC's fee recovery under the IOAA (10 CFR part 170) will not equal 100 percent of the agency's total budget authority for the fiscal year (less the budget authority for excluded activities), the NRC also assesses ''annual fees'' under 10 CFR part 171, ''Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC,'' to recover the remaining amount necessary to comply with NEIMA.

II. Discussion

FY 2022 Fee Collection—Overview

The NRC is issuing this FY 2022 final fee rule based on the Consolidated Appropriations Act, 2022 (the enacted budget). The final fee rule reflects a total budget authority in the amount of $887.7 million, an increase of $43.3 million from FY 2021. As explained previously, certain portions of the NRC's total budget authority for the fiscal year are excluded from NEIMA's fee-recovery requirement under Section 102(b)(1)(B) of NEIMA. Based on the FY 2022 enacted budget, these exclusions total $131.0 million, an increase of $8.0 million from FY 2021. These excluded activities consist of $91.5 million for fee-relief activities, $23.0 million for advanced reactor regulatory infrastructure activities, $14.3 million for generic homeland security activities, $1.0 million for waste incidental to reprocessing activities, and $1.2 million for Inspector General services for the Defense Nuclear Facilities Safety Board. Table I summarizes the excluded activities for the FY 2022 final fee rule. The FY 2021 amounts are provided for comparison purposes.

TABLE I—EXCLUDED ACTIVITIES

[Dollars in millions]

	FY 2021 final rule	FY 2022 final rule
Fee-Relief Activities:		
International activities	24.7	25.5
Agreement State oversight	10.4	11.1
Medical isotope production infrastructure	7.0	3.7
Fee exemption for nonprofit educational institutions	9.3	11.6
Costs not recovered from small entities under 10 CFR 171.16(c)	7.8	7.4
Regulatory support to Agreement States	12.3	12.1
Generic decommissioning/reclamation activities (not related to the operating power reactors and spent fuel storage fee classes)	14.9	15.9
Uranium recovery program and unregistered general licensees	3.7	3.0
Potential Department of Defense remediation program Memorandum of Understanding activities	1.0	0.9
Non-military radium sites	0.2	0.3
Subtotal Fee-Relief Activities	91.2	91.5
Activities under Section 102(b)(1)(B)(ii) of NEIMA (Generic Homeland Security activities, Waste Incidental to Reprocessing activities, and the Defense Nuclear Facilities Safety Board)	14.1	16.5
Advanced reactor regulatory infrastructure activities	17.7	23.0
Total Excluded Activities	123.0	131.0

After accounting for the exclusions from the fee-recovery requirement and net billing adjustments (*i.e.,* for FY 2022 invoices that the NRC estimates will not be paid during the fiscal year, less payments received in FY 2022 for prior year invoices), the NRC must recover approximately $752.7 million in fees in FY 2022. Of this amount, the NRC estimates that $198.8 million will be recovered through 10 CFR part 170 service fees and approximately $553.9 million will be recovered through 10 CFR part 171 annual fees. Table II summarizes the fee-recovery amounts for the FY 2022 final fee rule using the FY 2022 enacted budget and takes into account the budget authority for excluded activities and net billing adjustments. For all information presented in the following tables, individual values may not sum to totals due to rounding. Please see the work papers, available as indicated in the ''Availability of Documents'' section of this document, for actual amounts.

In FY 2022, the explanatory statement associated with the Consolidated Appropriations Act, 2022 also included direction for the NRC to use $16.0 million in prior-year unobligated carryover funds to fully fund the University Nuclear Leadership Program (UNLP). Consistent with the requirements of NEIMA, the NRC does not assess fees in the current fiscal year for any carryover funds because fees are calculated based on the budget authority enacted for the current fiscal year. Fees were already assessed in the fiscal year in which the carryover funds were appropriated. The FY 2021 amounts are provided for comparison purposes.

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2021 final rule	FY 2022 final rule
Total Budget Authority	$844.4	$887.7
Less Budget Authority for Excluded Activities:	−123.0	−131.0
Balance	721.4	756.7
Fee Recovery Percent	100	100
Total Amount to be Recovered:	721.4	756.7
Less Estimated Amount to be Recovered through 10 CFR Part 170 Fees	−190.6	−198.8
Estimated Amount to be Recovered through 10 CFR Part 171 Fees	530.8	557.9
10 CFR Part 171 Billing Adjustments:		

TABLE II—BUDGET AND FEE RECOVERY AMOUNTS—Continued

[Dollars in millions]

	FY 2021 final rule	FY 2022 final rule
Unpaid Current Year Invoices (estimated)	2.1	2.0
Less Current Year Collections from a Terminated Reactor—Indian Point Nuclear Generating, Unit 2 in FY 2020 and Indian Point Nuclear Generating, Unit 3 in FY 2021	−2.7	N/A
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−12.8	−6.0
Adjusted Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	708.0	752.7
Adjusted 10 CFR Part 171 Annual Fee Collections Required	517.4	553.9

FY 2022 Fee Collection—Professional Hourly Rate

The NRC uses a professional hourly rate to assess fees under 10 CFR part 170 for specific services it provides. The professional hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC's professional hourly rate is derived by adding budgeted resources for (1) mission-direct program salaries and benefits, (2) mission-indirect program support, and (3) agency support (corporate support and the Inspector General). The NRC then subtracts certain offsetting receipts and divides this total by the mission-direct full-time equivalent (FTE) converted to hours (the mission-direct FTE converted to hours is the product of the mission-direct FTE multiplied by the estimated annual mission-direct FTE productive hours). The only budgeted resources excluded from the professional hourly rate are those for mission-direct contract resources, which are generally billed to licensees separately. The following shows the professional hourly rate calculation:

$$\text{Professional Hourly Rate} = \frac{\text{Budgeted Resources}}{\text{Mission-Direct FTE Converted to Hours}} = \frac{\$743.3 \text{ million}}{1{,}696.1 \times 1{,}510} = \$290$$

For FY 2022, the NRC is increasing the professional hourly rate from $288 to $290. The increase in the professional hourly rate is primarily due to the increase in budgetary resources of approximately $11.0 million. The increase in budgetary resources is, in turn, primarily due to an increase in salaries and benefits to support Federal pay raises for NRC employees. The anticipated increase in the number of mission-direct FTE compared to FY 2021 is an offset to the increase in the professional hourly rate. The number of mission-direct FTE is expected to increase by 12, primarily to support new reactor licensing activities, including the review of design certifications, pre-application activities, and the review of combined license (COL) applications.

The FY 2022 estimate for annual mission-direct FTE productive hours is 1,510 hours, which is unchanged from FY 2021. This estimate, also referred to as the ''Productive Hours Assumption,'' reflects the average number of hours that a mission-direct employee spends on mission-direct work in a given year. This estimate, therefore, excludes hours charged to annual leave, sick leave, holidays, training, and general administrative tasks. Table III shows the professional hourly rate calculation methodology. The FY 2021 amounts are provided for comparison purposes.

TABLE III—PROFESSIONAL HOURLY RATE CALCULATION

[Dollars in millions, except as noted]

	FY 2021 final rule	FY 2022 final rule
Mission-Direct Program Salaries & Benefits	$335.3	$349.3
Mission-Indirect Program Support	$113.2	$115.1
Agency Support (Corporate Support and the IG)	$283.7	$278.9
Subtotal	$732.2	$743.3
Less Offsetting Receipts [1]	$0.0	$0.0
Total Budgeted Resources Included in Professional Hourly Rate	$732.2	$743.3
Mission-Direct FTE	1,684	1,696.1
Annual Mission-Direct FTE Productive Hours (Whole numbers)	1,510	1,510
Mission-Direct FTE Converted to Hours (Mission-Direct FTE multiplied by Annual Mission-Direct FTE Productive Hours)	2,542,840	2,561,111
Professional Hourly Rate (Total Budgeted Resources Included in Professional Hourly Rate Divided by Mission-Direct FTE Converted to Hours) (Whole Numbers)	$288	$290

FY 2022 Fee Collection—Flat Application Fee Changes

The NRC is amending the flat application fees it charges in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised professional hourly rate of $290. The NRC charges these fees to applicants for materials licenses and other regulatory services, as well as to holders of materials licenses. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2022. As part of its calculations, the NRC analyzes the actual hours spent performing licensing actions and estimates the five-year average professional staff hours needed to process licensing actions as part of its biennial review of fees. These actions are required by Section 205(a) of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(a)(8)). The NRC performed this review in FY 2021 and will perform this review again in FY 2023. The higher professional hourly rate of $290 is the primary reason for the increase in flat application fees (see the work papers).

In order to simplify billing, the NRC rounds these flat fees to a minimal degree. Specifically, the NRC rounds these flat fees (up or down) in such a way that ensures both convenience for its stakeholders and minimal effects due to rounding. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The flat fees are applicable for certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2022 final fee rule will be subject to the revised fees in the final rule.

In accordance with NEIMA, in FY 2022, the NRC identified international activities, including the resources for import and export licensing activities, as a fee-relief activity to be excluded from the fee-recoverable budget. The FY 2021 final fee rule, published in the **Federal Register** (86 FR 32146; June 16, 2021), provided for fees to be charged for import and export licensing actions, consistent with the FY 2021 budget request as further described in the NRC's FY 2021 Congressional Budget Justification (CBJ) (NUREG–1100, Volume 36). However, charging fees under 10 CFR part 170 for import and export licensing actions during the effective dates of the FY 2021 final fee rule would be inconsistent with the Commission's substantive fee policy decision in the FY 2022 CBJ (NUREG–1100, Volume 37) and would result in the NRC imposing fees for import and export licensing actions only once between FY 2018 and FY 2022. This would not be fair and equitable and could also lead to confusion for the affected import and export license applicants/licensees. Therefore, in light of the particular facts and unique history associated with this matter, on August 20, 2021, the Chief Financial Officer concluded that it would be in the public interest to grant an exemption from the provisions in the FY 2021 final fee rule (in §§ 170.21 and 170.31) that would require fees for import and export licensing actions in accordance with § 170.11(b). In accordance with the Commission's substantive fee policy decision for FY 2022, fees will not be assessed for import and exporting licensing activities (see fee categories K.1. through K.5. of § 170.21 and fee categories 15.A. through 15.R. of § 170.31) under this final rule.

FY 2022 Fee Collection—Low-Level Waste Surcharge

As in prior years, the NRC is assessing a generic low-level waste (LLW) surcharge of $4.250 million. Disposal of LLW occurs at commercially-operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. Four existing LLW disposal facilities in the United States accept various types of LLW. All are located in Agreement States and, therefore, are regulated by an Agreement State, rather than the NRC. The NRC is allocating this surcharge to its licensees based on data available in the U.S. Department of Energy's (DOE) Manifest Information Management System. This database contains information on total LLW volumes disposed of by four generator classes: academic, industrial, medical, and utility. The ratio of waste volumes disposed of by these generator classes to total LLW volumes disposed over a period of time is used to estimate the portion of this surcharge that will be allocated to the power reactors, fuel facilities, and the materials users fee classes. The materials users fee class portion is adjusted to account for the large percentage of materials licensees that are licensed by the Agreement States rather than the NRC.

Table IV shows the allocation of the LLW surcharge and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF LLW SURCHARGE FY 2022

[Dollars in millions]

Fee classes	LLW Surcharge	
	Percent	$
Operating Power Reactors	88.4	3.757
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0
Non-Power Production or Utilization Facilities	0.0	0.0
Fuel Facilities	9.2	0.391
Materials Users	2.4	0.102
Transportation	0.0	0.0
Rare Earth Facilities	0.0	0.0
Uranium Recovery	0.0	0.0
Total	100.0	4.250

[1] The fees collected by the NRC for Freedom of Information Act (FOIA) services and indemnity fees (financial protection required of all licensees for public liability claims at 10 CFR part 140) are subtracted from the budgeted resources amount when calculating the 10 CFR part 170 professional hourly rate, per the guidance in the Office of Management and Budget Circular A–25, *User Charges*. The budgeted resources for FOIA activities are allocated under the product for Information Services within the Corporate Support business line. The budgeted resources for indemnity activities are allocated under the Licensing Actions and Research and Test Reactors products within the Operating Reactors business line.

FY 2022 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, ''Annual Fee Calculation Method,'' the NRC rebaselines its annual fees every year. Rebaselining entails analyzing the budget in detail and then allocating the FY 2022 budgeted resources to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC is revising its annual fees in §§ 171.15 and 171.16 to recover approximately 100 percent of the NRC's FY 2022 enacted budget (less the budget authority for excluded activities and the estimated amount to be recovered through 10 CFR part 170 fees). Table V shows the rebaselined fees for FY 2022 for a sample of licensee categories. The FY 2021 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

[Actual dollars]

Class/category of licenses	FY 2021 final annual fee	FY 2022 final annual fee
Operating Power Reactors	$4,749,000	$5,165,000
+ Spent Fuel Storage/Reactor Decommissioning	237,000	$227,000
Total, Combined Fee	$4,986,000	$5,392,000
Spent Fuel Storage/Reactor Decommissioning	$237,000	$227,000
Non-Power Production or Utilization Facilities	$80,000	$90,100
High Enriched Uranium Fuel Facility (Category 1.A.(1)(a))	$4,643,000	$4,334,000
Low Enriched Uranium Fuel Facility (Category 1.A.(1)(b))	$1,573,000	$1,469,000
Uranium Enrichment (Category 1.E)	$2,023,000	$1,888,000
UF_6 Conversion and Deconversion Facility (Category 2.A.(1)	$467,000	$436,000
Basic *In Situ* Recovery Facilities (Category 2.A.(2)(b))	$47,200	$42,000
Typical Users:		
Radiographers (Category 3O)	$29,100	$29,600
All Other Specific Byproduct Material Licensees (Category 3P)	$9,900	$9,900
Medical Other (Category 7C)	$16,800	$17,000
Device/Product Safety Evaluation—Broad (Category 9A)	$17,900	$18,100

The work papers that support this final rule show in detail how the NRC allocates the budgeted resources for each class of licensees and calculates the fees.

Paragraphs a. through h. of this section describe the budgeted resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers for this final rule.

a. Operating Power Reactors

The NRC will collect $480.3 million in annual fees from the operating power reactors fee class in FY 2022, as shown in Table VI. The FY 2021 operating power reactors fees are shown for comparison purposes.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$611.8	$645.4
Less estimated 10 CFR part 170 receipts	−161.6	−165.8
Net 10 CFR part 171 resources	450.2	479.6
Allocated generic transportation	0.3	0.4
Allocated LLW surcharge	2.9	3.8
Billing adjustment	−9.1	−3.4
Adjustment: Estimated current year collections from a terminated reactor (Indian Point Generating, Unit 3 in FY 2021)	−2.7	N/A
Total required annual fee recovery	441.7	480.3
Total operating reactors	93	93
Annual fee per operating reactor	$4.749	$5.165

In comparison to FY 2021, the FY 2022 annual fee for the operating power reactors fee class is increasing primarily due to the following: (1) an increase in budgeted resources; (2) a reduction of the 10 CFR part 171 billing adjustment; and (3) the absence of the collection adjustment that was provided in FY 2021 due to the shutdown of Indian Point Generating, Unit 3. The increase in the annual fee for the operating power reactors fee class is partially offset due to the increase in the 10 CFR part 170 estimated billings. These components are discussed in the following paragraphs.

The budgeted resources for the operating power reactors fee class increased primarily due to the following: (1) an increase in contract funding in the information technology

program to support the Mission Analytics Portal (a tool to enhance the agency's ability to leverage data to support mission activities), to develop infrastructure to increase analytics capabilities using artificial intelligence, and to develop mobile applications for resident inspectors; (2) event response activities to support the NRC's continuity of operations program and emergency plan guidance development; (3) an increase in certain contract costs in the areas of research, event response, and licensing due to the absence of authorized prior year unobligated carryover funding compared to FY 2021; (4) new reactor licensing activities for the review of the Westinghouse eVinci micro reactor design certification, the review of the NuScale Power, LLC standard design approval application, and pre-application activities; and (5) pre-application activities for the Utah Associated Municipal Power Systems application. The new reactor resources are offset by a decrease in oversight resulting from the anticipated transition of Vogtle Electric Generating Plant, Units 3 and 4 (Vogtle Units 3 and 4), from construction into operation.

The annual fee is also increasing due to the following contributing factors: (1) a lower 10 CFR part 171 billing adjustment credit than was included in the operating power reactors fee class calculation in FY 2021 from the deferral of annual fees and service fees due to the coronavirus disease (COVID–19) pandemic; (2) the absence of the one-time current year collection adjustment that resulted in a credit of $2,700,000 due to the shutdown of Indian Point Nuclear Generating, Unit 3, in FY 2021; and (3) the increase in the LLW surcharge due to additional resources required to support the greater-than-Class C rulemaking for LLW case-by-case reviews (10 CFR part 61).

The increase in the annual fee for the operating power reactors fee class is offset due to an increase in the 10 CFR part 170 estimated billings as a result of the following: (1) an anticipated rise in in-person inspections and travel as COVID–19 impacts become less prominent; (2) an increase in operating reactor license renewal applications; and (3) construction inspection and licensing for Vogtle Units 3 and 4. The increase in 10 CFR part 170 estimated billings is partially offset by a decrease in work due to the following: (1) the NRC's denial of the Oklo Power, LLC COL application to build and operate the Aurora compact fast reactor; (2) delayed submittals for new reactor design and licensing applications; and (3) fewer than anticipated hours associated with operating reactor licensing activities.

The number of operating power reactors has changed since publication of the proposed rule. In the proposed rule, the NRC assumed that there would be an increase in the total number of operating power reactors from 93 to 94 due to the proposed assessment of annual fees for Vogtle Unit 3. As stated in the FY 2023 CBJ (NUREG–1100, Volume 38), Southern Nuclear Operating Company has extended its construction milestones in its semi-annual filing to state regulators. At that time, the utility updated the target for Vogtle Unit 3's transition to operations to April 2022, acknowledging a possible extension to July 2022. Since the licensee has not notified the NRC of successful completion of power ascension testing for Vogtle Unit 3 pursuant to § 171.15, this final rule has been updated to reflect 93, rather than 94, licensed operating power reactors, resulting in an annual fee of $5,165,000 per reactor. Additionally, each licensed operating power reactor will be assessed the FY 2022 spent fuel storage/reactor decommissioning annual fee of $227,000 (see Table VII and the discussion that follows). The combined FY 2022 annual fee for each operating power reactor is $5,392,000.

Section 102(b)(3)(B)(i) of NEIMA established a new cap for the annual fees charged to operating reactor licensees; under this provision, the annual fee for an operating reactor licensee, to the maximum extent practicable, shall not exceed the annual fee amount per operating reactor licensee established in the FY 2015 final fee rule (80 FR 37432; June 30, 2015), adjusted for inflation. The NRC included an estimate of the operating power reactors annual fee in Appendix C, ''Estimated Operating Power Reactors Annual Fee,'' in the FY 2022 CBJ, with the intent to increase transparency with stakeholders. The NRC developed this estimate based on the staff's allocation of the FY 2022 CBJ to fee classes under 10 CFR part 170, and allocations within the operating power reactors fee class under 10 CFR part 171. In addition, the estimated annual fee assumed 94 operating power reactors to account for Vogtle Unit 3 in FY 2022 and applied various data assumptions from the FY 2021 final fee rule (86 FR 32146; June 16, 2021). Based on these allocations and assumptions, the operating power reactor annual fee included in the FY 2022 CBJ was estimated to be $4.8 million, approximately $0.6 million below the FY 2015 operating power reactors annual fee amount adjusted for inflation of $5.5 million. Although the FY 2022 CBJ included the estimated operating power reactors annual fee, the assumptions made between budget formulation and the development of the FY 2022 final rule have changed, including the change in the number of operating power reactors from 94 to 93. However, the FY 2022 annual fee of $5,165,000 remains below the FY 2015 operating power reactors annual fee amount adjusted for inflation.

In FY 2016, the NRC amended its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water SMRs (81 FR 32617). Under the variable annual fee structure, an SMR annual fee would be assessed as a function of its bundled licensed thermal power rating. Currently, there are no operating SMRs; therefore, the NRC will not assess an annual fee in FY 2022 for this type of licensee.

b. Spent Fuel Storage/Reactor Decommissioning

The NRC will collect $27.7 million in annual fees from 10 CFR part 50 power reactor licensees, and from 10 CFR part 72 licensees that do not hold a 10 CFR part 50 license, to recover the budgeted resources for the spent fuel storage/reactor decommissioning fee class in FY 2022, as shown in Table VII. The FY 2021 spent fuel storage/reactor decommissioning fees are shown for comparison purposes.

TABLE VII—ANNUAL FEE SUMMARY CALCULATIONS FOR SPENT FUEL STORAGE/REACTOR DECOMMISSIONING

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$42.2	$40.4
Less estimated 10 CFR part 170 receipts	−13.8	−13.8
Net 10 CFR part 171 resources	28.4	26.6
Allocated generic transportation costs	1.1	1.3
Billing adjustments	−0.6	−0.2
Total required annual fee recovery	28.9	27.7
Total spent fuel storage facilities	122	122
Annual fee per facility	$0.237	$0.227

In comparison to FY 2021, the FY 2022 annual fee for the spent fuel storage/reactor decommissioning fee class is decreasing primarily due to a decrease in budgeted resources. The decrease in the annual fee is partially offset due to (1) a reduction of the 10 CFR part 171 billing adjustment and (2) an increase in the generic transportation resources compared to FY 2021. Furthermore, the net result of changes in 10 CFR part 170 estimated billings resulted in no change compared to FY 2021. These components are discussed in the following paragraphs.

The decrease in the annual fee for the spent fuel storage/reactor decommissioning fee class is primarily due to a decline in the budgeted resources with changes in workload from the completion of the license application reviews for the consolidated interim storage facilities and renewals for independent spent fuel storage installation (ISFSI) licenses. The decrease in the budgeted resources is offset by an increase in contract costs due to the absence of prior year unobligated carryover funding compared to FY 2021.

The decrease in the annual fee is offset by the following: (1) a lower 10 CFR part 171 billing adjustment credit than was included in the spent fuel storage/reactor decommissioning fee class calculation in FY 2021 from the deferral of annual fees and service fees due to the COVID–19 pandemic; and (2) an increase in generic transportation resources allocated to the fee class due to an increase in the number of certificates of compliance (CoCs).

Furthermore, the net result of changes in 10 CFR part 170 estimated billings resulted in no change compared to FY 2021. Compared to FY 2021, the 10 CFR part 170 estimates increased primarily due to the following: (1) the staff's activities within the reactor decommissioning program to support Indian Point Generating Unit 2's transition to decommissioning, the staff's review of a license transfer application for Kewaunee Power Station, and the review of decommissioning license amendment requests, exemption requests, license termination plans, confirmatory surveys, and inspection activities at multiple sites; (2) inspection activities, exemption requests, and financial assurance reviews for ISFSI licenses and dry cask storage CoCs; and (3) the staff's review of a new fuel storage system. The 10 CFR part 170 estimates decreased primarily due to the following: (1) a reduction in hours and contract support associated with the staff's review of applications for renewals and amendments for ISFSI licenses and dry cask storage CoCs; (2) the completion of the review of the Interim Storage Partners consolidated interim storage facility application and issuance of the license; and (3) the near completion of the staff's review of the Holtec HI–STORE consolidated interim storage facility application.

The required annual fee recovery amount is divided equally among 122 licensees, resulting in a FY 2022 annual fee of $227,000 per licensee.

c. Fuel Facilities

The NRC will collect $16.4 million in annual fees from the fuel facilities fee class in FY 2022, as shown in Table VIII. The FY 2021 fuel facilities fees are shown for comparison purposes.

TABLE VIII—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$23.3	$22.4
Less estimated 10 CFR part 170 receipts	−7.3	−8.0
Net 10 CFR part 171 resources	16.0	14.4
Allocated generic transportation	1.5	1.7
Allocated LLW surcharge	0.3	0.4
Billing adjustments	−0.4	−0.1
Total remaining required annual fee recovery	$17.5	$16.4

In comparison to FY 2021, the FY 2022 annual fee for the fuel facilities fee class is decreasing primarily due to the decrease in budgeted resources and the increase in 10 CFR part 170 estimated billings as discussed in the following paragraphs.

The budgeted resources for the fuel facilities fee class decreased primarily due to the following: (1) efficiencies gained as a result of implemented

enhancements to the licensing program and (2) enhancements made to the fuel facility oversight program through the implementation of the smarter inspection program.

The 10 CFR part 170 estimated billings increased primarily to support the following: (1) the staff's review of a new fuel facility license application for TRISO–X and (2) the staff's continued review of the Westinghouse Electric Company, LLC license renewal application.

The NRC will continue allocating annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, the matrix groups licensees within this fee class into various fee categories. The matrix lists processes that are conducted at licensed sites and assigns effort factors for the safety and safeguards activities associated with each process (these effort factors are reflected in Table IX). The annual fees are then distributed across the fee class based on the regulatory effort assigned by the matrix. The effort factors in the matrix represent regulatory effort that is not recovered through 10 CFR part 170 fees (*e.g.,* rulemaking, guidance). Regulatory effort for activities that are subject to 10 CFR part 170 fees, such as the number of inspections, is not applicable to the effort factor.

TABLE IX—EFFORT FACTORS FOR FUEL FACILITIES, FY 2022

Facility type (fee category)	Number of facilities	Effort factors	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88	91
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70	21
Limited Operations (1.A.(2)(a))	1	3	17
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	0	0	0
Hot Cell (and others) (1.A.(2)(c))	0	0	0
Uranium Enrichment (1.E.)	1	16	23
UF_6 Conversion and Deconversion (2.A.(1))	1	7	2

In FY 2022, the total remaining amount of annual fees to be recovered, $16.4 million, is attributable to safety activities, safeguards activities, and the LLW surcharge. For FY 2022, the total budgeted resources to be recovered as annual fees for safety activities are $8.7 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percentage of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources to be recovered as annual fees for safeguards activities, $7.3 million, to each fee category based on its percentage of the total regulatory effort for safeguards activities. Finally, the fuel facilities fee class portion of the LLW surcharge—$0.4 million—is allocated to each fee category based on its percentage of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The annual fee for each facility is summarized in Table X.

TABLE X—ANNUAL FEES FOR FUEL FACILITIES

[Actual dollars]

Facility type (fee category)	FY 2021 final annual fee	FY 2022 final annual fee
High-Enriched Uranium Fuel (1.A.(1)(a))	$4,643,000	$4,334,000
Low-Enriched Uranium Fuel (1.A.(1)(b))	1,573,000	1,469,000
Facilities with limited operations (1.A.(2)(a))	1,037,000	968,000
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	N/A	N/A
Hot Cell (and others) (1.A.(2)(c))	N/A	N/A
Uranium Enrichment (1.E.)	2,023,000	1,888,000
UF_6 Conversion and Deconversion (2.A.(1))	467,000	436,000

d. Uranium Recovery Facilities

The NRC will collect $0.3 million in annual fees from the uranium recovery facilities fee class in FY 2022, as shown in Table XI. The FY 2021 uranium recovery facilities fees are shown for comparison purposes.

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$0.5	$0.9
Less estimated 10 CFR part 170 receipts	−0.3	−0.6
Net 10 CFR part 171 resources	0.2	0.3

TABLE XI—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES—Continued

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Allocated generic transportation	N/A	N/A
Billing adjustments	0.0	0.0
Total required annual fee recovery	$0.2	$0.3

In comparison to FY 2021, the FY 2022 annual fee for the non-DOE licensee in the uranium recovery facilities fee class is decreasing due to an increase in 10 CFR part 170 estimated billings to support an increase in casework for Crow Butte Resources, Inc. (CBR) related to the Atomic Safety and Licensing Board decision on the NRC staff's National Environmental Review Act and National Historic Preservation Act reviews for CBR's 2014 license renewal.

The NRC regulates DOE's Title I and Title II activities under the Uranium Mill Tailings Radiation Control Act (UMTRCA).[2] The annual fee assessed to DOE includes the resources specifically budgeted for the NRC's UMTRCA Title I and Title II activities, as well as 10 percent of the remaining budgeted resources for this fee class. The NRC described the overall methodology for determining fees for UMTRCA in the FY 2002 fee rule (67 FR 42625; June 24, 2002), and the NRC continues to use this methodology.

The DOE's UMTRCA annual fee is increasing compared to FY 2021 primarily due to an increase in budgetary resources attributed to generic work that staff will be performing to resolve issues associated with the transfer of NRC and Agreement State uranium mill tailings sites to the DOE for long-term surveillance and maintenance. The increase in the annual fee is offset by an increase in the 10 CFR part 170 estimated billings for the anticipated workload increases at various DOE UMTRCA sites. The NRC assesses the remaining 90 percent of its budgeted resources to the remaining licensee in this fee class, as described in the work papers, which is reflected in Table XII.

TABLE XII—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FACILITIES FEE CLASS

[Actual dollars]

Summary of costs	FY 2021 final annual fee	FY 2022 final annual fee
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:		
UMTRCA Title I and Title II budgeted resources less 10 CFR part 170 receipts	$111,536	$206,441
10 percent of generic/other uranium recovery budgeted resources	5,241	4,665
10 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for DOE (rounded)	$117,000	$211,000
Annual Fee Amount for Other Uranium Recovery Licenses:		
90 percent of generic/other uranium recovery budgeted resources less the amounts specifically budgeted for UMTRCA Title I and Title II activities	$47,166	$41,986
90 percent of uranium recovery fee-relief adjustment	N/A	N/A
Total Annual Fee Amount for Other Uranium Recovery Licenses	$47,166	$41,986

Further, for any non-DOE licensees, the NRC will continue using a matrix to determine the effort levels associated with conducting generic regulatory actions for the different licensees in the uranium recovery facilities fee class; this is similar to the NRC's approach for fuel facilities, described previously. The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: conventional uranium mills and heap leach facilities, uranium *in situ* recovery (ISR) and resin ISR facilities, and mill tailings disposal facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (see the work papers). Currently, there is only one remaining non-DOE licensee, which is a basic *in situ* recovery facility. Table XIII displays the benefit factors for the non-DOE licensee in that fee category.

[2] Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from hazards associated with uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for weapons programs. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XIII—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	0	0	0	0
Basic *In Situ* Recovery facilities (2.A.(2)(b))	1	190	190	100
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	0	0	0	0
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	0	0	0	0
Total	1	190	190	100

The FY 2022 annual fee for the remaining non-DOE licensee is calculated by allocating 100 percent of the budgeted resources, as summarized in Table XIV.

TABLE XIV—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES

[Other than DOE]
[Actual dollars]

Facility type (fee category)	FY 2021 final annual fee	FY 2022 final annual fee
Conventional and Heap Leach mills (2.A.(2)(a))	N/A	N/A
Basic *In Situ* Recovery facilities (2.A.(2)(b))	$47,200	$42,000
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	N/A	N/A
Section 11e.(2) disposal incidental to existing tailings sites (2.A.(4))	N/A	N/A

e. Non-Power Production or Utilization Facilities

The NRC will collect $0.270 million in annual fees from the non-power production or utilization facilities fee class in FY 2022, as shown in Table XV. The FY 2021 non-power production or utilization facilities fees are shown for comparison purposes.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR NON-POWER PRODUCTION OR UTILIZATION FACILITIES

[Actual dollars]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$2,896,754	$6,071,559
Less estimated 10 CFR part 170 receipts	−2,576,000	−5,804,000
Net 10 CFR part 171 resources	320,754	267,559
Allocated generic transportation [3]	43,302	35,232
Billing adjustments [3]	−43,915	−32,485
Total required annual fee recovery	320,141	270,306
Total non-power production or utilization facilities licenses	4	3
Total annual fee per license (rounded)	$80,000	$90,100

In comparison to FY 2021, the FY 2022 annual fee for the non-power production or utilization facilities fee class is increasing, primarily because of the decrease of non-power production or utilization facilities from four to three as a result of the transition of the Aerotest Radiography and Research Reactor to decommissioning.

In FY 2022, the budgetary resources for the non-power production or utilization facilities fee class are primarily increasing because of an increase in workload associated with medical isotope production facilities and advanced research and test reactors. In addition, the 10 CFR part 170 estimated billings with respect to the medical isotope production facilities and advanced research and test reactors are increasing primarily due to the following: (1) the staff's review of the operating license application for SHINE Medical Technologies, LLC and construction inspection activities; (2) the staff's review of the Kairos Power application for a permit to construct a test reactor; and (3) an increase in pre-application meetings due to the anticipated submission of several license applications. The 10 CFR part 170 estimated billings associated with the current fleet of operating non-power production or utilization facilities licensees subject to annual fees are increasing to support activities associated with the special team

[3] In the FY 2021 final fee rule, the decimal places for the ''allocated generic transportation'' and ''billing adjustments'' calculations were adjusted to the thousandths place instead of the correct ten thousandths place. There was no impact to the overall calculation for the FY 2021 final fee rule. The revised dollar amounts for FY 2021 are shown here to align with the rest of Table XV and provide a clearer comparison to the FY 2022 fees.

inspection and the staff's review of a complex license amendment associated with the restart of the National Institute of Standards and Technology Neutron Reactor.

The annual fee-recovery amount is divided equally among the three non-power production or utilization facilities licensees subject to annual fees and results in an FY 2022 annual fee of $90,100 for each licensee.

f. Rare Earth

The agency received an application for a rare earth facility and in FY 2022, the NRC has allocated approximately $0.2 million in budgeted resources to this fee class; however, because all the budgetary resources will be recovered through service fees assessed under 10 CFR part 170, the NRC is not assessing and collecting annual fees in FY 2022 for this fee class.

g. Materials Users

The NRC will collect $34.8 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70 in FY 2022, as shown in Table XVI. The FY 2021 materials users fees are shown for comparison purposes.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources for licensees not regulated by Agreement States	$35.1	$34.1
Less estimated 10 CFR part 170 receipts	−1.0	−0.9
Net 10 CFR part 171 resources	34.1	33.2
Allocated generic transportation	1.5	1.7
LLW surcharge	0.1	0.1
Billing adjustments	−0.4	−0.2
Total required annual fee recovery	$35.3	$34.8

The formula for calculating 10 CFR part 171 annual fees for the various categories of materials users is described in detail in the work papers. Generally, the calculation results in a single annual fee that includes 10 CFR part 170 costs, such as amendments, renewals, inspections, and other licensing actions specific to individual fee categories.

The total annual fee recovery of $34.8 million for FY 2022 shown in Table XVI consists of $27.0 million for general costs, $7.7 million for inspection costs, and $0.1 million for LLW costs. To equitably and fairly allocate the $34.8 million required to be collected among approximately 2,466 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the materials license, this approach is the methodology for allocating the generic and other regulatory costs to the diverse fee categories. This fee calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

In comparison to FY 2021, the FY 2022 annual fees are increasing for 47 fee categories within the materials users fee class primarily due to the following: (1) an increase in the budgeted resources for inspections activities compared to the FY 2021 biennial review of inspection hours; (2) a decline in 10 CFR part 170 estimated billings; (3) an increase in generic transportation costs for materials users; and (4) a decrease of materials users licensees from FY 2021.

A constant multiplier is established to recover the total general costs (including allocated generic transportation costs) of $27.0 million. To derive the constant multiplier, the general cost amount is divided by the sum of all fee categories (application fee plus the inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in a constant multiplier of 1.0 for FY 2022. The average inspection cost is the average inspection hours for each fee category multiplied by the professional hourly rate of $290. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is established in order to recover the $7.7 million in inspection costs. To derive the inspection multiplier, the inspection costs amount is divided by the sum of all fee categories (inspection fee divided by inspection priority) then multiplied by the number of licensees. This calculation results in an inspection multiplier of 1.46 for FY 2022. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. Please see the work papers for more detail about this classification.

The annual fee being assessed to each licensee also takes into account a share of approximately $0.1 million in LLW surcharge costs allocated to the materials users fee class (see Table IV, ''Allocation of LLW Surcharge, FY 2022,'' in Section III, ''Discussion,'' of this document). The annual fee for each fee category is shown in the revision to § 171.16(d).

h. Transportation

The NRC will collect $1.5 million in annual fees to recover generic transportation budgeted resources in FY 2022, as shown in Table XVII. The FY 2021 fees are shown for comparison purposes.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Total budgeted resources	$8.3	$10.2

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION—Continued

[Dollars in millions]

Summary fee calculations	FY 2021 final rule	FY 2022 final rule
Less estimated 10 CFR part 170 receipts	−2.3	−3.4
Net 10 CFR part 171 resources	5.9	6.8
Less generic transportation resources	−4.5	−5.3
Billing adjustments	−0.1	0.0
Total required annual fee recovery	$1.4	$1.5

In comparison to FY 2021, the FY 2022 annual fee for the transportation fee class is increasing primarily due to an increase in the budgeted resources offset by the following: (1) an increase in the 10 CFR part 170 estimated billings and (2) generic transportation resources allocated to other fee classes.

In FY 2022, the budgetary resources increased primarily to support the following: (1) the staff's review of transportation package applications (including the reviews of accident tolerant fuels (ATF)); (2) research activities and the development of technical bases for the review of transportation packages loaded with batch quantities of fresh ATF; and (3) an increase in certain contract costs due to the absence of prior year unobligated carryover funding compared to FY 2021.

The increase in the annual fee is offset by an increase in 10 CFR part 170 estimated billings related to the review of new amendment packages and generic transportation resources allocated to respective fee classes due to an increase in the number of CoCs.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE by including those costs in the annual fees for licensee fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A., for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total CoCs used by each fee class (and DOE) by the total generic transportation resources to be recovered.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Note that for the non-power production or utilization facilities fee class, the NRC allocates the distribution to only those licensees that are subject to annual fees. Although five CoCs benefit the entire non-power production or utilization facilities fee class, only three out of 31 non-power production or utilization facilities licensees are subject to annual fees. Consequently, the number of CoCs used to determine the proportion of generic transportation resources allocated to annual fees for the non-power production or utilization facilities fee class has been adjusted to 0.5 so these licensees are charged a fair and equitable portion of the total fees (see the work papers).

TABLE XVIII—DISTRIBUTION OF TRANSPORTATION RESOURCES, FY 2022

[Dollars in millions]

Licensee fee class/DOE	Number of CoCs benefiting the fee classes or DOE	Percentage of total CoCs	Allocated generic transportation resources
Materials Users	24.0	25.7	$1.7
Operating Power Reactors	6.0	6.4	0.4
Spent Fuel Storage/Reactor Decommissioning	18.0	19.3	1.3
Non-Power Production or Utilization Facilities	0.5	0.5	0.0
Fuel Facilities	24.0	25.7	1.7
Sub-Total of Generic Transportation Resources	72.5	77.5	5.3
DOE	21.0	22.5	1.5
Total	93.5	100.0	6.8

The NRC assesses an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2022—Policy Changes

The NRC is not making any policy changes in FY 2022.

FY 2022—Administrative Changes

The NRC is making five administrative changes in FY 2022:

1. *Amend § 170.3, ''Definitions,'' by deleting the definition for the phrase review is completed and incorporating language from the definition into § 170.12(b)(3).*

The NRC is amending § 170.3 by removing the undesignated paragraph that includes the definition for the phrase *review is completed* and incorporating language from the paragraph into § 170.12(b)(3). The paragraph containing the definition is unnecessary in 10 CFR part 170 because this phrase is only referenced one time. This amendment will not impact the NRC's assessment of 10 CFR part 170 service fees.

2. *Amend § 170.11, ''Exemptions,'' by clarifying exemption requirements.*

The NRC is amending paragraph (a)(1)(i) by replacing the word ''that'' with ''where the request/report,'' for

consistency with the use of the latter phrase in the introductory text of paragraph (a)(1). In addition, the NRC is amending paragraph (c) by replacing the word ''work'' with ''request/report'' for consistency with paragraph (a)(1) and to avoid any potential ambiguity about what is considered the ''work'' for purposes of the 90-day period in which the fee exemption must be submitted to the NRC's Chief Financial Officer.

The NRC is also amending § 170.11(a)(1)(ii) by retaining the ''generic regulatory improvements'' clause in paragraph (a)(1)(ii) and moving ''Office Director level or above,'' to a new paragraph (a)(1)(iii). These changes clarify that the Chief Financial Officer may grant an exemption when the review of a request/report, at the time it is submitted, would ''assist the NRC in generic regulatory improvements or efforts,'' even if there is no ''request from the Office Director level or above'' to resolve ''an identified safety, safeguards, or environmental issue.''

Finally, the NRC is moving paragraph (a)(13) on CFO communications to a new paragraph (d) because this is not an exemption category but rather a separate requirement applicable to all fee exemption requests under 10 CFR part 170.

These amendments to § 170.11 do not change the NRC's fee exemption policy.

3. *Amend § 170.12(f), ''Method of payment,'' by clarifying the types of payments, updating the contact information for payments, and clarifying the payment method.*

The NRC is amending paragraph (f) by replacing ''all license fees'' with ''all fee payments under 10 CFR part 170,'' for additional clarity. Currently, paragraph (f) states, in part, that all license fee payments are to be payable to the U.S. Nuclear Regulatory Commission. Since paragraph (f) applies to all fees and not only licensing fees, this amendment provides additional clarity for fee payments under 10 CFR part 170. In addition, the NRC is amending paragraph (f) by replacing ''License Fee and Accounts Receivable Branch'' with the ''Office of the Chief Financial Officer'' to remove reference to a specific branch because the Office of the Chief Financial Officer collects fees for the NRC. This amendment eliminates the need to revise the branch information after reorganizations or branch name changes. Finally, the NRC is revising paragraph (f) to clarify that fee payments can be made electronically using *www.Pay.gov* or manually using NRC Form 629, ''Authorization for Payment by Credit Card,'' which align with the terms and conditions that are currently being updated to clarify the methods of payment.

4. *Add footnote 6 to the table in § 170.21, ''Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses,'' and footnote 12 to the table in § 170.31, ''Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.''*

The NRC is adding footnote 6 to the table in § 170.21 and footnote 12 to the table in § 170.31. In accordance with NEIMA, in FY 2022, the NRC identified international activities, including the resources for import and export licensing activities, as a fee-relief activity to be excluded from the fee-recoverable budget. Therefore, the NRC will not charge fees for import and export licensing actions.

5. *Add footnote 13 to the table in § 170.31 for clarity.*

The NRC is adding footnote 13 to the table in § 170.31 to clarify, with respect to 10 CFR part 170 fees, that licensees paying fees under 4.A., 4.B. or 4.C. in the table are not subject to paying fees under 3.N. This footnote is identical to footnote 21 to the table in § 171.16(d).

Update on the Fees Transformation Initiative

In the staff requirements memorandum, dated October 19, 2016, for SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' the Commission directed the staff to accelerate its process improvements for setting fees. In addition, the Commission directed the staff to begin the fees transformation activities listed in SECY–16–0097 as ''Process Changes Recommended for Future Consideration—FY 2018 and Beyond.'' The NRC has completed all of the 40 fees transformation activities.

The final fees transformation activity that was completed in FY 2022 was the rulemaking to update the NRC's small business size standards in § 2.810, ''NRC size standards.'' The NRC published a final rule on February 17, 2022 (87 FR 8943) with an effective date of March 21, 2022. In the final rule, the NRC increased the upper and lower tiers for its receipts-based small entity size standards for small businesses and small not-for-profit organizations. These amendments allow the NRC's standards to remain consistent with the inflation adjustments made by the Small Business Administration (SBA) size standard for nonmanufacturing concerns. In addition, in accordance with the Small Business Runway Extension Act of 2018, the NRC changed the calculation of annual average receipts for the receipts-based NRC size standard for small businesses that provide a service or for small businesses not engaged in manufacturing from a 3-year averaging period to a 5-year averaging period. The public can track all NRC rulemaking activities on the NRC's Rulemaking Tracking and Reporting system at *https://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/active/RuleIndex.html*. Information on the recently completed rulemaking on the NRC's size standards can be found by searching for Docket ID NRC–2014–0264 at *http://www.regulations.gov.*

For more information, see the fees transformation accomplishments schedule, located on the NRC's license fees website: *https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.*

III. Public Comment Analysis

Overview of Public Comments

The NRC published a proposed rule on February 23, 2022 (87 FR 10081) and requested public comment on its proposed revisions to 10 CFR parts 170 and 171. By the close of the comment period, the NRC received four written comment submissions on the FY 2022 proposed rule. In general, the commenters were supportive of the specific proposed regulatory changes. Some commenters expressed concerns about broader fee-policy issues related to transparency, the overall size of the NRC's budget, fairness of fees, and budget formulation. Some commenters' concerns were outside the scope of the fee rule.

The commenters are listed in Table XIX.

TABLE XIX—FY 2022 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS Accession No.
Matthew F. Ostdiek, P.E	Rendezvous Engineering, P.C. (RE)	ML22074A293

TABLE XIX—FY 2022 PROPOSED FEE RULE COMMENTER SUBMISSIONS—Continued

Commenter	Affiliation	ADAMS Accession No.
Gusstivol Paul Terricah Reid, Sr	No known affiliation	ML22087A051
Dr. Jennifer L. Uhle	Nuclear Energy Institute (NEI)	ML22087A052
Cheryl A. Gayheart	Southern Nuclear Operating Company (SNC)	ML22087A417

Information about obtaining the complete text of the comment submissions is available in the ''Availability of Documents,'' section of this document.

IV. Public Comments and NRC Responses

The NRC has carefully considered the public comments received on the proposed rule. The comments have been organized by topic into six individual comments. Comments from a single commenter have been quoted to ensure accuracy; brackets within those comments are used to show changes that have been made to the quoted comments.

A. Small Entity

Comment: ''[F]rom a small business perspective, the broad revenue range encompassing $485,000 to $7,000,000 favors larger firms while severely burdening small entities. Our firm's revenue is at the bottom end of this range, yet our fee is the same as another entity seven times our gross revenue. The license fee is a significant expense to our firm. Please consider establishing lower licensing fees by [adding] additional fee tiers between the $520,000 to $7,000,000 range. [A] fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities. Establishing reduced fees by creating more tiers in the gross annual receipts bracket makes sense to help small business concerns. Firms near the top of the bracket with significantly higher annual receipts should pay more that those at the bottom.'' (RE)

Response: Under the SBA's regulations, other Federal agencies may, at their discretion, establish their own standards through notice and comment rulemaking. To reduce the significance of the annual fees on a substantial number of small entities, the NRC established the maximum small entity fee in FY 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the SBA, the NRC did not modify its current methodology for this rulemaking.

As discussed previously in this final fee rule, the NRC recently updated its small business size standards in § 2.810, ''NRC size standards,'' through notice and comment rulemaking, and those standards are separately codified at § 2.810 (87 FR 8943; February 17, 2022).

No change was made to this final rule as a result of this comment.

B. Use of Fee-Based Carryover Funds

Comment: ''In FY 2021, Congress directed NRC to use $35 million in fee-based carryover funding; $16 million for the University Nuclear Leadership Program (UNLP) and $19 million to reduce fee collections. In the recently signed budget authorization for FY2022, Congress directed the use of $16 million in available carryover funding for the UNLP. Had Congress further directed, consistent with prior years, that available fee-based carryover be used for the purpose of reducing licensee fees, the increase seen by licensees would be much less. We encourage NRC to use its available discretionary authority in applying fee-based carryover funds for the purpose of reducing license fees.'' (NEI)

Response: Each fiscal year, the NRC follows the direction of Congress in the explanatory statement that accompanies the annual appropriations act. In FY 2022, the explanatory statement associated with the Consolidated Appropriations Act, 2022 directed the NRC to use $16.0 million in prior-year unobligated carryover funds to fully fund the UNLP. Under NEIMA, the NRC must recover, to the maximum extent practicable, approximately 100 percent of the total budget authority appropriated for the fiscal year, less the budget authority for excluded activities.

No change was made to this final rule as a result of this comment.

C. Excluded Activities

Comment: ''The FY2022 congressionally authorized budget currently includes over $20 million that should not be included in the fee base. The $16 million appropriated for the University Nuclear Leadership Program is currently being addressed by fee-based carryover funds. This is contrary to the Nuclear Energy Innovation and Modernization Act (NEIMA) of 2018, where UNLP is one of the activities excluded from recovery. The FY2022 payment, combined with a similar payment in FY2021, gives $32M in payments that should have been excluded from the fee base. To facilitate the correction of this, we encourage NRC to include UNLP funding in its FY2023 proposed budget as a fee relief item under NEIMA.

The FY2022 budget also includes $4.3 million to subsidize rent for the Food and Drug Administration (FDA) and the National Institutes of Health (NIH). In its October 12, 2021, letter to Congress on NEIMA, NRC identified that the nuclear industry has paid approximately $21 million to [subsidize] rent for the FDA and the NIH in the 3WFN building and, if unchanged, industry will have to pay an additional $27 million to subsidize rent. These payments do nothing to support the agency's mission. We encourage NRC to continue its discussions with Congress to remove these payments from the fee base.'' (NEI)

Response: The FY 2023 CBJ was released to Congress on March 28, 2022, and does not include resources for the UNLP. As part of the NRC's ongoing communications with Congress, the NRC provides information to and has discussions with Congress regarding various budgetary matters.

No change was made to this final rule as a result of this comment.

D. Operating Power Reactors Fee Class Budget and Declining 10 CFR Part 170 Service Fee Collections

Comment: ''Approximately 85% of the appropriated budget for FY2022 is from the power reactor fee class. Over the past five years the budget for operating reactors has decreased less than 4%. During this same period, the number of operating reactors has decreased by 7% and Part 170 service fee collections have decreased by 33%. The modest decrease in NRC operating plant budget during this time has not kept pace with the significant reduction in operating plant service fee collections. As a result, a greater percentage of the budget is required to be recovered through annual fees. . . . [T]he percentage of the operating plant budget that is derived from annual fees

(currently at 75%) continues to increase; up from 64% in FY 2018. The annual fee for operating plants is increasing by 8.8% over FY2021, to over $5 million per reactor. As noted in the fee rule notices and associated work papers, the reductions in service fee collections in recent years have been attributable, in part, to plant closures. Plant closures have a double impact on operating plants' annual fees in that service fees are collected from fewer plants leading to an increase in required annual fees. This annual fee collection is then divided among fewer operating plants.'' (NEI)

Response: The NRC is aware and remains mindful of the impact of its budget on the fees for operating power reactors licensees. The operating power reactors fee class supports the activities of the operating reactors and new reactors business lines, including both direct-billable licensing actions and those general activities that indirectly support the agency's mission in these areas.

When formulating the budget, the NRC takes into consideration various factors. First, the NRC assesses the current environment and performs workload forecasting, which includes looking for significant drivers that could impact the future workload. These include technical, regulatory, and legislative developments that have the potential to generate additional work or reduce work (*i.e.,* rulemaking, a guidance change that could drive new submittals, or known plant closures that will reduce the overall size of the program). The NRC then reviews historical data and trends to measure how our execution in previous years lines up with the budget assumptions at the time. The NRC uses that data to inform the future budget and identify areas where the assumptions previously used may have changed. The NRC also relies heavily on communications from stakeholders to identify plant submittals, including letters of intent, collecting information from the project managers, and considering responses to the periodic regulatory issue summaries on this topic. In budgeting for large licensing projects, the NRC tries to balance the anticipated resource needs against the relative certainty that an application will be submitted on schedule. The NRC recognizes that plans within the industry are subject to change and can be influenced by different factors; however, receiving reliable information from the industry can ensure the NRC is more accurate in budgeting for future workload needs.

Since FY 2016, service fees directly billed to operating power reactor licensees under 10 CFR part 170 have decreased from $287.8 million in FY 2016 to $160.0 million in FY 2022, which represents a decline of $127.8 million, or approximately 44 percent. The decline in 10 CFR part 170 collections and reduction in the number of operating power reactors during this time means that the annual fee did not decline proportionate with the reduction in the total budgeted resources for the operating power reactors fee class. In a given year, fact of life changes in the 10 CFR part 170 estimated collections (due to circumstances like delayed or cancelled licensing applications) also impact the amount to be recovered through 10 CFR part 171 annual fees. While the NRC is mindful of the impact of its budgeted resources on the fees for operating power reactor licensees, the fee class budget is not linearly proportional to the size of the operating power reactor fleet. Resources are required to develop and maintain the infrastructure of the nuclear reactor safety program and fulfill the regulatory and statutory role of the NRC.

Further, while the NRC understands the commenter's concern that early plant closures place additional costs on the existing fleet, the NRC notes that NEIMA caps the per-licensee annual fee for operating reactors, to the maximum extent practicable, at the FY 2015 annual fee amount as adjusted for inflation. The NRC continues to evaluate resource requirements and adjustments that can be made to refine the operating power reactors budget and remains committed to providing enhanced transparency throughout the development of the annual fee rule and supporting work papers.

No change was made to this final rule as a result of this comment.

E. Non-Power Production or Utilization Facilities Fee Class

Comment: ''The FY2022 proposed fee rule outlines a 16.3% increase in annual fees for non-power production or utilization facilities (NPUFs). It represents the largest fee increase in the FY2022 proposed fee rule of all the licensee categories. The annual fee for NPUFs has remained steady over the course of the last several years. In fact, the FY2021 Final Fee Rule represented a 1.6% decrease in the annual fee for NPUFs.

NRC outlines that the annual fee increase is due, primarily, to the decrease of NPUF facilities subject to annual fees from four to three. University-based research and test reactors are exempt from fees to meet the requirements of 10 CFR 50.41(b). This decrease was known and anticipated. . . . Total budgeted resources should be appropriately decreased to reflect this change, which would allow for cost efficiency for the remaining three licensees. Rather, the remaining three facilities are left to cover this gap. In other fee categories, such as uranium recovery and fuel cycle facilities, NRC has appropriately recognized that it cannot continue to spread fees across a decreasing licensee class.

The FRN outlines that Part 170 estimated billings are increasing due to a number of factors. The estimated user fees more than double, from $2,576,000 in the FY2021 Final Fee Rule to an estimated $5,803,000 for the FY 2022 Proposed Fee Rule. This indicates that the Part 171 annual fees would likely have been even higher, except for being offset by this significant increase in Part 170 fees. This increase should have amply covered the licensees who pay annual fees; they should have seen little-to-no increase. In fact, it would have been appropriate for NPUF annual fees to decrease. This increase in annual fees underscores the need for NRC to decrease the total budgeted resources for this business line, for FY2022 and in future years, to avoid such double-digit increases. We believe that continuing to impose fee increases of this magnitude on this business line is inconsistent with Section 104.c of the Atomic Energy Act, as well as 10 CFR 50 41(b), which direct the Commission to regulate and license class 104 licensees in a manner that ''will permit the conduct of widespread and diverse research and development.'' (NEI)

Response: The NRC disagrees with the commenter's suggestion that the NRC inappropriately included activities related to the referenced licensee in the NPUF fee category for the FY 2022 budget. Pursuant to § 171.15(f), annual fees are assessed to licensees authorized to operate a NPUF licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(b). Additionally, as discussed in NUREG–1537, Part 1, ''Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors: Format and Content,'' issued in February 1996, Section 17.1.2, if a research or test reactor is subject to annual licensing fees, the granting of a possession-only license amendment removes the basis for assessment of 10 CFR part 171 annual fees. Even though the referenced licensee had declared cessation of operation of the facility, the licensee is assessed an annual fee until the possession-only license amendment is issued. The NRC issued the

possession-only license amendment on December 6, 2021. Therefore, the resources associated with the referenced licensee were appropriately included in the FY 2022 CBJ.

Further, the NRC disagrees with the commenter's assertion that the increased budget authority for NPUFs reflects regulatory activities that are inconsistent with the NRC's obligations under AEA section 104. Rather, the budgeted activities were necessary to address emerging work needs and maintain adequate oversight of existing facilities. As discussed in the FY 2022 proposed fee rule, the NPUF budgetary resources, which are included under the operating reactors business line, increased because of an increase in workload associated with medical isotope production facilities and advanced research and test reactors. In addition, the 10 CFR part 170 estimated billings with respect to the medical isotope production facilities and advanced research and test reactors increased to support the following: (1) the staff's review of the operating license application for SHINE Medical Technologies, LLC and construction inspection activities; (2) the staff's review of the Kairos Power application for a permit to construct a test reactor; (3) pre-application meetings; and (4) the review of topical reports. The 10 CFR part 170 estimated billings associated with the current fleet of operating non-power production or utilization facilities licensees subject to annual fees increased to support the following: (1) activities associated with the review of the GE Nuclear Test Reactor license renewal application and amendments and (2) activities associated with the special team inspection and restart for the National Institute of Standards and Technology Neutron Reactor.

While the NRC should reduce its budget commensurate with the reduction in the number of NPUFs that pay fees, that reduction is not linearly proportional as there is a cost for the infrastructure that must be maintained independent of the number of operational NPUFs. These infrastructure costs include indirect services and the business line portion of corporate support. Indirect services include rulemaking, maintaining guidance for licensees, and maintaining procedures for NRC staff, training, and travel. Corporate support includes, for example, the cost for information management, information technology, security, facilities management, rent, utilities, financial management, acquisitions, human resources, and policy support.

Under NEIMA, and as stated in the FY 2022 CBJ and the FY 2022 proposed fee rule, medical isotope production infrastructure is a fee-relief activity identified by the Commission. This fee-relief activity includes the budgeted resources for the development of a medical isotope production infrastructure. This fee-relief activity does not include activities that are subject to 10 CFR part 170 fees. As stated in the statements of consideration for the FY 2021 fee rule, while the NRC's fee regulations did not have a fee class for future NPUF licensees (*e.g.,* medical isotope production applicants), the NRC historically included budgeted resources for the review of these applications within the research and test reactor fee class, and the budgeted resources not recovered in 10 CFR part 170 service fees have been excluded from the fee-recovery requirement as a fee-relief activity.

No change was made to this final rule in response to this comment.

F. Transparency

Comment: To ensure notification of significant changes in advance of the final rule, some commenters requested that the NRC use any means available to notify licensees of any substantial changes made during the crafting of the final rule, *e.g.,* the use of carryover and the number of operating power reactors assumed. This would allow licensees additional time needed to realign their own budgets. One commenter also encouraged future public meetings to discuss resolution of the industry comments so that the final rule serves in the best interest of safety in a cost-effective manner. (NEI and SNC)

Response: The NRC strives to ensure that the proposed fee rule is as accurate as possible and explains its assumptions about the budgetary resources and the number of operating power reactors to provide the best information available regarding the fiscal year's proposed fees. The NRC discussed these assumptions during the FY2022 proposed fee rule public meeting on March 17, 2022. The NRC must comply with statutory requirements, including NEIMA and the Administrative Procedure Act (APA). NEIMA requires the NRC to recover, to the maximum extent practicable, approximately 100 percent of total budget authority less the budget authority for excluded activity, through fees assessed by the end of the fiscal year. Section 553 of the APA requires the NRC to give the public an opportunity to comment on a published proposed rule. Because the Office of Management and Budget has found the fee rule to be a major rule under the Congressional Review Act, the effective date of the final rule cannot be less than 60 days from the date of publication and must allow for timely final billing prior to the end of the fiscal year. The NRC, therefore, cannot republish the FY 2022 proposed fee rule to provide advance notification of all changes within the final rule and meet its statutory requirements.

No changes were made to this final rule in response to these comments.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended (RFA),[4] the NRC has prepared a regulatory flexibility analysis related to this final rule. The regulatory flexibility analysis is available as indicated in the ''Availability of Documents'' section of this document.

VI. Regulatory Analysis

Under NEIMA, the NRC is required to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2022 less the budget authority for excluded activities. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978 and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery.

In this final rule, the NRC continues this longstanding approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this final rule.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, § 50.109, does not apply to this final rule and that a backfit analysis is not required because these amendments do not require the modification of, or addition to, (1) systems, structures, components, or the design of a facility; (2) the design approval or manufacturing license for a facility; or (3) the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC wrote

[4] 5 U.S.C. 603. The FRA, 5 U.S.C. 601–602, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121, Title II, 110 Stat. 847 (1996).

this document to be consistent with the Plain Writing Act, as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31885).

IX. National Environmental Policy Act

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

X. Paperwork Reduction Act

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

Public Protection Notification

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

XI. Congressional Review Act

This final rule is a rule as defined in the Congressional Review Act of 1996 (5 U.S.C. 801–808). The Office of Management and Budget has found it to be a major rule as defined in the Congressional Review Act.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC is amending the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover, to the maximum extent practicable, approximately 100 percent of its annual budget for FY 2022 less the budget authority for excluded activities, as required by NEIMA. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the ''Small Entity Compliance Guide'' for the FY 2021 fee rule. The compliance guide was developed when the NRC completed the small entity biennial review for FY 2021. The NRC plans to continue to use this compliance guide for FY 2022 and has relabeled the compliance guide to reflect the current fiscal year. This compliance guide is available as indicated in the ''Availability of Documents'' section of this document.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Documents	ADAMS accession No./FR citation/web link
FY 2022 Final Rule Work Papers	ML22136A015.
OMB Circular A–25, ''User Charges''	*https://www.whitehouse.gov/wp-content/uploads/2017/11/Circular-025.pdf.*
''Revision of Fee Schedules; Fee Recovery for Fiscal Year 2021,'' dated June 16, 2021	86 FR 32146.
NUREG–1100, Volume 36, ''Congressional Budget Justification: Fiscal Year 2021'' (February 2020).	ML20024D764.
NUREG–1100, Volume 37, ''Congressional Budget Justification: Fiscal Year 2022'' (June 2021)	ML21181A336.
''Public Interest Exemption from Provisions in the Fiscal Year 2021 Fee Rule that Require Fees for Import/Export Licensing Actions,'' dated August 20, 2021.	ML21209A553.
SECY–05–0164, ''Annual Fee Calculation Method,'' dated September 15, 2005	ML052580332.
''Revision of Fee Schedules; Fee Recovery for Fiscal Year 2015,'' dated June 30, 2015	80 FR 37432.
NUREG–1100, Volume 38, ''Congressional Budget Justification: Fiscal Year 2023'' (April 2022)	ML22089A188.
''Variable Annual Fee Structure for Small Modular Reactors,'' dated May 24, 2016	81 FR 32617.
''Revision of Fee Schedules; 100% Fee Recovery, FY 1999,'' dated June 10, 1999	64 FR 31447.
''Revision of Fee Schedules; Fee Recovery for FY 2002,'' dated June 24, 2002	67 FR 42625.
''Revision of Fee Schedules; Fee Recovery for FY 2006,'' dated May 30, 2006	71 FR 30721
SECY–16–0097, ''Fee Setting Improvements and Fiscal Year 2017 Proposed Fee Rule,'' dated August 15, 2016.	ML16194A365.
Staff Requirements Memorandum for SECY–16–0097, dated October 19, 2016	ML16293A902.
''Receipts-Based NRC Size Standards,'' dated February 17, 2022	87 FR 8943.
Fees Transformation Accomplishments	*https://www.nrc.gov/about-nrc/regulatory/licensing/fees-transformation-accomplishments.html.*
FY 2022 Regulatory Flexibility Analysis	ML22123A295.
FY 2022 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide	ML22123A299.

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Approvals, Byproduct material, Holders of certificates, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Registrations, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 170 and 171:

PART 170—FEES FOR FACILITIES, MATERIALS, IMPORT AND EXPORT LICENSES, AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

§ 170.3 [Amended]

■ 2. In § 170.3, remove the undesignated paragraph following the definition for *Research reactor.*

■ 3. In § 170.11:

■ a. Revise paragraph (a)(1);

■ b. Redesignate paragraph (a)(13) as paragraph (d); and

■ c. Revise paragraph (c).

The revisions read as follows:

§ 170.11 Exemptions.

(a) * * *

(1) A special project that is a request/report submitted to the NRC—

(i) In response to a generic letter or NRC bulletin, where the request/report does not result in an amendment to the license, does not result in the review of an alternate method or reanalysis to meet the requirements of the generic letter, or does not involve an unreviewed safety issue;

(ii) When the NRC, at the time the request/report is submitted, plans to use the information to assist the NRC in generic regulatory improvements or efforts (*e.g.,* rules, regulatory guides, regulations, policy statements, generic letters, or bulletins); or

(iii) When the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue.

* * * * *

(c) For purposes of paragraph (a)(1) of this section, a request for a fee exemption must be submitted to the Chief Financial Officer within 90 days of the date of the NRC's receipt of the request/report.

* * * * *

■ 4. In § 170.12, revise paragraphs (b)(3) and (f) to read as follows.

§ 170.12 Payment of fees.

* * * * *

(b) * * *

(3) The NRC intends to bill each applicant or licensee at quarterly intervals for all accumulated costs for each application the applicant or licensee has on file for NRC review, until the review has been brought to an end, whether by issuance of a permit, license, approval, certificate, exemption, or other form of permission; by denial, withdrawal, or suspension of review of the application; or by postponement of action on the application by the applicant.

* * * * *

(f) *Method of payment.* All fee payments under 10 CFR part 170 are to be made payable to the U.S. Nuclear Regulatory Commission. The payments are to be made in U.S. funds by electronic funds transfer such as ACH (Automated Clearing House) using E.D.I. (Electronic Data Interchange), check, draft, money order, or credit card (submit electronic payment at *www.Pay.gov* or manual payment using the NRC Form 629, ''Authorization for Payment by Credit Card''). Payment of invoices of $5,000 or more should be paid via ACH through the NRC's Lockbox Bank at the address indicated on the invoice. Credit card payments should be made up to the limit established by the credit card bank at the address indicated on the invoice. Specific written instructions for making electronic payments and credit card payments may be obtained by contacting the Office of the Chief Financial Officer at 301–415–7554. In accordance with Department of the Treasury requirements, refunds will only be made upon receipt of information on the payee's financial institution and bank accounts.

* * * * *

§ 170.20 [Amended]

■ 5. In § 170.20, remove the dollar amount ''$288'' and add in its place the dollar amount ''$290''.

■ 6. In § 170.21, in table 1, revise the entry for ''K. Import and export licenses'' to read as follows:

§ 170.21 Schedule of fees for production and utilization facilities, review of standard referenced design approvals, special projects, inspections and import and export licenses.

* * * * *

TABLE 1 TO § 170.21—SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * * *	
K. Import and export licenses: [6]	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	N/A
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a)..	
Application—new license, or amendment; or license exemption request	N/A
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	N/A
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	N/A
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	

TABLE 1 TO § 170.21—SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
Minor amendment to license	N/A

[1] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

* * * * * * *

[4] Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

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[6] Because the resources for import and export licensing activities are identified as a fee-relief activity to be excluded from the fee-recoverable budget, import and export licensing actions will not incur fees.

■ 7. In § 170.31, revise table 1 to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
1. Special nuclear material: [11]	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High-Enriched Uranium) [6] [Program Code(s): 21213]	Full Cost.
(b) Low-Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [6] [Program Code(s): 21210].	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A. (1) which are licensed for fuel cycle activities.[6].	
(a) Facilities with limited operations [6] [Program Code(s): 21240, 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities.[6] [Program Code(s): 21205]	Full Cost.
(c) Others, including hot cell facilities.[6] [Program Code(s): 21130, 21133]	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related greater-than-Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [6] [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 of this chapter in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4].	
Application [Program Code(s): 22140]	$1,300.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4].	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,700.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [6] [Program Code(s): 21200]	Full Cost.
F. Licenses for possession and use of special nuclear material greater than critical mass as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel-cycle activities.[4] [6] [Program Code(s): 22155].	Full Cost.
2. Source material: [11]	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[6] [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.[6].	
(a) Conventional and Heap Leach facilities [6] [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [6] [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [6] [Program Code(s): 11510]	Full Cost.
(d) *In Situ* Recovery Resin facilities [6] [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [6] [Program Code(s): 11555]	Full Cost.
(f) Other facilities [6] [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [6] [Program Code(s): 11600, 12000].	Full Cost.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [6] [Program Code(s): 12010].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding. [7] [8].	
Application [Program Code(s): 11210]	$1,300.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	
Application [Program Code(s): 11240]	$6,200.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Code(s): 11230, 11231]	$2,900.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	
Application [Program Code(s): 11710]	$2,800.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	$2,800.
3. Byproduct material: [11]	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03211, 03212, 03213]	$13,600.
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04010, 04012, 04014]	$18,100.
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20.	
Application [Program Code(s): 04011, 04013, 04015]	$22,600.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	$3,700.
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04110, 04112, 04114, 04116]	$5,000.
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20.	
Application [Program Code(s): 04111, 04113, 04115, 04117]	$6,200.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 1–5.	
Application [Program Code(s): 02500, 02511, 02513]	$5,400.
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20.	
Application [Program Code(s): 04210, 04212, 04214]	$7,200.
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20.	
Application [Program Code(s): 04211, 04213, 04215]	$9,000.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	$3,300.
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	$6,800.
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	$64,800.
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255, 03257]	$6,900.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03253, 03256]	$15,400.
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	$2,100.
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	$1,200.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$5,700.
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.	
Application [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	$7,600.
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20.	
Application [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	$9,500.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	$8,600.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and.	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.[13].	
Application [Program Code(s): 03219, 03225, 03226]	$9,300.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 1–5.	
Application [Program Code(s): 03310, 03320]	$9,200.
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: 6–20.	
Application [Program Code(s): 04310, 04312]	$12,300.
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. Number of locations of use: more than 20.	
Application [Program Code(s): 04311, 04313]	$15,400.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 1–5..	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$6,600.
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: 6–20.	
Application [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438].	$8,800.
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9] Number of locations of use: more than 20.	
Application [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439].	$11,000.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	$400.
R. Possession of items or products containing radium-226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section.[5].	
1. Possession of quantities exceeding the number of items or limits in § 31.12(a)(4) or (5) of this chapter but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	$2,700.
2. Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter.	
Application [Program Code(s): 02710]	$2,600.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	$14,800.
4. Waste disposal and processing: [11]	

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material.	
Application [Program Code(s): 03231, 03233, 03236, 06100, 06101]	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	$7,200.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	$5,200.
5. Well logging: [11]	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	$4,800.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries: [11]	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	$23,100.
7. Medical licenses: [11]	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 1–5..	
Application [Program Code(s): 02300, 02310]	$11,600.
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: 6–20.	
Application [Program Code(s): 04510, 04512]	$15,400.
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. Number of locations of use: more than 20.	
Application [Program Code(s): 04511, 04513]	$19,300.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 1–5.	
Application [Program Code(s): 02110]	$9,100.
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: 6–20.	
Application [Program Code(s): 04710]	$12,000.
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Number of locations of use: more than 20.	
Application [Program Code(s): 04711]	$15,000.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 1–5.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$11,000.
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: 6–20.	
Application [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	$9,100.
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.[10] Number of locations of use: more than 20.	
Application [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	$11,400.
8. Civil defense: [11]	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
Application [Program Code(s): 03710]	$2,700.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	$18,100.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	$9,400.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	$5,500.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	$1,100.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent fuel, high-level waste, and plutonium air packages	Full Cost.
2. Other casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,400.
Inspections	Full Cost.
2. Users.	
Application	$4,400.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities.	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections.	
Application [Program Code: 25110]	Full Cost.
13. A. Spent fuel storage cask certificate of compliance.	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. Decommissioning/Reclamation [11]	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses: [12]	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under § 110.40(b) of this chapter.	
Application—new license, or amendment; or license exemption request	N/A.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires the NRC to consult with domestic host state authorities (i.e., Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request	N/A.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	N/A.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request.	N/A.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	N/A.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of appendix P Category 1 materials requiring Commission review (e.g., exceptional circumstance review under § 110.42(e)(4) of this chapter) and to obtain one government-to-government consent for this process. For additional consent see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.

TABLE 1 TO § 170.31—SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fees [2] [3]
G. Application for export of appendix P Category 1 materials requiring Executive Branch review and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.
H. Application for export of appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see fee category 15.I.	
Application—new license, or amendment; or license exemption request	N/A.
I. Requests for each additional government-to-government consent in support of an export license application or active export license.	
Application—new license, or amendment; or license exemption request	N/A.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of appendix P Category 2 materials requiring Commission review (*e.g.,* exceptional circumstance review under § 110.42(e)(4) of this chapter).	
Application—new license, or amendment; or license exemption request	N/A.
K. Applications for export of appendix P Category 2 materials requiring Executive Branch review.	
Application—new license, or amendment; or license exemption request	N/A.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	N/A.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	N/A.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of § 150.20 of this chapter.	
Application	$2,700.
17. Master materials licenses of broad scope issued to Government agencies.	
Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy.	
A. Certificates of compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities.	Full Cost.

[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(1) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(i) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(ii) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(2) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(3) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(4) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(5) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D. and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C., 3.C.1, or 3.C.2 are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.
[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.
[10] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2. for broad scope licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.
[11] A materials license (or part of a materials license) that transitions to fee category 14.A is assessed full-cost fees under 10 CFR part 170, but is not assessed an annual fee under 10 CFR part 171. If only part of a materials license is transitioned to fee category 14.A, the licensee may be charged annual fees (and any applicable 10 CFR part 170 fees) for other activities authorized under the license that are not in decommissioning status.
[12] Because the resources for import and export licensing activities are identified as a fee-relief activity to be excluded from the fee-recoverable budget, import and export licensing actions will not incur fees.
[13] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 8. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2215; 44 U.S.C. 3504 note.

■ 9. In § 171.15, revise paragraphs (b)(1), (b)(2) introductory text, (c)(1), (c)(2) introductory text, and (e) to read as follows:

§ 171.15 Annual fees: Non-power production or utilization licenses, reactor licenses, and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2022 annual fee for each operating power reactor that must be collected by September 30, 2022, is $5,165,000.

(2) The FY 2022 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee and associated additional charges. The activities comprising the spent fuel storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2022 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2022 annual fee for each power reactor holding a 10 CFR part 50 license or combined license issued under 10 CFR part 52 that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license or a 10 CFR part 52 combined license, is $227,000.

(2) The FY 2022 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section). The activities comprising the FY 2022 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(e) The FY 2022 annual fee for licensees authorized to operate one or more non-power production or utilization facilities under a single 10 CFR part 50 license, unless the reactor is exempted from fees under § 171.11(b), is $90,100.

■ 10. In § 171.16, revise paragraphs (b) introductory text and (d) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(b) The FY 2022 annual fee is comprised of a base annual fee and associated additional charges. The base FY 2022 annual fee is the sum of budgeted costs for the following activities:

* * * * *

(d) The FY 2022 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in table 2 to this paragraph (d):

TABLE 2 TO PARAGRAPH (D)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities..	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [15] [Program Code(s): 21213]	$4,334,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [15] [Program Code(s): 21210]	1,469,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [15] [Program Code(s): 21310, 21320]	968,000
(b) Gas centrifuge enrichment demonstration facility [15] [Program Code(s): 21205]	N/A
(c) Others, including hot cell facility [15] [Program Code(s): 21130, 21133]	N/A
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [11] [15] [Program Code(s): 23200]	N/A
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers. [Program Code(s): 22140]	2,400

TABLE 2 TO PARAGRAPH (D)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A. [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	5,800
E. Licenses or certificates for the operation of a uranium enrichment facility [15] [Program Code(s): 21200]	1,888,000
F. Licenses for possession and use of special nuclear materials greater than critical mass, as defined in § 70.4 of this chapter, for development and testing of commercial products, and other non-fuel cycle activities.[4] [Program Code: 22155]	4,300
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal.[15] [Program Code: 11400]	436,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities.[15] [Program Code(s): 11100]	N/A
(b) Basic *In Situ* Recovery facilities.[15] [Program Code(s): 11500]	42,000
(c) Expanded *In Situ* Recovery facilities [15] [Program Code(s): 11510]	N/A
(d) *In Situ* Recovery Resin facilities.[15] [Program Code(s): 11550]	[5] N/A
(e) Resin Toll Milling facilities.[15] [Program Code(s): 11555]	[5] N/A
(f) Other facilities [6] [Program Code(s): 11700]	[5] N/A
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [15] [Program Code(s): 11600, 12000]	[5] N/A
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [15] [Program Code(s): 12010]	N/A
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[16] [17] Application [Program Code(s): 11210]	2,700
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter. [Program Code: 11240]	9,000
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter. [Program Code(s): 11230 and 11231]	5,100
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution. [Program Code: 11710]	6,500
F. All other source material licenses. [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810, 11820]	8,800
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03211, 03212, 03213]	27,800
(1). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04010, 04012, 04014]	37,000
(2). Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04011, 04013, 04015]	46,200
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 1–5. [Program Code(s): 03214, 03215, 22135, 22162]	9,700
(1). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04110, 04112, 04114, 04116]	12,900
(2). Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04111, 04113, 04115, 04117]	16,000
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4) of this chapter. Number of locations of use: 1–5. [Program Code(s): 02500, 02511, 02513]	9,100
(1). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: 6–20. [Program Code(s): 04210, 04212, 04214]	12,100

TABLE 2 TO PARAGRAPH (D)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
(2). Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4). Number of locations of use: more than 20. [Program Code(s): 04211, 04213, 04215]	16,500
D. [Reserved]	[5] N/A
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units). [Program Code(s): 03510, 03520]	10,000
F. Licenses for possession and use of less than or equal to 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03511]	9,100
G. Licenses for possession and use of greater than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes. [Program Code(s): 03521]	72,700
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03254, 03255, 03257]	8,700
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter. [Program Code(s): 03250, 03251, 03253, 03256]	17,500
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03240, 03241, 03243]	3,600
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter. [Program Code(s): 03242, 03244]	2,700
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	12,700
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	16,900
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	21,100
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution. [Program Code(s): 03620]	13,500
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C.[21] [Program Code(s): 03219, 03225, 03226]	15,400
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license Number of locations of use: 1–5. [Program Code(s): 03310, 03320]	29,600
(1). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: 6–20. [Program Code(s): 04310, 04312]	39,400
(2). Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license. Number of locations of use: more than 20. [Program Code(s): 04311, 04313]	49,400
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 1–5. [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	9,900
(1). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: 6–20. [Program Code(s): 04410, 04412, 04414, 04416, 04418, 04420, 04422, 04424, 04426, 04428, 04430, 04432, 04434, 04436, 04438]	13,200
(2). All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[18] Number of locations of use: more than 20. [Program Code(s): 04411, 04413, 04415, 04417, 04419, 04421, 04423, 04425, 04427, 04429, 04431, 04433, 04435, 04437, 04439]	16,500

TABLE 2 TO PARAGRAPH (D)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
Q. Registration of devices generally licensed under part 31 of this chapter	[13] N/A
R. Possession of items or products containing radium–226 identified in § 31.12 of this chapter which exceed the number of items or limits specified in that section: [14].	
(1). Possession of quantities exceeding the number of items or limits in § 31.12(a)(4), or (5) of this chapter but less than or equal to 10 times the number of items or limits specified. [Program Code(s): 02700]	6,100
(2). Possession of quantities exceeding 10 times the number of items or limits specified in § 31.12(a)(4) or (5) of this chapter [Program Code(s): 02710]	6,500
S. Licenses for production of accelerator-produced radionuclides. [Program Code(s): 03210]	24,200
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03236, 06100, 06101]	23,000
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03234]	15,900
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material. [Program Code(s): 03232]	8,800
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies. [Program Code(s): 03110, 03111, 03112]	12,700
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	[5] N/A
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material. [Program Code(s): 03218]	28,500
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02300, 02310]	27,500
(1). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04510, 04512]	36,700
(2). Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04511, 04513]	45,900
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 1–5. [Program Code(s): 02110]	37,800
(1). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: 6–20. [Program Code(s): 04710]	50,200
(2). Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] Number of locations of use: more than 20. [Program Code(s): 04711]	62,600
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 1–5. [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	17,000
(1). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: 6–20. [Program Code(s): 04810, 04812, 04814, 04816, 04818, 04820, 04822, 04824, 04826, 04828]	17,100

TABLE 2 TO PARAGRAPH (D)—SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
(2). Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [19] Number of locations of use: more than 20. [Program Code(s): 04811, 04813, 04815, 04817, 04819, 04821, 04823, 04825, 04827, 04829]	21,200
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities. [Program Code(s): 03710]	6,100
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	18,100
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	9,400
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	5,500
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	1,100
10. Transportation of radioactive material:	
A. Certificates of compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent fuel, high-level waste, and plutonium air packages	[6] N/A
2. Other casks	[6] N/A
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	[6] N/A
2. Users	[6] N/A
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	[6] N/A
11. Standardized spent fuel facilities	[6] N/A
12. Special Projects [Program Code(s): 25110]	[6] N/A
13. A. Spent fuel storage cask Certificate of Compliance	[6] N/A
B. General licenses for storage of spent fuel under § 72.210 of this chapter	[12] N/A
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs). The transition to this fee category occurs when a licensee has permanently ceased principal activities. [Program Code(s): 03900, 11900, 21135, 21215, 21325, 22200]	[7] [20] N/A
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	[7] N/A
15. Import and Export licenses	[8] N/A
16. Reciprocity	[8] N/A
17. Master materials licenses of broad scope issued to Government agencies.[15] [Program Code(s): 03614]	344,000
18. Department of Energy:	
A. Certificates of Compliance	[10] $1,503,000
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities [Program Code(s): 03237, 03238]	211,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1 of the current FY, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of part 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the FEDERAL REGISTER for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 certificates of compliance and related quality assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.A, 7.A.1, 7.A.2, 7.B., 7.B.1, 7.B.2, 7.C, 7.C.1, or 7.C.2.

[10] This includes certificates of compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).
[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.
[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)
[15] Licensees subject to fees under categories 1.A., 1.B., 1.E., 2.A., and licensees paying fees under fee category 17 must pay the largest applicable fee and are not subject to additional fees listed in this table.
[16] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.
[17] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.
[18] Licensees paying fees under 3.N. are not subject to paying fees under 3.P., 3.P.1, or 3.P.2 for calibration or leak testing services authorized on the same license.
[19] Licensees paying fees under 7.B., 7.B.1, or 7.B.2 are not subject to paying fees under 7.C., 7.C.1, or 7.C.2 for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.
[20] No annual fee is charged for a materials license (or part of a materials license) that has transitioned to this fee category because the decommissioning costs will be recovered through 10 CFR part 170 fees, but annual fees may be charged for other activities authorized under the license that are not in decommissioning status.
[21] Licensees paying fees under 4.A., 4.B. or 4.C. are not subject to paying fees under 3.N. licenses that authorize services for other licensees authorized on the same license.

Dated: June 8, 2022.

For the Nuclear Regulatory Commission.

Lee B. Ficks, Jr.,

Acting Chief Financial Officer.

[FR Doc. 2022–13169 Filed 6–21–22; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0283; Project Identifier MCAI–2021–01285–R; Amendment 39–22070; AD 2022–11–20]

RIN 2120–AA64

Airworthiness Directives; Leonardo S.p.a. Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Leonardo S.p.a. Model AB139 and AW139 helicopters. This AD was prompted by a large crack detected on the tail gearbox (TGB) fitting during a scheduled inspection and the determination that certain TGB fittings are required to be inspected by the use of a borescope. This AD requires a one-time borescope inspection of certain part-numbered TGB fittings, and depending on the inspection results, removing the affected part from service and replacing with an airworthy part, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference (IBR). The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 27, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 27, 2022.

ADDRESSES: For EASA material incorporated by reference (IBR) in this final rule, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Emanuele Bufano, Head of Airworthiness, Viale G.Agusta 520, 21017 C. Costa di Samarate (Va) Italy; telephone +39–0331–225074; fax +39–0331–229046; or at *https://customerportal.leonardocompany.com/en-US/.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. Service information that is IBRed is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0283.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0283; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the EASA AD, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0259, dated November 17, 2021, and corrected November 22, 2021 (EASA AD 2021–0259), to correct an unsafe condition for Leonardo S.p.A. Helicopters, formerly Finmeccanica S.p.A, AgustaWestland S.p.A., Agusta S.p.A.; and AgustaWestland Philadelphia Corporation, formerly Agusta Aerospace Corporation, Model AB139 and AW139 helicopters, all serial numbers.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Leonardo S.p.a. Model AB139 and AW139 helicopters. The NPRM published in the **Federal Register** on March 21, 2022 (87 FR 15899). The NPRM was prompted by a large crack that was detected on the inner forward-right side of TGB fitting part number 3G5351A01151, that was discovered during a scheduled inspection of a Model AW139 helicopter. EASA advises that investigation results determined previous inspections on the inner-right side of the TGB fitting were accomplished without the use of a boroscope. The NPRM proposed to require a one-time borescope inspection of certain part-numbered TGB fittings, and depending on the inspection results, removing the affected part from service and replacing with an airworthy part, as specified in EASA AD 2021–0259.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA reviewed the relevant data and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these helicopters. This AD is adopted as proposed in the NPRM.

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0259 specifies procedures, within the applicable compliance times, for a one-time borescope inspection of certain TGB fittings for a crack or any discrepancy, and replacement of an affected part with a new part as specified in the manufacturer's service information.

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

Other Related Service Information

The FAA also reviewed Leonardo Helicopters Alert Service Bulletin No.139–686, dated November 8, 2021 (ASB 139–686). This service information specifies procedures for borescope inspecting the right-hand and forward parts of certain TGB fittings for any cracks or damage and replacing the TGB fitting with a new one, if any cracks or damage are detected. ASB 139–686 also specifies procedures for reporting inspection results if a crack or discrepancy is detected.

Differences Between This AD and EASA AD 2021–0259

EASA AD 2021–0259 applies to Model AB139 and AW139 helicopters, all serial numbers, whereas this AD only applies to Model AB139 and AW139 helicopters with certain part-numbered TGB fittings installed. This AD does not require compliance with paragraph (3) of EASA AD 2021–0259.

Service information referenced in EASA AD 2021–0259 specifies that if any crack or damage is found, replace the damaged TGB fitting with a new one, whereas this AD requires before further flight, removing the affected TGB fitting from service and replacing with an airworthy part.

Costs of Compliance

The FAA estimates that this AD affects 129 helicopters of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Borescope inspecting the TGB fitting for a crack and any discrepancy (*i.e.,* damage) takes about 4 work-hours for an estimated cost of $340 per helicopter and $43,860 for the U.S. fleet.

Replacing the TGB fitting with an airworthy TGB fitting takes about 36 work-hours and parts cost about $6,650 for an estimated cost of $9,710 per replacement.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–11–20 Leonardo S.p.a.: Amendment 39–22070; Docket No. FAA–2022–0283; Project Identifier MCAI–2021–01285–R.

(a) Effective Date

This airworthiness directive (AD) is effective July 27, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Leonardo S.p.a. Model AB139 and AW139 helicopters, certificated in any category, with an affected part as identified in European Union Aviation Safety Agency (EASA) AD 2021–0259, dated November 17, 2021, and corrected November 22, 2021 (EASA AD 2021–0259).

(d) Subject

Joint Aircraft Service Component (JASC) Code: 5300, Fuselage Structure.

(e) Unsafe Condition

This AD was prompted by a large crack detected on the tail gearbox (TGB) fitting during a scheduled inspection and the determination that certain TGB fittings are required to be inspected by the use of a borescope. The FAA is issuing this AD to detect cracks on the TGB fitting. The unsafe condition, if not addressed, could result in crack propagation up to a critical length, reduced load capability of the TGB and tail rotor, and subsequent reduced control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and

compliance times specified in, and in accordance with, EASA AD 2021–0259.

(h) Exceptions to EASA AD 2021–0259

(1) Where EASA AD 2021–0259 requires compliance in terms of flight hours (FH), this AD requires using hours time-in-service.

(2) Where EASA AD 2021–0259 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where paragraph (1) of EASA AD 2021–0259 specifies ''inspect, using a borescope, the affected part in accordance with the instructions of Section 3 Part I of the ASB,'' for this AD replace ''in accordance with the instructions of Section 3 Part I of the ASB'' with ''in accordance with the Accomplishment Instructions, Section 3 Part I, paragraphs 5. through 5.5 of the ASB.''

(4) Where paragraph (2) of EASA AD 2021–0259 specifies ''if, during the inspection as required by paragraph (1) this AD, a crack or any discrepancy is detected, replace the affected part in accordance with the instructions of Section 3 Part II of the ASB,'' this AD requires before further flight, removing the TGB fitting from service and replacing with an airworthy part, if any crack or discrepancy is detected. For this AD, discrepancies include damage, which includes scratches and dents on the outer surfaces of the forward and right-hand sides of the TGB fitting above the horizontal row of fastener holes. The instructions specified in paragraph (2) of EASA AD 2021–0259 are for reference only and are not required for the replacement required by this paragraph.

(5) Where paragraph (4) of EASA AD 2021–0259 allows (re)installing an affected part provided it is inspected as required by paragraph (1) of EASA AD 2021–0259, for this AD, the inspected part cannot be (re)installed if any crack or discrepancy is detected.

(6) This AD does not mandate compliance with paragraph (3) of EASA AD 2021–0259.

(7) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2021–0259.

(i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199, provided no passengers are onboard.

(j) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(k) Related Information

(1) For more information about this AD, contact Andrea Jimenez, Aerospace Engineer, COS Program Management Section, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 1600 Stewart Ave., Suite 410, Westbury, NY 11590; telephone (516) 228–7330; email *andrea.jimenez@faa.gov.*

(2) For service information identified in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu*; internet *www.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0283.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0259, dated November 17, 2021, and corrected November 22, 2021.

(ii) [Reserved]

(3) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating FAA–2022–0283.

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

Issued on May 25, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–13267 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0685; Project Identifier MCAI–2022–00243–R; Amendment 39–22093; AD 2022–13–07]

RIN 2120–AA64

Airworthiness Directives; AutoGyro Certification Limited (Type Certificate Previously Held by RotorSport UK Ltd) Gyroplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all AutoGyro Certification Limited (type certificate previously held by RotorSport UK Ltd) Model Calidus, Cavalon, and MTOsport 2017 gyroplanes. This AD was prompted by reports of rotor blade longitudinal cracking and rotor blade attachment bolt hole fretting corrosion and cracking. This AD requires reducing the life limits for the rotor systems, repetitively inspecting each rotor blade, and depending on the outcome, removing parts from service. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 7, 2022.

The FAA must receive comments on this AD by August 8, 2022.

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

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

For service information identified in this final rule, contact Gerry Speich; Poplar Farm, Wentnor, Bishops Castle, South Shropshire, United Kingdom, SY9 5EJ; telephone +44–1588–505060; or at *http://www.auto-gyro.co.uk/.* You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX

76177. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0685; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the United Kingdom (UK) Civil Aviation Authority (CAA) Mandatory Permit Directive (MPD), any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

Background

UK CAA, which is the aviation authority for the United Kingdom, has issued UK CAA MPD 2022–002, dated January 24, 2022 (UK CAA MPD 2022–002), to correct an unsafe condition for Autogyro Certification Limited (formerly Rotorsport Uk Limited) Model MT–03, MTOsport, MTOsport 2017, Calidus, and Cavalon gyroplanes. UK CAA advises of rotor blade longitudinal cracking and rotor blade attachment bolt hole fretting corrosion and cracking on gyroplanes with a Rotor System II installed. According to the UK CAA, due to design similarity, this condition may also affect gyroplanes with a Rotor System I installed. This condition, if not addressed, could result in loss of a rotor blade and subsequent loss of control of the gyroplane.

Accordingly, UK CAA MPD 2022–002 requires determining the accumulated flight hours on the rotor system, complying with new life limits for the rotor systems, and repetitively inspecting each rotor blade to hub bar attachment fastenings and blade holes. Depending on the outcome of the inspections, UK CAA MPD 2022–002 requires replacing and returning parts, and reporting certain information to Autogyro Certification Limited and the UK CAA.

FAA's Determination

These gyroplanes have been approved by the aviation authority of the UK and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the UK, the UK CAA, its technical representative, has notified the FAA of the unsafe condition described in its MPD. The FAA is issuing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other gyroplanes of these same type designs.

Related Service Information

The FAA reviewed RotorSport UK Ltd Service Bulletin SB–144 Issue 1, dated, August 19, 2021. This service information specifies new Rotor System I and II life limits and new rotor blade to hub bar attachment fastenings and blade hole inspection compliance times. This service information also specifies a recurring inspection of the rotor system hub bar assembly bolts.

The FAA also reviewed RotorSport UK Ltd Service Information Letter SIL–028, Issue 1, dated June 17, 2019. This service information provides construction and general information regarding the different versions of Rotor System I and II and the rotor blades, and highlights particular areas of importance of the rotor blades. This service information specifies procedures for inspecting the blade to hub bar joints, rotor blade surfaces and planes, and rotor blade attachment bolt holes. This service information also specifies information regarding and provides photos of trailing edge damage, leading edge damage, and a longitudinal blade root crack that is adjacent to the bolted area. Lastly, this service information provides information regarding if there is substantial damage of a rotor blade or rotor system.

AD Requirements

This AD requires reducing the life limits for Rotor Systems I and II. This AD also requires repetitively removing, cleaning, and inspecting certain areas of each rotor blade and each rotor blade bolt hole, and depending on the outcome, removing parts from service and installing airworthy parts.

Differences Between This AD and the UK CAA MPD

UK CAA MPD 2022–002 applies to Model MT–03 and MTOsport gyroplanes, whereas this AD does not because those models are not FAA type-certificated. UK CAA MPD 2022–002 requires accomplishing the initial instance of the inspections within 100 hours or 12 months for Rotor System I, and within 100 or 500 hours depending on accumulated usage or 2 years or 1 year (recommended) depending on operational or storage usage for Rotor System II; whereas this AD requires accomplishing the initial inspections within 10 hours time-in-service (TIS) or 3 months, whichever occurs first, for a gyroplane with a Rotor System I or II, all part numbers and serial numbers, installed. For certain Rotor System II units, UK CAA MPD 2022–002 recommends a shorter recurring inspection time; whereas this AD does not. This AD requires wiping the inspection areas of the rotor blades clean before accomplishing the inspections; whereas UK CAA MPD 2022–002 does not. UK CAA MPD 2022–002 refers to service information that states that ''means of inspection can be dye penetrant or visual high magnification or as determined appropriate by the inspector;'' whereas this AD mandates what types of inspections must be accomplished. UK CAA MPD 2022–002 requires returning parts to the manufacturer, whereas this AD does not. UK CAA MPD 2022–002 requires reporting certain information; whereas this AD does not.

Justification for Immediate Adoption and Determination of the Effective Date

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

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because cracking and fretting on the surfaces of the rotor blades can lead to degradation or structural failure of the rotor system and subsequent loss of control of the gyroplane. Loss of aerodynamic control due to the mentioned unsafe condition could ultimately be categorized as a catastrophic failure. In addition, the FAA has no information regarding the number of rotor blades that are in service beyond their fatigue life or pertaining to the extent of cracking or corrosion of rotor blades that may currently exist in gyroplanes or how quickly the condition may propagate to

failure. In light of this, this AD reduces the life limit threshold of the rotor systems and the initial instance of the rotor blade inspections required by this AD must be accomplished within 10 hours TIS or 3 months, whichever occurs first. This compliance time is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

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

Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2022–0685; Project Identifier MCAI–2022–00243–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

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

Confidential Business Information

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

Regulatory Flexibility Act

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

Costs of Compliance

The FAA estimates that this AD affects 41 gyroplanes of U.S. Registry. Labor rates are estimated at $85 per work-hour. Based on these numbers, the FAA estimates the following costs to comply with this AD.

Replacing a rotor system takes about 1.5 hours and parts cost about $5,500 for an estimated cost of $5,628 per gyroplane and $230,748 for the U.S. fleet, per instance. Inspecting a rotor system takes about 1 work-hour for an estimated cost of $85 per gyroplane and $3,485 for the U.S. fleet, per inspection cycle.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

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

(2) Will not affect intrastate aviation in Alaska.

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2022–13–07 AutoGyro Certification Limited (Type Certificate Previously Held by RotorSport UK Ltd): Amendment 39–22093; Docket No. FAA–2022–0685; Project Identifier MCAI–2022–00243–R.

(a) Effective Date

This airworthiness directive (AD) is effective July 7, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to AutoGyro Certification Limited (type certificate previously held by RotorSport UK Ltd) Model Calidus, Cavalon, and MTOsport 2017 gyroplanes, certificated in any category.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6210, Main Rotor Blades.

(e) Unsafe Condition

This AD was prompted by reports of rotor blade longitudinal cracking and rotor blade attachment bolt hole fretting corrosion and cracking. The FAA is issuing this AD to prevent a rotor system from remaining in service beyond its fatigue life and detect fretting corrosion and cracking. The unsafe condition, if not addressed, could result in failure or loss of a rotor blade and subsequent loss of control of the gyroplane.

(f) Compliance

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

(g) Required Actions

(1) For a gyroplane with a Rotor System I, all part numbers and serial numbers, installed:

(i) That has accumulated 700 or more total hours time-in-service (TIS) on the rotor system, before further flight after the effective date of this AD, remove the rotor system, which includes the rotor bearing, from service.

(ii) That has accumulated less than 700 total hours TIS on the rotor system, before accumulating 700 total hours TIS after the effective date of this AD, remove the rotor system, which includes the rotor bearing, from service.

(iii) Thereafter following paragraph (g)(1)(i) or (ii) of this AD, remove the rotor system, which includes the rotor bearing, from service before accumulating 700 total hours TIS.

(2) For a gyroplane with a Rotor System II, all part numbers and serial numbers, installed:

(i) That has accumulated 2,500 or more total hours TIS on the rotor system, before further flight after the effective date of this AD, remove the rotor system, which includes the rotor bearing, from service.

(ii) That has accumulated less than 2,500 total hours TIS on the rotor system, before accumulating 2,500 total hours TIS after the effective date of this AD, remove the rotor system, which includes the rotor bearing, from service.

(iii) Thereafter following paragraph (g)(2)(i) or (ii) of this AD, remove the rotor system, which includes the rotor bearing, from service before accumulating 2,500 total hours TIS.

(3) For a gyroplane with a Rotor System I or II, all part numbers and serial numbers, installed, accomplish the actions required by paragraph (g)(4) of this AD within 10 hours TIS or 3 months after the effective date of this AD, whichever occurs first.

(4) For each rotor blade, starting with the rotor blade bolt closest to the rotor hub, sequentially remove each bolt and lock nut, remove the rotor blade, and remove the inner end cap.

(i) Using a dry cloth, wipe clean the rotor blade upper and lower surfaces within 100 mm of the circumference of each bolt hole.

(A) Dye penetrant inspect, or use a flashlight and 10X or higher power magnifying glass, to inspect the cleaned rotor blade upper and lower surfaces within 100 mm of the circumference of each bolt hole for a crack, split, dent, and fretting corrosion. If there is a crack, split, dent, or fretting corrosion at any point within 100 mm over the full circumference (360°) of a bolt hole, before further flight, remove the rotor system, which includes the rotor bearing, from service and install airworthy parts.

(B) Using a flashlight and 10X or higher power magnifying glass, inspect each plane on the cleaned upper and lower surfaces for bending within 100 mm of the circumference of the bolt hole. If there is any bending in any plane within 100 mm over the full circumference (360°) of a bolt hole, before further flight, remove the rotor system, which includes the rotor bearing, from service and install airworthy parts.

(ii) Dye penetrant inspect, or use a flashlight and 10X or higher power magnifying glass to inspect the rotor blade upper and lower inside surfaces at the rotor blade extrusion end (where the inner end cap was removed) for a crack, paying particular attention for a longitudinal crack adjacent to the bolted area. If there is a crack, before further flight, remove the rotor system, which includes the rotor bearing, from service and install airworthy parts.

Note 1 to paragraph (g)(4)(ii): Page 5 of RotorSport UK Ltd Service Information Letter SIL–028, Issue 1, dated June 17, 2019, includes a photo of a longitudinal blade root crack.

(iii) Using a flashlight and 10X or higher power magnifying glass, inspect each bolt hole in the rotor blade upper and lower surfaces for any burrs and fretting corrosion. If there is a burr or fretting corrosion, before further flight, remove the rotor system, which includes the rotor bearing, from service and install airworthy parts.

(iv) Using a dry cloth, wipe clean and dye penetrant inspect, or use a flashlight and 10X or higher power magnifying glass to inspect each bolt hole in the rotor blade upper and lower surfaces for a crack. If there is a crack, before further flight, remove the rotor system, which includes the rotor bearing, from service and install airworthy parts.

(5) Thereafter following paragraph (g)(3) of this AD, repeat the actions required by paragraph (g)(4) of this AD at intervals not to exceed the compliance time specified in paragraphs (g)(5)(i) through (iii) of this AD, as applicable to your rotor system.

(i) For a gyroplane with a Rotor System I, all part numbers and serial numbers, installed, at intervals not to exceed 100 hours TIS or 12 months, whichever occurs first.

(ii) For a gyroplane with a Rotor System II, all part numbers and serial numbers, installed, that has accumulated more than 1,500 total hours TIS on the rotor system, at intervals not to exceed 100 hours TIS or 24 months, whichever occurs first.

(iii) For a gyroplane with a Rotor System II, all part numbers and serial numbers, installed, that has accumulated 1,500 or less total hours TIS on the rotor system, at intervals not to exceed 500 hours TIS or 24 months, whichever occurs first.

(h) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(i) Related Information

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

(2) RotorSport UK Ltd Service Information Letter SIL–028, Issue 1, dated June 17, 2019, which is not incorporated by reference, contains additional information about the subject of this AD. For service information identified in this AD, contact Gerry Speich; Poplar Farm, Wentnor, Bishops Castle, South Shropshire, United Kingdom, SY9 5EJ; telephone +44–1588–505060; or at *http://www.auto-gyro.co.uk/.* You may view this referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110.

(3) The subject of this AD is addressed in United Kingdom (UK) Civil Aviation Authority (CAA) Mandatory Permit Directive (MPD) 2022–002, dated January 24, 2022. You may view the UK CAA MPD at *https://www.regulations.gov* in Docket No. FAA–2022–0685.

(j) Material Incorporated by Reference

None.

Issued on June 13, 2022.

Christina Underwood,

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

[FR Doc. 2022–13362 Filed 6–16–22; 4:15 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0465; Airspace Docket No. 20–ANM–59]

RIN 2120–AA66

Modification of Class E Airspace; Rifle Garfield County Airport, CO

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

ACTION: Final rule.

SUMMARY: This action modifies the Class E airspace extending upward from 700 feet above the surface at Rifle Garfield County Airport, Rifle, CO, and supports modifications to the RNAV (GPS) Y RWY 8 approach at the airport. This action 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 1 CFR part 51, subject to the annual revision of FAA JO Order 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) 231–2245.

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. 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 Rifle Garfield County Airport, CO, to support IFR operations at the airport.

History

The FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (87 FR 2372; January 14, 2022) for Docket No. FAA–2021–0465 to modify the Class E airspace extending upward from 700 feet above the surface at Rifle Garfield County Airport, CO. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. One comment was received in favor of the proposal.

The Class E5 airspace designation 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.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order JO 7400.11F, 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 the Class E airspace extending upward from 700 feet above the surface at Rifle Garfield County Airport, CO.

This airspace is modified, adding an extension 4.8 miles wide, extending from the airport's 11-mile radius to 11.9 miles west of the airport, to appropriately contain the RNAV (GPS) Y RWY 8 approach into Rifle Garfield County Airport, CO.

FAA Order JO 7400.11is published yearly 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 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 JO 7400.11F, Airspace Designations and Reporting Points, dated August 10, 2021, and effective September 15, 2021, is amended as follows:

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

* * * * *

ANM CO E5 Rifle, CO [Amended]

Rifle Garfield County Airport, Rifle, CO
(Lat. 39°31′36″ N, long. 107°43′41″ W)

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the airport from the 336° bearing from the airport clockwise to the 065° bearing from the airport, and within an 11-mile radius of the airport from the 065° bearing from the airport clockwise to the 336° bearing from the airport, and within 2.4 miles each side of the 257° bearing from the airport, extending from the 11-mile radius to 11.9 miles west of the airport.

B.G. Chew,

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

[FR Doc. 2022–13198 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0364]

RIN 1625–AA00

Safety Zone; Beaver Island Fireworks, Saint James Harbor, Lake Michigan, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for navigable waters within a 500-foot radius of a fireworks display in Saint James Harbor near Beaver Island, MI. The safety zone is needed to protect personnel, vessels, and the marine environment from potential hazards created the fireworks display. Entry of vessels or persons into this zone is prohibited unless specifically authorized by the Captain of the Port Sault Sainte Marie or a designated representative.

DATES: This rule is effective from 9 p.m. through 11 p.m. on July 5, 2022.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2022–0364 in the ''SEARCH'' box and click ''SEARCH.'' Next, in the Document Type column, select ''Supporting & Related Material.''

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LT Deaven Palenzuela, U.S. Coast Guard Sector Sault Sainte Marie Waterways Management, U.S. Coast Guard; telephone 906–635–3223, email *ssmprevention@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The Coast Guard did not receive sufficient notice of this event to undergo notice and comment and this safety zone must be established by July 5, 2022 in order to protect the public from the dangers associated with a fireworks display.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable as immediate action is needed to protect against the potential safety hazards associated with the fireworks display.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port Sault Sainte Marie (COTP) has determined that potential hazards associated with a fireworks display on July 5, 2022 would be a safety concern for anyone within the safety zone. This rule is necessary to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone during the fireworks display.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. until 11 p.m. on July 5, 2022. The safety zone will cover all navigable waters within 500 feet of a fireworks display in Saint James Harbor near Beaver Island, MI. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters during the fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

This regulatory action determination is based on the characteristics of the safety zone. Vessel traffic will be able to safely transit around this safety zone which would impact a small designated area of Saint James Harbor for 2 hours. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF–FM Marine Channel 16 about the safety zone, and the rule would allow vessels to seek permission to enter the safety zone.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting 2 hours that will prohibit entry within a 500-foot radius of a fireworks display in Saint James Harbor. It is categorically excluded from further review under paragraph L[60(a)] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T09–0364 to read as follows:

§ 165.T09–0364 Safety Zone; Beaver Island Fireworks, Saint James Harbor, Lake Michigan, MI.

(a) *Location.* The following area is a safety zone: All navigable water within 500 feet of the fireworks launching location in position 45°44′10.79″ N 85°30′48.86″ W (NAD 83).

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

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23, entry into, transiting, or anchoring within the safety zone described in paragraph (a) is prohibited unless authorized by the Captain of the Port Sault Sainte Marie or his designated representative.

(2) Before a vessel operator may enter or operate within the safety zone, they must obtain permission from the Captain of the Port Sault Sainte Marie or his designated representative via VHF Channel 16 or telephone at (906) 635–3233. Vessel operators given permission to enter or operate in the safety zone must comply with all orders given to them by the Captain of the Port Sault Sainte Marie or his designated representative.

(d) *Enforcement period.* The safety zone described in paragraph (a) will be enforced from 9 p.m. through 11 p.m. on July 5, 2022.

A.R. Jones,

Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.

[FR Doc. 2022–13323 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2022–0454]

Safety Zone; San Francisco Giants Fireworks Display, San Francisco Bay, San Francisco, CA

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

ACTION: Notification of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zone for the San Francisco Giants Fireworks Display in the Captain of the Port, San Francisco area of responsibility during the dates and times noted below. This action is necessary to protect personnel, vessels, and the marine environment from the hazards associated with the fireworks display. During the enforcement period, unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone, unless authorized by the Patrol Commander (PATCOM), any Official Patrol defined as other Federal, state, or local law enforcement agencies on scene to assist the Coast Guard in enforcing the regulated area.

DATES: The regulations in 33 CFR 165.1191 will be enforced for the location identified in Table 1 to § 165.1191, Item number 1, from 10 a.m. until 11:30 p.m. on July 1, 2022.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notification of enforcement, call or email LT William Harris, Waterways Management, U.S. Coast Guard Sector San Francisco; telephone (415) 399–7443, email *SFWaterways@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone in 33 CFR 165.1191, Table 1, Item number 1, for the San Francisco Giants Fireworks Display from 10 a.m. until 11:30 p.m. on July 1, 2022. The safety zone will extend

to all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 100 feet out from the fireworks barge during the loading, transit, and arrival of the fireworks barge from the loading location to the display location and until the start of the fireworks display. From 10 a.m. until 8 p.m. on July 1, 2022, the fireworks barge will be loading pyrotechnics from Pier 50 in San Francisco, CA. The fireworks barge will remain at the loading location until its transit to the display location. From 8:30 p.m. to 8:45 p.m. on July 1, 2022, the loaded fireworks barge will transit from Pier 50 to the launch site near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83) where it will remain until the conclusion of the fireworks display. Upon the commencement of the 10-minute fireworks display, scheduled to begin at the conclusion of the baseball game, between approximately 9:30 p.m. and 10:30 p.m. on July 1, 2022, the safety zone will increase in size and encompass all navigable waters of the San Francisco Bay, from surface to bottom, within a circle formed by connecting all points 700 feet out from the fireworks barge near Pier 48 in approximate position 37°46′36″ N, 122°22′56″ W (NAD 83). This safety zone will be in enforced from 10 a.m. until 11:30 p.m. on July 1, 2022, or as announced via Broadcast Notice to Mariners.

Under the provisions of 33 CFR 165.1191, unauthorized persons or vessels are prohibited from entering into, transiting through, or anchoring in the safety zone during all applicable effective dates and times, unless authorized to do so by the PATCOM or other Official Patrol, defined as a Federal, state, or local law enforcement agency on scene to assist the Coast Guard in enforcing the safety zone. During the enforcement period, if you are the operator of a vessel in one of the safety zones you must comply with directions from the Patrol Commander or other Official Patrol. The PATCOM or Official Patrol may, upon request allow the transit of commercial vessels through regulated areas when it is safe to do so.

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

If the Captain of the Port determines that the regulated area need not be enforced for the full duration stated in this notification, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 15, 2022.

Taylor Q. Lam,

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

[FR Doc. 2022–13298 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0506; FRL–9895–01–R4]

Finding of Failure To Submit a Clean Air Act Section 110 State Implementation Plan for Interstate Transport for the 2015 Ozone National Ambient Air Quality Standards (NAAQS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final action.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action, finding that the State of Alabama failed to submit a complete infrastructure State Implementation Plan (SIP) revision to satisfy certain interstate transport requirements of the Clean Air Act (CAA or Act) with respect to the 2015 8-hour ozone national ambient air quality standards (NAAQS). Specifically, these requirements pertain to prohibiting significant contribution to nonattainment, or interference with maintenance, of the 2015 8-hour ozone NAAQS in other states. This finding of failure to submit a complete revision establishes a 2-year deadline for EPA to promulgate a Federal Implementation Plan (FIP) to address these interstate transport requirements for Alabama unless, prior to EPA promulgating a FIP, Alabama submits, and EPA approves, a SIP that meets these requirements.

DATES: Effective date of this action is July 22, 2022.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2022–0506. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Evan Adams of the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Mr. Adams can be reached by telephone at (404) 562–9009, or via electronic mail at *adams.evan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Notice and Comment Under the Administrative Procedure Act (APA)

Section 553 of the APA, 5 U.S.C. 553(b)(3)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment because no significant EPA judgment is involved in making a finding of failure to submit SIPs, or elements of SIPs, required by the CAA, where states have made no submissions or incomplete submissions, to meet the requirement. Specifically, and as discussed further in the preamble, Alabama has withdrawn a prior submission and has not made a complete submission under CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. Thus, notice and public procedure are unnecessary. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

II. Background and Overview

A. Interstate Transport SIPs

CAA section 110(a) imposes an obligation upon states to submit SIP revisions that provide for the implementation, maintenance, and enforcement of a new or revised NAAQS within 3 years following the promulgation of that NAAQS. CAA section 110(a)(2) lists specific requirements that states must meet in these SIP submissions, as applicable. EPA refers to this type of SIP as an

''infrastructure'' SIP because it ensures that states can implement, maintain, and enforce the new or revised air standards. Within these requirements, CAA section 110(a)(2)(D)(i) contains requirements to address interstate transport of NAAQS pollutants. A SIP for this sub-section is referred to as an ''interstate transport SIP.'' In turn, CAA section 110(a)(2)(D)(i)(I) requires that such a plan contain adequate provisions to prohibit emissions from the state that will contribute significantly to nonattainment of the NAAQS in any other state (''prong 1'') or interfere with maintenance of the NAAQS in any other state (''prong 2''). Interstate transport prongs 1 and 2, also called collectively the ''good neighbor'' provision, are the requirements relevant to this action.

Pursuant to CAA section 110(k)(1)(B), EPA must determine within 60 days of receipt, but no later than 6 months after the date by which a state is required to submit a SIP revision, whether a state has made a submission that meets the minimum completeness criteria established pursuant to CAA section 110(k)(1)(A). These criteria are set forth at 40 CFR part 51, appendix V. EPA refers to the determination that a state has not submitted a SIP submission that meets the minimum completeness criteria as a ''finding of failure to submit.'' If EPA finds a state has failed to submit a SIP revision to meet its statutory obligation to address CAA section 110(a)(2)(D)(i)(I), then pursuant to CAA section 110(c)(1), EPA has not only the authority, but the obligation, to promulgate a FIP within 2 years to address the CAA requirement. This finding, therefore, starts a 2-year ''clock'' for promulgation by EPA of a FIP, in accordance with CAA section 110(c)(1), unless prior to such promulgation the state submits, and EPA approves, a revision from the state to meet the requirements of CAA section 110(a)(2)(D)(i)(I). Even where EPA has promulgated a FIP, EPA will withdraw that FIP if a state submits, and EPA approves, a SIP satisfying the relevant requirements. EPA notes that this action does not start a mandatory sanctions clock pursuant to CAA section 179 because this finding of failure to submit does not pertain to a part D plan for nonattainment areas, required under CAA section 110(a)(2)(I), or a SIP call pursuant to CAA section 110(k)(5).

B. Background on 2015 Ozone NAAQS, Alabama SIP Revisions, and Incompleteness Determination

On October 1, 2015, EPA promulgated a new 8-hour primary and secondary ozone NAAQS of 70 parts per billion (ppb), which is met when the 3-year average of the annual fourth highest daily maximum 8-hour concentration does not exceed 70 ppb.[1] Pursuant to the 3-year period provided in CAA section 110(a)(1), infrastructure SIP revisions addressing the revised standard were due on October 1, 2018.[2]

On August 20, 2018, Alabama submitted a SIP revision to address the interstate transport requirements for the 2015 8-hour ozone NAAQS. On February 22, 2022, EPA proposed to disapprove Alabama's August 20, 2018, SIP revision because the Agency preliminarily determined, based on updated EPA modeling, that Alabama's SIP revision did not meet CAA requirements to contain the necessary provisions to eliminate emissions that will contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state.[3] *See* 87 FR 9545.

On April 21, 2022, Alabama withdrew its August 20, 2018, SIP revision.[4] Additionally, on that same day, Alabama provided EPA a new SIP revision to address the CAA interstate transport requirements for the 2015 8-hour ozone NAAQS.

According to the CAA, a SIP revision may be considered ''complete'' by either of two methods: (1) EPA may make a determination that a SIP is complete under the ''completeness criteria'' set out at 40 CFR part 51, appendix V, *see* CAA section 110(k)(1); or (2) a SIP may be deemed complete by operation of law if EPA has failed to make a completeness determination within 6 months after receipt of the State's SIP submission, *see* CAA section 110(k)(1)(B).

EPA evaluated the SIP revision that Alabama sent on April 21, 2022, for completeness pursuant to the criteria in 40 CFR part 51, appendix V, and concluded it is an incomplete SIP submission. On June 15, 2022, EPA sent a letter to Alabama explaining the Agency's incompleteness determination. This letter is included in the docket for this action.[5]

Where EPA determines that a SIP revision does not meet the Appendix V completeness criteria, the state shall be treated as not having made the submission. *See* CAA section 110(k)(1)(C). Accordingly, EPA is finding that Alabama has failed to submit a complete SIP revision addressing the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 8-hour ozone NAAQS. Notwithstanding this finding, and the associated obligation of EPA to promulgate a FIP for Alabama within two years of this finding, EPA intends to continue to work with Alabama in order to provide assistance as necessary to help the State develop an approvable SIP revision.[6]

III. Finding of Failure To Submit for Failing To Make an Interstate Transport SIP Submission for the 2015 Ozone NAAQS

As explained in Section II of this preamble, EPA finds the Alabama has not submitted a complete interstate transport SIP revision to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 8-hour ozone NAAQS.

IV. Environmental Justice Considerations

This notice makes a procedural finding that Alabama has failed to submit a SIP revision to address CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. EPA did not conduct an

[1] *See* Final Rule, National Ambient Air Quality Standards for Ozone, 80 FR 65292 (October 26, 2015).

[2] EPA previously made findings of failure to submit with respect to interstate transport obligations for the 2015 8-hour ozone NAAQS for a number of other states. *See* 84 FR 66612 (December 5, 2019). As discussed further in this notice, at the time EPA made those findings, Alabama had provided a complete submission, which it has subsequently withdrawn.

[3] Previously, EPA proposed approval of Alabama's August 20, 2018, interstate transport SIP submission for the 2015 8-hour ozone NAAQS based on modeling released in 2018. *See* 84 FR 71854 (December 30, 2019). However, based on new modeling released in 2020, it became evident that Alabama was projected to be linked above 1 percent of the 2015 8-hour ozone NAAQS to downwind nonattainment and maintenance receptors (*see* 87 FR 9553 n.40). As a result, EPA deferred acting on Alabama's SIP submission when it published a supplemental proposal in 2021 to approve four other southeastern states' good neighbor SIP submissions using the updated modeling. *See* 86 FR 37942, 37943 (July 19, 2021). Additional modeling confirmed the results of the 2020 modeling. In its February 22, 2022, notice, EPA announced that the Agency was withdrawing its 2019 proposed approval and was proposing disapproval of that submission instead. *See* 87 FR 9545 (February 22, 2022).

[4] See the docket for this rulemaking for a copy of Alabama's April 21, 2022, withdrawal letter.

[5] While this letter is included in the docket for this action, and explains the deficiencies in the April 21, 2022, document, EPA is not reopening its determination of incompleteness in this action.

[6] EPA notes that there is no mechanism for the State to rescind the prior withdrawal of its August 20, 2018, submission. *See, e.g.,* 80 FR 39961, 39964–65 (July 13, 2015); *see also* Letter, from Beverly H. Banister, USEPA Region 4, to Sheila Holman, NCDENR, ''Response to North Carolina's June 26, 2015 Letter Seeking to Rescind the September 3, 2014 Withdrawal of the 2008 Ozone Infrastructure State Implementation Plan Certification Regarding Interstate Transport'' (June 30, 2015) (EPA–HQ–OAR–2012–0943–0062) (finding rescission of SIP withdrawal to constitute an incomplete SIP revision and ''inappropriate'' where the withdrawal was relied upon by plaintiffs and EPA in resolving deadline-suit litigation).

environmental analysis for this action because it would not directly affect the air emissions of particular sources. Because this action will not directly affect the air emissions of particular sources, it does not affect the level of protection provided to human health or the environment. Therefore, this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income or indigenous populations.

V. Statutory and Executive Order Reviews

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

This action is not a significant regulatory action and was, therefore, not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act. This final action does not establish any new information collection requirement apart from what is already required by law. This finding relates to the requirement in the CAA for states to submit SIPs under section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS.

C. Regulatory Flexibility Act (RFA)

This action is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553 or any other statute. This action is not subject to notice and comment requirements because the agency has invoked the APA ''good cause'' exemption under 5 U.S.C. 553(b).

D. Unfunded Mandates Reform Act of 1995 (UMRA)

This action does not contain any unfunded mandate 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. This action finds that Alabama has failed to complete the requirement in the CAA to submit a SIP under section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS. No tribe is subject to the requirement to submit a transport SIP under section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS. 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. Thus, Executive Order 13175 does not apply to this action.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it is a finding that Alabama has failed to submit a complete SIP that satisfies interstate transport requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS and does not directly or disproportionately affect children.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. In finding that Alabama has failed to submit a complete SIP that satisfies the interstate transport requirements under section 110(a)(2)(D)(i)(I) of the CAA for the 2015 ozone NAAQS, this action does not adversely affect the level of protection provided to human health or the environment.

K. Congressional Review Act (CRA)

This action is subject to the CRA, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 22, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see CAA 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.

Dated: June 15, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–13292 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 9

[PS Docket Nos. 20–291 and 09–14, FCC 21–80; FRS 91583]

911 Fee Diversion; New and Emerging Technologies 911 Improvement Act of 2008

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of compliance date.

SUMMARY: In this document, the Federal Communications Commission (Commission) announces that the Office of Management and Budget (OMB) has approved information collections associated with certain rules adopted in the 911 Fee Diversion; New and Emerging Technologies 911

Improvement Act Report and Order, under the Don't Break Up the T-Band Act of 2020. The Commission also announces that compliance with the rules is now required. The Commission also removes and amends a paragraph advising that compliance was not required until OMB approval was obtained. This document is consistent with the 2021 Report and Order and rules, which state the Commission will publish a document in the **Federal Register** announcing a compliance date for the rule sections and revise the rules accordingly.

DATES:

Effective date: This rule is June 22, 2022.

Compliance date: Compliance with 47 CFR 9.25(b), added in the final rule published August 17, 2021, at 86 FR 45892, and effective October 18, 2021, is required as of June 22, 2022.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Jill Coogan, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, (202) 418–1499 or via email at *Jill.Coogan@fcc.gov*.

SUPPLEMENTARY INFORMATION: This document announces that OMB approved the information collection requirement in 47 CFR 9.25(b).

The Commission publishes this document as an announcement of the compliance date of 47 CFR 9.25(b). If you have any comments on the burden estimates listed below, or how the Commission can improve the collections and reduce any burdens caused thereby, please contact Nicole Ongele, Federal Communications Commission, 45 L Street NE, Washington, DC 20554, regarding OMB Control Number 3060–1122. Please include the relevant OMB Control Number in your correspondence. The Commission will also accept your comments via the internet if you send them to *PRA@fcc.gov.*

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice).

Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received OMB approval on March 28, 2022 for the 911 fee information collection requirements contained in the Commission's rules at 47 CFR 9.25(b). Under 5 CFR part 1320, an agency may not conduct or sponsor a collection of information unless it displays a current, valid OMB Control Number.

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

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

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

OMB Control Number: 3060–1122.

OMB Approval Date: March 28, 2022.

OMB Expiration Date: March 31, 2025.

Title: Preparation of Annual Reports to Congress for the Collection and Expenditure of Fees or Charges for Enhanced 911 (E911) Services Under the NET 911 Improvement Act of 2008.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: State, Local, and Tribal governments.

Number of Respondents and Responses: 66 respondents; 66 responses.

Estimated Time per Response: 55 hours.

Frequency of Response: Annual and one-time reporting requirement.

Obligation to Respond: Voluntary. Statutory authority for this information collection is contained in New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110–283, 122 Stat. 2620 (2008) (NET 911 Act), and the Consolidated Appropriations Act, 2021, Public Law 116–260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902).

Total Annual Burden: 3,630 hours.

Total Annual Cost: No Cost.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: This document pertains to annual information collection relating to the Commission's 911 fee regulations. OMB previously approved the annual information collection associated with 911 fees. This document announces that OMB has approved modifications of the annual 911 fee information collection pursuant to the 911 Fee Diversion; New and Emerging Technologies 911 Improvement Act Report and Order.

The Commission is directed by statute (New and Emerging Technologies 911 Improvement Act of 2008, Public Law 110–283, 122 Stat. 2620 (2008) (NET 911 Act), as amended by the Consolidated Appropriations Act, 2021, Public Law 116–260, Division FF, Title IX, Section 902, Don't Break Up the T-Band Act of 2020 (section 902)), to submit an annual ''Fee Accountability Report'' to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives ''detailing the status in each State of the collection and distribution of [911 fees or charges], and including findings on the amount of revenues obligated or expended by each State or political subdivision thereof for any purpose or function other than the purposes and functions designated in the final rules issued under paragraph (3) as purposes and functions for which the obligation or expenditure of any such fees or charges is acceptable.'' 47 U.S.C. 615a–1(f)(2), as amended. Section 615a–1(f)(3) of the statute directs the Commission, not later than 180 days after December 27, 2020, to ''issue final rules designating purposes and functions for which the obligation or expenditure of 9–1–1 fees or charges, by any State or taxing jurisdiction authorized to impose such a fee or charge, is acceptable.'' 47 U.S.C. 615a–1(f)(3), as amended. The statute directs the Commission to submit its first annual report within one year after the date of enactment of the NET 911 Act. Given that the NET 911 Act was enacted on July 23, 2008, the first annual report was due to Congress on July 22, 2009. In addition, the statute provides that ''[i]f a State or taxing jurisdiction . . . receives a grant under section 942 of this title after December 27, 2020, such State or taxing jurisdiction shall, as a condition of receiving such grant, provide the information requested by the Commission to prepare [the annual Fee Accountability Report to Congress].'' 47 U.S.C. 615a–1(f)(4), as amended.

Description of Information Collection: The Commission will collect information for the annual preparation of the Fee Accountability Report via a web-based survey that appropriate state officials (*e.g.,* state 911 administrators and budget officials) will be able to access to submit data pertaining to the collection and distribution of fees or charges for the support or implementation of 911 or enhanced 911 services, including data regarding whether their respective state collects and distributes such fees or charges, as well as the nature (*e.g.,* amount and method of assessment or collection) and the amount of revenues obligated or

expended for any purpose or function other than the purposes and functions designated as acceptable in the Commission's final rules. Consistent with 47 U.S.C. 615a–1(f)(3)(D)(iii), the Commission will request that state officials report this information with respect to 911 fees or charges within their state, including any political subdivision, Indian Tribe, or village or regional corporation serving a region established pursuant to the Alaska Native Claims Settlement Act within their state boundaries. 47 U.S.C. 615a–1(f)(3)(D)(iii). In addition, consistent with the definition of ''State'' set out in 47 U.S.C. 615b, the Commission will collect this information from the District of Columbia and the inhabited U.S. territories and possessions. 47 U.S.C. 615b.

List of Subjects in 47 CFR Part 9

Communications common carriers, Communications equipment, Radio.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 9 as follows:

PART 9—911 REQUIREMENTS

■ 1. The authority citation for part 9 is revised to read as follows:

Authority: 47 U.S.C. 151–154, 152(a), 155(c), 157, 160, 201, 202, 208, 210, 214, 218, 219, 222, 225, 251(e), 255, 301, 302, 303, 307, 308, 309, 310, 316, 319, 332, 403, 405, 605, 610, 615, 615 note, 615a, 615b, 615c, 615a–1, 616, 620, 621, 623, 623 note, 721, and 1471, and Section 902 of Title IX, Division FF, Pub. L. 116–260, 134 Stat. 1182, unless otherwise noted.

§ 9.25 [Amended]

■ 2. Amend § 9.25 by removing paragraph (c).

[FR Doc. 2022–13230 Filed 6–21–22; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 87, No. 119
Wednesday, June 22, 2022

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Doc. No. AMS–SC–21–0076; SC21–981–1 PR]

Modification of Marketing Order Regulations for Almonds Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Agricultural Marketing Service (AMS) is providing an additional fifteen (15) days for public comments on the proposed rule that would amend the Federal marketing order regulating the handling of almonds grown in California. Based on recommendations from the Almond Board of California (Board), the proposed rule would modify to make changes to multiple provisions in the administrative requirements. Comments are solicited from all stakeholders on the process the Board effectuated to develop recommendations and the substance of the rulemaking action.

DATES: For the proposed rule published on February 22, 2022 (87 FR 6455), comments must be received by July 7, 2022.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule. Comments must be sent to the Docket Clerk, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or internet: *https://www.regulations.gov.* Comments should reference the document number and the date and page number of this issue and the February 22, 2022 (87 FR 9455) issue of the **Federal Register**. The comments will be made available for public inspection in the Office of the Docket Clerk during regular business hours or can be viewed at: *https://www.regulations.gov.* All comments submitted in response to this proposed rule will be included in the record. Please be advised that the identity of the individuals or entities submitting the comments will be made public on the internet at the address provided above.

FOR FURTHER INFORMATION CONTACT: Peter Sommers, Marketing Specialist, or Gary Olson, Regional Director, Western Region Office, Market Development Division, Specialty Crops Program, AMS, USDA; Telephone: (559) 487–5901, Fax: (559) 487–5906, or Email: *PeterR.Sommers@usda.gov* or *GaryD.Olson@usda.gov*.

Small businesses may request information on complying with this regulation by contacting Richard Lower, Market Development Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@usda.gov.*

SUPPLEMENTARY INFORMATION: A proposed rule published in the **Federal Register** on February 22, 2022, (87 FR 6455) would amend administrative requirements in the Order regulating the roadside stand exemption, credit for market promotion activities (credit-back), quality control, exempt dispositions, and interest and late charges provisions. The proposed rule allowed a 60-day comment period that ended April 25, 2022.

Prior to the end of the initial comment period, USDA received comments that called into question the process that effectuated the proposed rule. Specifically, the comments said that the recommended modification to 7 CFR 981.441, the administrative requirements for the credit-back provision, was not approved by the Board and was recommended to USDA without Board knowledge.

A review of Board proceedings and meeting minutes shows that the provision was approved by the Board. During the June 17, 2021 Board meeting, the Global Market Development Committee presented the suggested changes to section 981.441 for consideration. The Board voted unanimously to approve. Subsequently, meeting minutes indicating this approval were unanimously approved by the Board in an email vote sent out on July 26, 2021.

The authority to allow for credit-back is found at 7 CFR 981.41(c), ''Research and Development; Creditable expenditures,'' while regulations implementing this authority are found at 7 CFR 981.441 ''Credit for market promotion activities, including paid advertising.'' Section 981.441, added in 1994, has been previously amended twice (1999 and 2005).

AMS is reopening the comment period for 15 days to allow for any additional comments on the proposed amendments to the regulations. Specifically, AMS is looking for comments on provisions related to credit-back administrative requirements to determine support for the changes. AMS is also looking for further comment on perceived issues related to the formulation of the recommendation for that provision. Accordingly, the comment period is hereby reopened until July 7, 2022.

Erin Morris,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2022–13311 Filed 6–21–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–STD–0043]

RIN 1904–AE61

Energy Conservation Program: Energy Conservation Standards for Dehumidifiers

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

ACTION: Notification of availability of preliminary technical support document and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'' or ''the Department'') announces the availability of the preliminary analysis it has conducted for purposes of evaluating the need for amended energy conservation standards for dehumidifiers, which is set forth in the Department's preliminary technical support document (''TSD'') for this rulemaking. DOE will hold a public meeting via webinar to discuss and

receive comment on the preliminary analysis. The meeting will cover the analytical framework, models, and tools used to evaluate potential standards; the results of preliminary analyses performed by DOE; the potential energy conservation standard levels derived from these analyses (if DOE determines that proposed amendments are necessary); and other relevant issues. In addition, DOE encourages written comments on these subjects.

DATES:

Comments: Written comments and information will be accepted on or before, August 22, 2022.

Meeting: DOE will hold a webinar on Tuesday, July 19, 2022, from 1 p.m. to 4 p.m. See section IV, ''Public Participation,'' for webinar registration information, participant instructions and information about the capabilities available to webinar participants.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov,* under docket number EERE–2019–BT–STD–0043. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–STD–0043 by any of the following methods:

(1) *Email: Dehumidifiers2019STD0043@ee.doe.gov.* Include the docket number EERE–2019–BT–STD–0043 in the subject line of the message.

(2) *Postal Mail:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 287–1445. If possible, please submit all items on a compact disc (''CD''), in which case it is not necessary to include printed copies.

(3) *Hand Delivery/Courier:* Appliance and Equipment Standards Program, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW, 6th Floor, Washington, DC 20024. Telephone: (202) 287–1445. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

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

To inform interested parties and to facilitate this rulemaking process, DOE has prepared an agenda, a preliminary TSD, and briefing materials, which are available on the docket website at: *www.regulations.gov/docket/EERE-2019-BT-STD-0043.*

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

The docket web page can be found at *www.regulations.gov/docket/EERE-2019-BT-STD-0043.* The docket web page contains instructions on how to access all documents, including public comments in the docket. See section IV for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Bryan Berringer, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–0371. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Pete Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *Peter.Cochran@hq.doe.gov.*

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

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

A. Authority

The Energy Policy and Conservation Act, as amended (''EPCA''),[1] authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment. (42 U.S.C. 6291–6317) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles. These products include dehumidifiers, the subject of this document. (42 U.S.C. 6295(cc))

EPCA further provides that, not later than 6 years after the issuance of any final rule establishing or amending a standard, DOE must publish either a notification of determination that standards for the product do not need to be amended, or a notice of proposed rulemaking (''NOPR'') including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(1)) Not later than three years after issuance of a final determination not to amend standards, DOE must publish either a notice of determination that standards for the product do not need to be amended, or a NOPR including new proposed energy conservation standards (proceeding to a final rule, as appropriate). (42 U.S.C. 6295(m)(3)(B))

DOE is publishing this Preliminary Analysis to collect data and information to inform its decision consistent with its obligations under EPCA.

B. Rulemaking Process

DOE must follow specific statutory criteria for prescribing new or amended standards for covered products, including dehumidifiers. EPCA requires that any new or amended energy conservation standard prescribed by the Secretary of Energy (''Secretary'') be designed to achieve the maximum improvement in energy efficiency (or water efficiency for certain products specified by EPCA) that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A)) Furthermore, DOE may not adopt any standard that would not result in the significant conservation of energy. (42 U.S.C. 6295(o)(3))

The significance of energy savings offered by a new or amended energy

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

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

conservation standard cannot be determined without knowledge of the specific circumstances surrounding a given rulemaking.[3] For example, the United States has now rejoined the Paris Agreement on February 19, 2021. As part of that agreement, the United States has committed to reducing greenhouse gas (''GHG'') emissions in order to limit the rise in mean global temperature.[4] As such, energy savings that reduce GHG emission have taken on greater importance.

Additionally, some covered products and equipment have most of their energy consumption occur during periods of peak energy demand. The impacts of these products on the U.S. energy infrastructure can be more pronounced than those of products with relatively constant demand. In evaluating the significance of energy savings, DOE considers differences in not only site energy use, but also primary energy and full-fuel-cycle (''FFC'') effects for different covered products and equipment when determining whether energy savings are significant. Primary energy and FFC effects include the energy consumed in electricity production (depending on load shape), in distribution and transmission, and in extracting, processing, and transporting primary fuels (*i.e.,* coal, natural gas, petroleum fuels), and, thus, present a more complete picture of the impacts of energy conservation standards.[5] Accordingly, DOE evaluates the significance of energy savings on a case-by-case basis.

Based on the cumulative full-fuel-cycle (''FFC'') national energy savings, the cumulative FFC emissions reductions, and the need to confront the global climate crisis, among other factors, DOE has initially determined the energy savings for the candidate standard levels evaluated in this preliminary analysis rulemaking are ''significant'' within the meaning of 42 U.S.C. 6295(o)(3)(B).

To determine whether a standard is economically justified, EPCA requires that DOE determine whether the benefits of the standard exceed its burdens by considering, to the greatest extent practicable, the following seven factors:

(1) The economic impact of the standard on the manufacturers and consumers of the products subject to the standard;

(2) The savings in operating costs throughout the estimated average life of the covered products in the type (or class) compared to any increase in the price, initial charges, or maintenance expenses for the covered products that are likely to result from the standard;

(3) The total projected amount of energy (or as applicable, water) savings likely to result directly from the standard;

(4) Any lessening of the utility or the performance of the products likely to result from the standard;

(5) The impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the standard;

(6) The need for national energy and water conservation; and

(7) Other factors the Secretary of Energy (Secretary) considers relevant.

(42 U.S.C. 6295(o)(2)(B)(i)(I)–(VII))

DOE fulfills these and other applicable requirements by conducting a series of analyses throughout the rulemaking process. Table I.1 shows the individual analyses that are performed to satisfy each of the requirements within EPCA.

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS

EPCA requirement	Corresponding DOE analysis
Significant Energy Savings	• Shipments Analysis. • National Impact Analysis. • Energy Use Analysis.
Technological Feasibility	• Market and Technology Assessment. • Screening Analysis. • Engineering Analysis.
Economic Justification:	
1. Economic impact on manufacturers and consumers	• Manufacturer Impact Analysis. • Life-Cycle Cost and Payback Period Analysis. • Life-Cycle Cost Subgroup Analysis. • Shipments Analysis.
2. Lifetime operating cost savings compared to increased cost for the product.	• Markups for Product Price Analysis. • Energy Use Analysis. • Life-Cycle Cost and Payback Period Analysis.
3. Total projected energy savings	• Shipments Analysis. • National Impact Analysis.
4. Impact on utility or performance	• Screening Analysis. • Engineering Analysis.
5. Impact of any lessening of competition	• Manufacturer Impact Analysis.
6. Need for national energy and water conservation	• Shipments Analysis. • National Impact Analysis.

[3] *See* Procedures, Interpretations, and Policies for Consideration in New or Revised Energy Conservation Standards and Test Procedures for Consumer Products and Commercial/Industrial Equipment. 86 FR 70892, 70901 (Dec. 13, 2021).

[4] *See* Executive Order 14008, 86 FR 7619 (Feb. 1, 2021) (''Tackling the Climate Crisis at Home and Abroad'').

[5] The FFC metric is discussed in DOE's statement of policy and notice of policy amendment. 76 FR 51281 (Aug. 18, 2011), as amended at 77 FR 49701 (Aug. 17, 2012).

TABLE I.1—EPCA REQUIREMENTS AND CORRESPONDING DOE ANALYSIS—CONTINUED

EPCA requirement	Corresponding DOE analysis
7. Other factors the Secretary considers relevant	• Employment Impact Analysis. • Utility Impact Analysis. • Emissions Analysis. • Monetization of Emission Reductions Benefits.[6] • Regulatory Impact Analysis.

Further, EPCA establishes a rebuttable presumption that a standard is economically justified if the Secretary finds that the additional cost to the consumer of purchasing a product complying with an energy conservation standard level will be less than three times the value of the energy savings during the first year that the consumer will receive as a result of the standard, as calculated under the applicable test procedure. (42 U.S.C. 6295(o)(2)(B)(iii))

EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1)) Also, the Secretary may not prescribe an amended or new standard if interested persons have established by a preponderance of the evidence that the standard is likely to result in the unavailability in the United States in any covered product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States. (42 U.S.C. 6295(o)(4))

Additionally, EPCA specifies requirements when promulgating an energy conservation standard for a covered product that has two or more subcategories. DOE must specify a different standard level for a type or class of product that has the same function or intended use, if DOE determines that products within such group: (A) consume a different kind of energy from that consumed by other covered products within such type (or class); or (B) have a capacity or other performance-related feature which other products within such type (or class) do not have and such feature justifies a higher or lower standard. (42 U.S.C. 6295(q)(1)) In determining whether a performance-related feature justifies a different standard for a group of products, DOE must consider such factors as the utility to the consumer of the feature and other factors DOE deems appropriate. *Id.* Any rule prescribing such a standard must include an explanation of the basis on which such higher or lower level was established. (42 U.S.C. 6295(q)(2))

Finally, pursuant to the amendments contained in the Energy Independence and Security Act of 2007 (''EISA 2007''), Public Law 110–140, any final rule for new or amended energy conservation standards promulgated after July 1, 2010, is required to address standby mode and off mode energy use. (42 U.S.C. 6295(gg)(3)) Specifically, when DOE adopts a standard for a covered product after that date, it must, if justified by the criteria for adoption of standards under EPCA (42 U.S.C. 6295(o)), incorporate standby mode and off mode energy use into a single standard, or, if that is not feasible, adopt a separate standard for such energy use for that product. (42 U.S.C. 6295(gg)(3)(A)–(B)) DOE's current test procedures for dehumidifiers address standby mode and off mode energy use. In this rulemaking, DOE intends to incorporate such energy use into any amended energy conservation standards it adopts in the final rule.

Before proposing a standard, DOE typically seeks public input on the analytical framework, models, and tools that DOE intends to use to evaluate standards for the product at issue and the results of preliminary analyses DOE performed for the product.

DOE is examining whether to amend the current standards pursuant to its obligations under EPCA. This notification announces the availability of the preliminary TSD, which details the preliminary analyses and summarizes the preliminary results of DOE's analyses. In addition, DOE is announcing a public meeting to solicit feedback from interested parties on its analytical framework, models, and preliminary results.

C. Deviation From Appendix A

In accordance with section 3(a) of 10 CFR part 430, subpart C, appendix A (''appendix A''), DOE notes that it is deviating from the provision in appendix A regarding the pre-NOPR stages for an energy conservation standards rulemaking. Section 6(a)(2) of appendix A states that if the Department determines it is appropriate to proceed with a rulemaking, the preliminary stages of a rulemaking to issue or amend an energy conservation standard that DOE will undertake will be a framework document and preliminary analysis, or an advance notice of proposed rulemaking (''ANOPR''). DOE is opting to deviate from this step by publishing a preliminary analysis without a framework document. A framework document is intended to introduce and summarize generally the various analyses DOE conducts during the rulemaking process and requests initial feedback from interested parties. As discussed further in the following section, prior to this notification of the preliminary analysis, DOE issued a request for information (''RFI'') on June 4, 2021, in which DOE discussed the dehumidifier energy conservation standards final rule published on June 13, 2016 (81 FR 38338; ''June 2016 Final Rule''). 86 FR 29964 (''June 2021 RFI''). In that RFI, DOE requested comment on whether there were changes to the technologies considered as part of the June 2016 Final Rule that would affect potential amended standards and on any aspect of its economic justification analysis. 86 FR 29964, 29965–29966. While DOE received comments on the

[6] On March 16, 2022, the Fifth Circuit Court of Appeals (No. 22–30087) granted the federal government's emergency motion for stay pending appeal of the February 11, 2022, preliminary injunction issued in *Louisiana* v. *Biden,* No. 21–cv–1074–JDC–KK (W.D. La.). As a result of the Fifth Circuit's order, the preliminary injunction is no longer in effect, pending resolution of the federal government's appeal of that injunction or a further court order. Among other things, the preliminary injunction enjoined the defendants in that case from ''adopting, employing, treating as binding, or relying upon'' the interim estimates of the social cost of greenhouse gases—which were issued by the Interagency Working Group on the Social Cost of Greenhouse Gases on February 26, 2021—to monetize the benefits of reducing greenhouse gas emissions. In the absence of further intervening court orders, DOE will revert to its approach prior to the injunction and present monetized benefits where appropriate and permissible under law.

assumptions employed in the analysis conducted in support of the June 2016 Final Rule (*e.g.,* Leckenby, No. 2 at p. 1; Joint Commenters, No. 9 at p. 3; Aprilaire, No. 11 at pp. 2–3; CA IOUs, No. 12 at p. 5), DOE did not receive comments or data suggesting DOE rely on a different analytical framework from that conducted for the June 2016 Final Rule. As DOE intends to rely on substantively the same analytical methods as in the most recent rulemaking, publication of a framework document would not introduce an analytical framework different from that on which comment was requested in the June 2021 RFI and on which comment was received. As such, DOE is not publishing a framework document.

Further, section 6(d)(2) of appendix A specifies that the length of the public comment period for pre-NOPR rulemaking documents will vary depending upon the circumstances of the particular rulemaking, but will not be less than 75 calendar days. For this preliminary analysis, DOE has opted to instead provide a 60-day comment period.

As stated, DOE requested comment in the June 2021 RFI on the analysis conducted in support of the June 2016 Final Rule and provided stakeholders a 30-day comment period. DOE, however, did not receive comments suggesting a need to substantively change the analytical approach previously taken. Given that the analysis will largely remain the same, and in light of the 30-day comment period DOE has already provided with its June 2021 RFI, DOE has determined that a 60-day comment period is sufficient to enable interested parties to review the tentative methodologies and accompanying analysis to develop meaningful comments in response to the dehumidifier preliminary analysis.

II. Background

A. Current Standards

In the June 2016 Final Rule, DOE prescribed the current energy conservation standards for dehumidifiers manufactured on and after June 13, 2019. 81 FR 38338. These standards are set forth in DOE's regulations at 10 CFR part 430, subpart B, appendix X1 (''appendix X1'') and are repeated in Table II.1.

TABLE II.1—FEDERAL ENERGY CONSERVATION STANDARDS FOR DEHUMIDIFIERS

Portable dehumidifier product capacity (pints/day)	Minimum integrated energy factor (liters/kWh)
25.00 or less	1.30
25.01–50.00	1.60
50.01 or more	2.80
Whole-home dehumidifier product case volume (cubic feet):	
8.0 or less	1.77
More than 8.0	2.41

B. Current Process

On June 4, 2021, DOE published an RFI in the **Federal Register** to determine whether any new or amended standards would satisfy the relevant requirements of EPCA for a new or amended energy conservation standard for dehumidifiers. 86 FR 29964.

Comments received to date as part of the current process have helped DOE identify and resolve issues related to the preliminary analyses. Chapter 2 of the preliminary TSD summarizes and addresses the comments received.

III. Summary of the Analyses Performed by DOE

For the products covered in this preliminary analysis, DOE conducted in-depth technical analyses in the following areas: (1) engineering; (2) markups to determine product price; (3) energy use; (4) life cycle cost (''LCC'') and payback period (''PBP''); and (5) national impacts. The preliminary TSD that presents the methodology and results of each of these analyses is available at *www.regulations.gov/docket/EERE-2019-BT-STD-0043.*

DOE also conducted, and has included in the preliminary TSD, several other analyses that support the major analyses or are preliminary analyses that will be expanded if DOE determines that a NOPR is warranted to propose amended energy conservation standards. These analyses include: (1) the market and technology assessment; (2) the screening analysis, which contributes to the engineering analysis; and (3) the shipments analysis, which contributes to the LCC and PBP analysis and the national impact analysis (''NIA''). In addition to these analyses, DOE has begun preliminary work on the manufacturer impact analysis and has identified the methods to be used for the consumer subgroup analysis, the emissions analysis, the employment impact analysis, the regulatory impact analysis, and the utility impact analysis. DOE will expand on these analyses in the NOPR should one be issued.

A. Market and Technology Assessment

DOE develops information in the market and technology assessment that provides an overall picture of the market for the products concerned, including general characteristics of the products, the industry structure, manufacturers, market characteristics, and technologies used in the products. This activity includes both quantitative and qualitative assessments, based primarily on publicly available information. The subjects addressed in the market and technology assessment include: (1) a determination of the scope of the rulemaking and product classes, (2) manufacturers and industry structure, (3) existing efficiency programs, (4) shipments information, (5) market and industry trends, and (6) technologies or design options that could improve the energy efficiency of the product.

See chapter 3 of the preliminary TSD for further discussion of the market and technology assessment.

B. Screening Analysis

DOE uses the following five screening criteria to determine which technology options are suitable for further consideration in an energy conservation standards rulemaking:

(1) *Technological feasibility.* Technologies that are not incorporated in commercial products or in working prototypes will not be considered further.

(2) *Practicability to manufacture, install, and service.* If it is determined that mass production and reliable installation and servicing of a technology in commercial products could not be achieved on the scale necessary to serve the relevant market at the time of the projected compliance date of the standard, then that

technology will not be considered further.

(3) *Impacts on product utility or product availability.* If it is determined that a technology would have a significant adverse impact on the utility of the product for significant subgroups of consumers or would result in the unavailability of any covered product type with performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as products generally available in the United States at the time, it will not be considered further.

(4) *Adverse impacts on health or safety.* If it is determined that a technology would have significant adverse impacts on health or safety, it will not be considered further.

(5) *Unique-pathway proprietary technologies.* If a design option utilizes proprietary technology that represents a unique pathway to achieving a given efficiency level, that technology will not be considered further due to the potential for monopolistic concerns.

10 CFR part 430, subpart C, appendix A, sections 6(b)(3) and 7(b).

If DOE determines that a technology, or a combination of technologies, fails to meet one or more of the listed five criteria, it will be excluded from further consideration in the engineering analysis.

See chapter 4 of the preliminary TSD for further discussion of the screening analysis.

C. Engineering Analysis

The purpose of the engineering analysis is to establish the relationship between the efficiency and cost of dehumidifiers. There are two elements to consider in the engineering analysis; the selection of efficiency levels to analyze (*i.e.,* the ''efficiency analysis'') and the determination of product cost at each efficiency level (*i.e.,* the ''cost analysis''). In determining the performance of higher-efficiency products, DOE considers technologies and design option combinations not eliminated by the screening analysis. For each product class, DOE estimates the manufacturer production cost (''MPC'') for the baseline as well as higher efficiency levels. The output of the engineering analysis is a set of cost-efficiency ''curves'' that are used in downstream analyses (*i.e.,* the LCC and PBP analyses and the NIA).

DOE converts the MPC to the manufacturer selling price (''MSP'') by applying a manufacturer markup. The MSP is the price the manufacturer charges its first customer, when selling into the product distribution channels. The manufacturer markup accounts for manufacturer non-production costs and profit margin. DOE developed the manufacturer markup by examining publicly available financial information for manufacturers of the covered product.

See chapter 5 of the preliminary TSD for additional detail on the engineering analysis. See chapter 12 of the preliminary TSD for additional detail on the manufacturer markup.

D. Markups Analysis

The markups analysis develops appropriate markups (*e.g.,* retailer markups, wholesaler markups, contractor markups) in the distribution chain and sales taxes to convert MSP estimates derived in the engineering analysis to consumer prices, which are then used in the LCC and PBP analysis. At each step in the distribution channel, companies mark up the price of the product to cover business costs and profit margin.

DOE developed baseline and incremental markups for each actor in the distribution chain. Baseline markups are applied to the price of products with baseline efficiency, while incremental markups are applied to the difference in price between baseline and higher-efficiency models (the incremental cost increase). The incremental markup is typically less than the baseline markup and is designed to maintain similar per-unit operating profit before and after new or amended standards.[7]

Chapter 6 of the preliminary analysis TSD provides details on DOE's development of markups for dehumidifiers.

E. Energy Use Analysis

The purpose of the energy use analysis is to determine the annual energy consumption of dehumidifiers at different efficiencies in representative U.S. households, and to assess the energy savings potential of increased dehumidifier efficiency. The energy use analysis estimates the range of energy use of dehumidifiers in the field (*i.e.,* as they are actually used by consumers). The energy use analysis provides the basis for other analyses DOE performed, particularly assessments of the energy savings and the savings in consumer operating costs that could result from adoption of amended or new standards.

Chapter 7 of the preliminary analysis TSD addresses the energy use analysis.

F. Life-Cycle Cost and Payback Period Analyses

The effect of new or amended energy conservation standards on individual consumers usually involves a reduction in operating cost and an increase in purchase cost. DOE used the following two metrics to measure consumer impacts:

☐ The LCC is the total consumer expense of an appliance or product over the life of that product, consisting of total installed cost (manufacturer selling price, distribution chain markups, sales tax, and installation costs) plus operating costs (expenses for energy use, maintenance, and repair). To compute the operating costs, DOE discounts future operating costs to the time of purchase and sums them over the lifetime of the product.

☐ The PBP is the estimated amount of time (in years) it takes consumers to recover the increased purchase cost (including installation) of a more-efficient product through lower operating costs. DOE calculates the PBP by dividing the change in purchase cost at higher efficiency levels by the change in annual operating cost for the year that amended or new standards are assumed to take effect.

Chapter 8 of the preliminary analysis TSD addresses the LCC and PBP analyses.

G. National Impact Analysis

The NIA estimates the national energy savings (''NES'') and the net present value (''NPV'') of total consumer costs and savings expected to result from amended standards at specific efficiency levels (referred to as candidate standard levels).[8] DOE calculates the NES and NPV for the potential standard levels considered based on projections of annual product shipments, along with the annual energy consumption and total installed cost data from the energy use and LCC analyses. For the present analysis, DOE projected the energy savings, operating cost savings, product costs, and NPV of consumer benefits over the lifetime of dehumidifiers sold from 2028 through 2057.

DOE evaluates the impacts of new or amended standards by comparing a case without such standards with standards-case projections (''no-new-standards case''). The no-new-standards case characterizes energy use and consumer

[7] Because the projected price of standards-compliant products is typically higher than the price of baseline products, using the same markup for the incremental cost and the baseline cost would result in higher per-unit operating profit. While such an outcome is possible, DOE maintains that in markets that are reasonably competitive it is unlikely that standards would lead to a sustainable increase in profitability in the long run.

[8] The NIA accounts for impacts in the 50 states and U.S. territories.

costs for each product class in the absence of new or amended energy conservation standards. For this projection, DOE considers historical trends in efficiency and various forces that are likely to affect the mix of efficiencies over time. DOE compares the no-new-standards case with projections characterizing the market for each product class if DOE adopted new or amended standards at specific energy efficiency levels for that class. For each efficiency level, DOE considers how a given standard would likely affect the market shares of product with efficiencies greater than the standard.

DOE uses a spreadsheet model to calculate the energy savings and the national consumer costs and savings from each efficiency level. Interested parties can review DOE's analyses by changing various input quantities within the spreadsheet. The NIA spreadsheet model uses typical values (as opposed to probability distributions) as inputs. Critical inputs to this analysis include shipments projections, estimated product lifetimes, product installed costs and operating costs, product annual energy consumption, the no-new-standards case efficiency projection, and discount rates.

DOE estimates a combined total of 1.84 quads of full fuel cycle energy savings at the max- tech efficiency levels for dehumidifiers. Combined full fuel cycle energy savings at Efficiency Level 1 for all product classes are estimated to be 0.006 quads. Chapter 10 of the preliminary TSD addresses the NIA.

IV. Public Participation

DOE invites public engagement in this process through participation in the webinar and submission of written comments and data. After the webinar and the closing of the comment period, DOE will consider all timely-submitted comments and additional information obtained from interested parties, as well as information obtained through further analyses. Following such consideration, the Department will publish either a determination that the standards for dehumidifiers need not be amended or a NOPR proposing to amend those standards. The NOPR, should one be issued, would include proposed energy conservation standards for the products covered by this rulemaking, and members of the public would be given an opportunity to submit written and oral comments on the proposed standards.

A. Participation in the Webinar

The time and date for the webinar meeting are listed in the **DATES** section at the beginning of this document. Webinar registration information, participant instructions, and information about the capabilities available to webinar participants will be published on DOE's website: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=24&action=viewlive.* Participants are responsible for ensuring their systems are compatible with the webinar software.

B. Procedure for Submitting Prepared General Statements for Distribution

Any person who has an interest in the topics addressed in this notice, or who is representative of a group or class of persons that has an interest in these issues, may request an opportunity to make an oral presentation at the webinar. Such persons may submit such request to *ApplianceStandardsQuestions@ee.doe.gov.* Persons who wish to speak should include with their request a computer file in WordPerfect, Microsoft Word, PDF, or text (ASCII) file format that briefly describes the nature of their interest in this rulemaking and the topics they wish to discuss. Such persons should also provide a daytime telephone number where they can be reached.

C. Conduct of the Webinar

DOE will designate a DOE official to preside at the webinar/public meeting and may also use a professional facilitator to aid discussion. The meeting will not be a judicial or evidentiary-type public hearing, but DOE will conduct it in accordance with section 336 of EPCA (42 U.S.C. 6306). A court reporter will be present to record the proceedings and prepare a transcript. DOE reserves the right to schedule the order of presentations and to establish the procedures governing the conduct of the webinar. There shall not be discussion of proprietary information, costs or prices, market share, or other commercial matters regulated by U.S. anti-trust laws. After the webinar and until the end of the comment period, interested parties may submit further comments on the proceedings and any aspect of the rulemaking.

The webinar will be conducted in an informal, conference style. DOE will present a general overview of the topics addressed in this rulemaking, allow time for prepared general statements by participants, and encourage all interested parties to share their views on issues affecting this rulemaking. Each participant will be allowed to make a general statement (within time limits determined by DOE), before the discussion of specific topics. DOE will permit, as time allows, other participants to comment briefly on any general statements.

At the end of all prepared statements on a topic, DOE will permit participants to clarify their statements briefly. Participants should be prepared to answer questions by DOE and by other participants concerning these issues. DOE representatives may also ask questions of participants concerning other matters relevant to this rulemaking. The official conducting the webinar/public meeting will accept additional comments or questions from those attending, as time permits. The presiding official will announce any further procedural rules or modification of the above procedures that may be needed for the proper conduct of the webinar.

A transcript of the webinar/public meeting will be included in the docket, which can be viewed as described in the *Docket* section at the beginning of this notice. In addition, any person may buy a copy of the transcript from the transcribing reporter.

D. Submission of Comments

DOE invites all interested parties, regardless of whether they participate in the public meeting webinar, to submit in writing no later than the date provided in the **DATES** section at the beginning of this document, comments and information on matters addressed in this notification and on other matters relevant to DOE's consideration of potential amended energy conservations standards for dehumidifiers. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

However, your contact information will be publicly viewable if you include

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

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

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

Submitting comments via email. Comments and documents submitted via email also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. No faxes will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. Pursuant to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email to *Dehumidifiers2019STD0043@ee.doe.gov* two well-marked copies: one copy of the document marked ''confidential'' including all the information believed to be confidential, and one copy of the document marked ''non-confidential'' with the information believed to be confidential deleted. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notification of the availability of the preliminary technical support document and request for comment.

Signing Authority

This document of the Department of Energy was signed on June 16, 2022, by Kelly J. Speakes-Backman, Principal Deputy Assistant Secretary for Energy Efficiency and Renewable Energy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE **Federal Register** Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on June 16, 2022.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2022–13322 Filed 6–21–22; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0587; Project Identifier AD–2022–00394–E]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain General Electric Company (GE) GEnx-2B67/P model turbofan engines. This proposed AD was prompted by the detection of an iron inclusion in a forging, which may reduce the fatigue life of certain low-pressure turbine rotor (LPTR) stage 4 disks and LPTR stage 6 disks. This proposed AD would require the removal of certain LPTR stage 4 disks and LPTR stage 6 disks from service and replacement with parts eligible for installation. 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 August 8, 2022.

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

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

For service information identified in this NPRM, contact General Electric Company, 1 Neumann Way, Cincinnati, OH 45215; phone: (513) 552–3272; email: *aviation.fleetsupport@ge.com;* website: *https://www.ge.com.* You may view this service information at the

FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0587; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; email: *Alexei.T.Marqueen@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–2022–0587; Project Identifier AD–2022–00394–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend 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 Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803. 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 was notified by the engine manufacturer of the detection of an iron inclusion in a forging, which may reduce the fatigue life of certain LPTR stage 4 disks and LPTR stage 6 disks. The manufacturer's investigation determined that the inclusion is a melt-related defect and that, as a result of the inclusion forming in the forging, certain LPTR stage 4 disks and LPTR stage 6 disks may have reduced material properties and a lower fatigue life capability. Reduced material properties may cause premature LPTR stage 4 disk and LPTR stage 6 disk fracture, which could result in uncontained debris release. As a result of its investigation, the manufacturer published service information that specifies procedures for the removal and replacement of certain LPTR stage 4 disks and LPTR stage 6 disks installed on GEnx–2B67/P model turbofan engines. This condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Related Service Information

The FAA reviewed GE GEnx-2B service bulletin (SB) 72–0448 R00, dated February 7, 2022. This SB describes procedures for removing the affected LPTR stage 4 disks and LPTR stage 6 disks from service.

Proposed AD Requirements in This NPRM

This proposed AD would require the removal and replacement of certain LPTR stage 4 disks and LPTR stage 6 disks.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 4 engines installed on airplanes of U.S. registry. The FAA estimates that the affected disk population on engines installed on airplanes of U.S. registry would include three LPTR stage 4 disks and one LPTR stage 6 disk.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Replace the LPTR stage 4 disk	500 work-hours × $85 per hour = $42,500	$378,400	$420,900	$1,262,700
Replace the LPTR stage 6 disk	500 work-hours × $85 per hour = $42,500	208,900	251,400	251,400

Authority for This Rulemaking

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

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

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

General Electric Company: Docket No. FAA–2022–0587; Project Identifier AD–2022–00394–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 8, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GEnx–2B67/P model turbofan engines with an installed:

(1) Low-pressure turbine rotor (LPTR) stage 4 disk, part number (P/N) 2440M64P01, with serial number (S/N) JHVPD762, JHVPD763, JHVPD764, or JHVPD765; or

(2) LPTR stage 6 disk, P/N 2440M66P01, with S/N JHVVD753 or JHVVD754.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by the detection of an iron inclusion in a forging, which may reduce the fatigue life of certain LPTR stage 4 disks and LPTR stage 6 disks. The FAA is issuing this AD to prevent fracture and subsequent uncontainment of the LPTR stage 4 disk and LPTR stage 6 disk. The unsafe condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) Before the affected LPTR stage 4 disk exceeds 3,000 cycles since new (CSN), remove the affected LPTR stage 4 disk from service and replace with an LPTR stage 4 disk eligible for installation.

(2) Before the affected LPTR stage 6 disk exceeds 5,000 CSN, remove the affected LPTR stage 6 disk from service and replace with an LPTR stage 6 disk eligible for installation.

(h) Definitions

(1) For the purpose of this AD, an ''LPTR stage 4 disk eligible for installation'' is an LPTR stage 4 disk that does not have P/N 2440M64P01, with S/N JHVPD762, JHVPD763, JHVPD764, or JHVPD765.

(2) For the purpose of this AD, an ''LPTR stage 6 disk eligible for installation'' is an LPTR stage 6 disk that does not have P/N 2440M66P01, with S/N JHVVD753 or JHVVD754.

(i) Alternative Methods of Compliance (AMOCs)

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

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Related Information

For more information about this AD, contact Alexei Marqueen, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7178; email: *Alexei.T.Marqueen@faa.gov*.

Issued on May 16, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–13202 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0598; Project Identifier AD–2021–01322–T]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 777–200, 777–200LR, 777–300, 777–300ER, and 777F series airplanes. This proposed AD was prompted by reports of wing anti-ice (WAI) valve failure that can result in undetected structural damage to leading edge (LE) slat assemblies, and separately a failure of the autothrottle (A/T) to disconnect after advancing the throttle levers, which caused a low speed condition during a go-around. This proposed AD was also prompted by a determination that insufficient low-speed protection exists in the 777 fleet and a determination that the flightcrew may not recognize and properly respond to a multi-channel unreliable airspeed event. This proposed AD would require installing certain new software, and doing a software configuration check. The FAA is proposing this AD to address the unsafe conditions on these products.

DATES: The FAA must receive comments on this proposed AD by August 8, 2022.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0598.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0598; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

FOR FURTHER INFORMATION CONTACT: Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *hassan.m.ibrahim@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–2022–0598; Project Identifier AD–2021–01322–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 Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *hassan.m.ibrahim@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 has received reports of WAI valve failure, and determined that a specific aspect of the WAI system was not fully assessed by the system safety analysis conducted during type certification. Fleet data indicates, the WAI valve has failed to open in 50 unique events during the period from November 2013 through March 2019. High temperature bleed air (250–400 °F) can unintentionally flow into the LE slat assemblies due to mechanical failure of the WAI valve or an unintended command from the airfoil and cowl ice protection system (ACIPS) control card. This high temperature bleed air exposure, when the airplane is on the ground and there is minimal airplane speed, can reduce the structural capability of the slat such that affected structure may not be able to withstand design limit load during the next flight cycle (takeoff or landing). The revised software will monitor WAI valve function and annunciate failures.

In addition, Boeing received a report that, during landing, after the A/T had automatically changed to the IDLE A/T mode, the pilot initiated a go-around by manually advancing the throttle levers to more than 50 degrees throttle lever angle. During that incident, the A/T did not disconnect due to advancing the throttle levers, and remained in IDLE mode with the throttle levers automatically returning to an idle setting when released, causing a low speed condition during the go-around. Such a low speed condition can result in a low altitude stall and potential impact with terrain.

Boeing developed new Airplane Information Management System 2 (AIMS–2) Block Point (BP) Version 17C software to address the WAI system failures and A/T not disengaging. Before operators can install AIMS–2 BP Version 17C software updates, if not done already, they must install earlier BP versions of this software to ensure all required software part numbers are installed. Those earlier versions were released to address other unsafe conditions on the affected airplanes. One earlier software update was prompted by an accident at San Francisco International Airport on July 6, 2013 in which the airplane deviated below the intended glideslope and impacted the seawall as it crashed short of the runway. The subsequent investigation determined that insufficient low-speed protection existed in the 777 fleet; AIMS–2 BP Version 17B was developed to expand the A/T system authority and provide an earlier threshold for the low-airspeed alert. AIMS–2 BP V17B inadvertently introduced the failure of the A/T to disconnect after manual throttle advancement during go-around, which led to the subsequent development of AIMS–2 BP V17C. Another concern addressed by earlier software updates is the determination that inadequate flightcrew recognition of, and response to, a multi-channel unreliable airspeed event, can result in loss of control of the airplane.

These conditions, if not addressed, could result in undetected failure of the WAI system and consequent high temperature bleed air flowing into the LE slat assemblies, along with a low speed condition on the ground, which could result in reduced structural integrity of the slat and prevent continued safe flight and landing of the airplane. In addition, the FAA is also issuing this AD to prevent failure of the A/T to disconnect after advancing the throttle levers, or insufficient low energy protection, which could result in controlled flight into terrain, or a multi-channel unreliable airspeed event could result in loss of control of the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe conditions described previously are likely to exist or develop on other products of the same type design.

Related Service Information Under 1 CFR Part 51

The FAA reviewed Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021. This service information specifies procedures for installing new AIMS–2 BP Version 17C software, and doing a software configuration check. For Groups 1, 2, and 3, this service information also specifies concurrent actions (installation of AIMS–2 BP Version 17B software; installation of AIMS–2 and PlaneNet-2 systems; or installation of AIMS–2 and software; depending on configuration).

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

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in the service information already described, except for any differences identified as exceptions in the regulatory text of this proposed AD. For information on the procedures and compliance times, see this service information at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0598.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 353 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS *

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Install AIMS–2 BP Version 17C and do software check.	3 work-hours × $85 per hour = $255 ..	Up to $13,140	Up to $13,395	Up to $4,728,435.
Install AIMS 2 BP Version 17B (SB 777–31–0294).	3 work-hours × $85 per hour = $255 ..	Up to $13,140	Up to $13,395	Up to $4,728,435.
Install AIMS–2 and PlaneNet-2 (SB 777–31–0331).	Up to 101 work-hours × $85 per hour = Up to $8,585.	Up to $13,140	Up to $21,725	Up to $7,668,925.
Install AIMS 2 and software (SB 777–21–0322).	Up to 106 works-hours × $85 per hour = Up to $9,010.	Up to $13,140	Up to $22,150	Up to $7,818,950.

* This parts cost is estimated to be the same for the concurrent actions as for the primary actions but the FAA does not have any definitive data on which to base the parts cost.

The FAA has included all known costs in its cost estimate. According to the manufacturer, however, some or all of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected operators.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2022–0598; Project Identifier AD–2021–01322–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 8, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 777–200, 777–200LR, 777–300, 777–300ER, and 777F series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021.

(d) Subject

Air Transport Association (ATA) of America Code 31, Instruments.

(e) Unsafe Condition

This AD was prompted by reports of wing anti-ice (WAI) valve failure that can result in undetected structural damage to leading edge (LE) slat assemblies, and separately a failure of the autothrottle (A/T) to disconnect after advancing the throttle levers, which caused a low speed condition during a go-around. This AD was also prompted by a determination that insufficient low-speed protection exists in the 777 fleet and a determination that the flightcrew may not recognize and properly respond to a multi-

channel unreliable airspeed event. The FAA is issuing this AD to prevent undetected failure of the WAI system and consequent high temperature bleed air flowing into the LE slat assemblies, along with a low speed condition on the ground, which could result in reduced structural integrity of the slat and prevent continued safe flight and landing of the airplane. The FAA is also issuing this AD to prevent failure of the A/T to disconnect after advancing the throttle levers, or insufficient low energy protection, which could result in controlled flight into terrain, or a multi-channel unreliable airspeed event could result in loss of control of the airplane.

(f) Compliance

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

(g) Required Actions

Except as specified by paragraph (h) of this AD: At the applicable times specified in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021.

Note 1 to paragraph (g): Guidance for accomplishing the actions required by this AD can be found in Boeing Alert Service Bulletin 777–31A0342, dated July 19, 2021, which is referred to in Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021.

(h) Exceptions to Service Information Specifications

(1) Where the Compliance Time columns of the tables in the ''Compliance'' paragraph of Boeing Alert Requirements Bulletin 777–31A0342 RB, dated July 19, 2021, use the phrase ''the original issue date of Requirements Bulletin 777–31A0342 RB,'' this AD requires using ''the effective date of this AD.''

(2) Where Boeing Alert Requirements Bulletin 777–31A0342 RB specifies contacting Boeing for instructions for upgrading certain software: This AD requires doing the upgrade using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(3) Where the description in the Effectivity section of Boeing Alert Requirements Bulletin 777–31A0342 RB defines Group 1 airplanes as ''Airplanes with Airplane Information Management System (AIMS)–2 with service bulletin 777–31–0294 incorporated,'' this AD requires using ''Airplanes with Airplane Information Management System (AIMS)–2 with a requirement to incorporate service bulletin 777–31–0294.''

(4) Where the description in the Effectivity section of Boeing Alert Requirements Bulletin 777–31A0342 RB defines Group 2 airplanes as ''Airplanes with AIMS–2 with service bulletin 777–31–0331 incorporated,'' this AD requires using ''Airplanes with AIMS–2 with a requirement to incorporate service bulletin 777–31–0331.''

(5) Where the description in the Effectivity section of Boeing Alert Requirements Bulletin 777–31A0342 RB defines Group 3 airplanes as ''Airplanes with AIMS–2 with service bulletin 777–31–0332 incorporated,'' this AD requires using ''Airplanes with AIMS–2 with a requirement to incorporate service bulletin 777–31–0332.''

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (j)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by The Boeing Company Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO Branch, FAA, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(j) Related Information

(1) For more information about this AD, contact Hassan Ibrahim, Aerospace Engineer, Systems and Equipment Section, FAA, Seattle ACO Branch, 2200 South 216th St., Des Moines, WA 98198; phone and fax: 206–231–3653; email: *hassan.m.ibrahim@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this referenced 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 1, 2022.

Gaetano A. Sciortino,

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

[FR Doc. 2022–13203 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2022–0766 Airspace Docket No. 22–AGL–25]

RIN 2120–AA66

Proposed Revocation of Class E Airspace; Watersmeet, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to remove the Class E airspace at Watersmeet, MI. The FAA is proposing this action as the result of an airspace review due to the decommissioning of the Watersmeet non-directional beacon (NDB).

DATES: Comments must be received on or before August 8, 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–2022–0766/Airspace Docket No. 22–AGL–25, 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: Rebecca Shelby, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5857.

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 Northwoods Airport, Watersmeets, MI, due to the cancellation of the instrument procedures at this airport, and the airspace is 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–2022–0766/Airspace Docket No. 22–AGL–25.'' 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 decommissioning the Watersmeet NDB and all associated extensions; and removing the Class E airspace extending upward from 700 feet above the surface at Northwoods Airport, Watersmeet, MI, due to the cancellation and removal of instrument procedures and the airspace is no longer required.

This action is the result of an airspace review due to the decommissioning of the Watersmeet NDB which provided guidance to instrument procedures at this airport.

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

* * * * *

AGL MI E5 Watersmeet, MI (Removed)

Issued in Fort Worth, Texas, on June 15, 2022.

Martin A. Skinner,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2022–13226 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 270 and 275

[Release Nos. IA–6050; IC–34618; File No. S7–18–22]

RIN 3235–AM95

Request for Comment on Certain Information Providers Acting as Investment Advisers

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; equest for comment.

SUMMARY: The Securities and Exchange Commission (''Commission'' or ''SEC'') is seeking public comment on certain information providers whose activities, in whole or in part, may cause them to meet the definition of ''investment adviser'' under the Investment Advisers Act of 1940 (''Advisers Act'' or ''Act'').

DATES: Comments should be received on or before August 16, 2022.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/submitcomments.htm*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. S7–18–22 on the subject line.

Paper Comments

- Send paper comments to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number S7–18–22. 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 of submission. The Commission will post all comments on the Commission's website (*http://www.sec.gov*). Comments are also 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 a.m. and 3 p.m. Operating conditions may limit access to the Commission's public reference room. 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 publicly available.

Studies, memoranda, or other substantive items may be added by the Commission or staff to the comment file during this request for comment. A notification of the inclusion in the comment file of any such materials will be made available on the Commission's website. To ensure direct electronic receipt of such notifications, sign up through the ''Stay Connected'' option at *www.sec.gov* to receive notifications by email.

FOR FURTHER INFORMATION CONTACT: Christopher Chase, Juliet Han, Senior Counsels, or Melissa Roverts Harke, Assistant Director, Investment Adviser Regulation Office, or Matthew Cook, Senior Counsel, Chief Counsel's Office, Division of Investment Management, at (202) 551–6787 or *IARules@sec.gov,* Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–8549.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on certain information providers whose activities, in whole or in part, may cause them to meet the definition of ''investment adviser'' under the Act.

Table of Contents

I. Introduction

The role of index providers, model portfolio providers, and pricing services (''information providers'' or ''providers'') has grown in size and scope in recent years, significantly changing the face of the asset management industry. The development and nature of these services may raise investment adviser status issues under the Advisers Act.[1] Investment adviser status, in turn, has regulatory implications, including questions relating to registration under the Advisers Act. In addition, the development and nature of these services may raise questions under the Investment Company Act of 1940 (''Investment Company Act''), including whether an information provider is acting as an ''investment adviser'' of an investment company under the Investment Company Act.[2] These providers' operations also raise potential concerns about investor protection and market risk, including, for example, the potential for front-running of trades where the providers and their personnel have advance knowledge of changes to the information they generate and potential conflicts of interest where the providers or their personnel hold investments they value or that are constituents of their indexes or models. Some individual information providers of the types we describe below have registered with the Commission as investment advisers (sometimes because of other business in which they engage), and others have not.[3] Some may be prohibited (absent exemptive relief) from Commission registration because, for example, they lack regulatory assets under management. Depending on the facts and circumstances, however, particular information providers may have an ability, perhaps through operations of sufficient size and scope, to affect national markets or otherwise have a ''national presence.'' Accordingly, we are seeking comment regarding information providers to facilitate consideration of whether regulatory action is necessary and appropriate to further the Commission's mission.

A. Index Providers

Index providers compile, create the methodology for, sponsor, administer, and/or license market indexes. They typically determine the particular ''market'' (which may be a sector or other group of securities) that the index measures, the index constituents that measure that market, and the weightings that each constituent receives. Once the index is designed and its methodology is created, index providers determine the index's level (or measurement) pursuant to that methodology. These activities leave room for significant discretion—for example, an index provider typically has the ability to make changes to the index by adding or dropping particular constituents (*i.e.,* index reconstitution) or modifying their

[1] 15 U.S.C. 80b. Unless otherwise noted, all references to statutory sections are to 15 U.S.C. 80b of the United States Code, at which the Advisers Act is codified, and all references to rules under the Advisers Act are to title 17, part 275 of the Code of Federal Regulations [17 CFR 275].

[2] 15 U.S.C. 80a–2(20).

[3] For example, at least one pricing service has registered as an investment adviser with the Commission because it has related person advisers; another has registered because of its ability to affect national markets (despite a lack of assets under management). *See, e.g., infra* note 42 (discussing IDC application and order).

weighting within the index (*i.e.,* index rebalancing),[4] in some cases without publicly disclosing their index methodologies or rules.

The number and variety of indexes have grown over time, with millions of indexes in the global market.[5] Some are broad-based and widely used, while others are more narrowly focused, including specialized indexes that are designed to be tracked by a particular user.[6] Specialized indexes can be composed of constituents on the basis of a variety of considerations, including ''factors'' that may be seen to cause certain types of securities to outperform or underperform the market as a whole. Index providers that offer specialized indexes might allow a user to ''specify the customization criteria'' on which a provider can create an index;[7] offer ''flexibility'' with respect to the components of the index;[8] and can be ''built to the exact specifications of . . . clients, in any major asset class.''[9]

Index providers are compensated by licensing indexes to users for the creation of investment products, reporting, and internal use. Generally, index providers license information related to their indexes to two main groups—those that seek to use the index as a benchmark, such as active managers, and those that seek to track the index, such as index funds. Although there are many indexes available and no formal barriers to becoming an index provider, three index providers account for over two-thirds of the market for indexes, totaling approximately $5.0 billion in revenue in 2021.[10]

While indexes have historically been associated with passive investing, index providers, particularly those that design specialized indexes, may be making active decisions in designing or administering the index.[11] In some cases, these decisions may be personalized for a particular user, for example designing or modifying an index for the specific purpose of licensing its use by particular investors and/or their advisers to be employed as part of their investment strategy. Whether or not an index is specialized, the index provider's inclusion or exclusion of a particular security in an index drives advisers with clients tracking that index to purchase or sell securities in response.

B. Model Portfolio Providers

A model portfolio generally consists of a diversified group of assets (often mutual funds or exchange-traded funds (''ETFs'')) designed to achieve a particular expected return with exposure to corresponding risks. As with indexes, a model portfolio may be rebalanced or have constituent changes over time.[12] These models provide a convenient way to allocate and diversify investments through a single, professionally managed portfolio. For example, an investment adviser can outsource portfolio management to a model portfolio provider and select among several models offering the adviser's clients different risk targets. A stable or more conservative portfolio generally would invest in mutual funds and ETFs that provide a client with low risk exposure and low return volatility, while an aggressive portfolio generally would invest in mutual funds and ETFs that provide the client with higher-risk exposure and higher return volatility.

Model portfolio providers, sometimes referred to as ''model originators,'' include broker-dealers, asset managers, third-party strategists, asset allocators, and advisers.[13] They design allocation models, may update or rebalance them over time, provide various degrees of customization, and may offer this information on a discretionary or non-discretionary basis. While target allocation models that pursue defined outcomes or investment strategies (*e.g.,* capital preservation, income) have been most common in the marketplace, there is a growing demand for specialized models that focus on a particular industry or strategy—for example, models that focus on sustainable or ''ESG'' (environmental, social, and governance) investments.[14]

Model portfolio providers may consider the characteristics and investment goals of a general client type, such as whether the investor is focused on retirement or short-term financial management, or may engage in a more detailed, customized analysis when crafting a model portfolio through, for example, the use of direct indexing strategies.[15]

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[4] *See* Paul G. Mahoney & Adriana Z. Robertson, Advisers by Another Name, University of Virginia School of Law (Jan. 2021), at 28, *available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3767087* (''[C]ompiling an index . . . is an inherently discretionary exercise.'').

[5] *See, e.g.,* Index Industry Association, Fourth Annual IIA Benchmark Survey Reveals Significant Growth in ESG Amid Continued Multi-Asset Innovation & Heightened Competition (Oct. 28, 2020), *available at https://www.businesswire.com/news/home/20201028005255/en/Index-Industry%E2%80%99s-Fourth-Annual-Benchmark-Survey-Reveals-Significant-Growth-in-ESG-Amid-Continued-Multi-Asset-Innovation-Heightened-Competition* (noting that in 2020, the overall number of indexes climbed by approximately three percent to 3.05 million).

[6] For purposes of this Request for Comment, ''specialized'' indexes may be customized or bespoke indexes. ''Customized'' indexes are those where an existing index is modified to suit the needs of a particular user, *e.g.,* removing from a securities index all securities issued by companies engaged in a particular trade or business, and ''bespoke'' indexes are those where an index provider constructs an index at the request or direction of a particular user.

[7] Customized Indexes for Specific Needs, MSCI, *available at https://www.msci.com/custom-indexes.*

[8] FTSE Russell Product Guide Oct 2019, FTSE Russell (2019), at 15, *available at https://content.ftserussell.com/sites/default/files/support_document/FTSE%20Russell%20Product%20Guide%20Oct%202019%20Single.pdf.*

[9] Bespoke and Custom Index Service, Markit, *available at https://products.markit.com/indices/products/BespokeIndices.asp?showLevel=8.*

[10] Sonya Swink, Index Providers Take Record $5bn in Revenue in 2021, Financial Times (May 24, 2022), *available at https://www.ft.com/content/595c3c18-7c13-4e33-9a68-f82f558b7ad6.*

[11] Some scholars have recently made this argument. *See* Adriana Z. Robertson, Passive in Name Only: Delegated Management and ''Index'' Investing, 36 Yale J. on Reg. 795, 798 (2019) (''Rather than being passive in any meaningful sense, index investing simply represents a form of delegated management. . . . Not only are these indices managed portfolios in the strictly financial sense, by their construction they often also imply a substantial amount of delegated decisionmaking authority.''); *see also* Jill Fisch, Assaf Hamdani & Steven Davidoff Solomon, The New Titans of Wall Street: A Theoretical Framework for Passive Investors, 18 U. Pa. L. Rev. 17, 21 (2019) (''The construction and management of [an] index is not passive but entails a form of managed investing, if not by the passive funds themselves, then by the index providers.''). Indexes may be actively rebalanced or reconstituted on a predetermined schedule (*e.g.,* semiannually). Constitution also may change on an ad hoc basis as a result of mergers, acquisitions, or bankruptcies.

[12] A model portfolio may be physically or synthetically rebalanced (*e.g.,* to reduce costs during a volatile market, derivatives that have the effect of rebalancing may be used in lieu of trading in a defined benefit plan). Model portfolios are distinct from portfolio allocation models, which can be educational tools that investors use to obtain a sense of which asset classes (as opposed to which specific securities) are appropriate for the investor to allocate its assets to (*e.g.,* 60% in equities, 40% in fixed income).

[13] This discussion focuses on third-party model portfolio providers that sell models to wealth managers that apply them to client portfolios (or make available selected models to clients) versus internal firm models. This discussion includes as third-party model portfolio providers those persons who make available their own portfolios so that others can copy or license those portfolios in exchange for compensation. Portfolios may be made available through the provider's online platform.

[14] Model Portfolios See Greater Usage Among Advisory Firms, Ted Godbout, National Association of Plan Advisors (Feb. 23, 2021), *available at https://www.napa-net.org/news-info/daily-news/model-portfolios-see-greater-usage-among-advisory-firms.*

[15] Direct indexing is a personalized indexing strategy in which, rather than invest in one or more index ETFs, an investor buys some or all of an index's constituent securities (*i.e.,* a representative amount) to mirror its characteristics and then periodically adjusts these holdings to continue to closely replicate the index. With this investment strategy, an investor may achieve the diversification benefits of an ETF as well as the flexibilities that come from owning individual securities, such as tax benefits (*e.g.,* harvesting individual security tax losses and capital gains) and customization (*e.g.,* overweighting or underweighting a security or

Continued

Model portfolio providers generally are compensated by fees on securities bought, sold, and held in the model (*e.g.,* an asset manager that builds a model using proprietary products), but some providers charge a fee for the use of the model portfolio separate from the underlying product fees or receive commissions or other transaction-based compensation.[16]

Investment advisers' use of a third party's model portfolios may raise concerns with respect to clients' understanding of the fees they are paying, the services being performed by each party (*i.e.,* the client-facing adviser and the model portfolio provider), and their respective conflicts (or potential conflicts) of interest.[17] For example, clients may be unsure which services are being performed by a model portfolio provider and which are being performed by the adviser, as well as by whom they are owed a fiduciary duty. This uncertainty may be increased where, for example, the client-facing adviser seeks to disclaim or limit its fiduciary duty or any other duty when implementing a model provided by a third-party model portfolio provider.[18] In addition, an adviser may invest according to a model customized by the provider for the adviser, including where (for example) the model portfolio provider may adjust the model based on input from the adviser.

C. Pricing Services

Pricing services provide prices, valuations, and additional data about a particular investment (*e.g.,* a security, a derivative, or another investment), to assist users with determining an appropriate value of the investment.[19] In addition, a pricing service may provide pricing information when market quotations are unavailable, such as when the primary market for a foreign security is closed, or when the relevant security is traded in over-the-counter markets that result in incomplete information on the security's market price.

In providing pricing information to users, pricing services may exercise significant discretion. They often determine a valuation methodology to use; develop valuation model templates; determine the sources or relevance of inputs; determine whether the valuations generated are appropriate or require further adjustment; and may need to address any pricing challenges raised by the user. Because pricing services rely on and prioritize differently a variety of inputs, methods, models, and assumptions in determining a pricing level, different pricing services may determine different pricing levels for the same security.[20] A pricing service may offer different pricing levels for the same security as well, depending on the service's type of analysis or evaluation and the user's needs. Depending on the specific analysis, pricing services may be compensated through subscription fees, through other fixed fees, and as a percentage of assets.

The Commission recently discussed pricing services in adopting rule 2a–5 under the Investment Company Act, which addresses valuation practices and the role of the board of directors with respect to the fair value of the investments of a registered investment company or business development company.[21] Under the rule, fair value as determined in good faith requires overseeing and evaluating any pricing services used. The Commission recognized that pricing services play an important role in the fair value process, while also noting the potential risks and conflicts of interest that pricing services can present in registrants' valuing of securities.[22] Staff have also observed compliance issues in connection with registrants' interactions with third-party pricing services, including the risks of misleading disclosure regarding whether those services provide ''independent'' values and the possibility of stale or otherwise inaccurate valuations.[23]

II. Investment Adviser Status Under the Advisers Act

The Advisers Act generally defines an ''investment adviser'' as any person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or any person who, for compensation and as part of a regular business, issues or promulgates analyses or reports concerning securities.[24] The definition generally includes three elements for determining whether a person is an investment adviser: (i) the person provides advice, or issues analyses or reports, concerning securities; (ii) the person is in the business of providing such services; and (iii) the person provides such services for compensation. Each element must be met in order for a person to be deemed an investment adviser.

With respect to the first element, a person generally is an investment adviser even if its advice, reports, or analyses about securities do not relate to *specific* securities, provided the services are performed as part of a business and for compensation. For example, in the context of financial planning services, our staff has taken the position that a person may be ''advising'' another within the meaning of the Advisers Act if the advice addresses whether to invest in securities instead of a non-securities investment.[25]

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sector allocation). The availability of fractional share investing and commission-free trading has made direct indexing an increasingly popular strategy for certain retail investors. *See* Rebecca Baldridge and Benjamin Curry, Beat Funds at Their Own Game with Direct Indexing, Forbes (Apr. 15, 2021), *available at https://www.forbes.com/advisor/investing/direct-indexing/*; Steve Johnson, Direct Indexing Looks Set to Disrupt the Retail ETF Market, Financial Times (Feb. 10, 2021), *available at https://www.ft.com/content/3b35120a-dd92-48b0-8b6f-e26f116473e0*; Rebecca Lake, What is Direct Indexing?, U.S. News & World Report (Sept. 20, 2019), *available at https://money.usnews.com/investing/investing-101/articles/what-is-direct-indexing.*

[16] The additional fee compensates the model provider for its asset allocation advice. 2020 Model Portfolio Landscape, Morningstar Manager Research (Aug. 2020), at 3. Any person receiving transaction-based compensation (such as commissions) in exchange for providing a model portfolio or other information service must determine whether it is subject to statutory or regulatory requirements under Federal law, including the requirement to register as a broker-dealer pursuant to section 15(a) of the Securities Exchange Act of 1934. *See* 15 U.S.C. 78o(a).

[17] There may be a similar lack of understanding among investors in pooled investment vehicles, including registered investment companies, that rely on third-party models.

[18] The Commission has stated that ''an adviser's federal fiduciary duty may not be waived, though it will apply in a manner that reflects the agreed-upon scope of the relationship.'' Commission Interpretation Regarding Standard of Conduct for Investment Advisers, Investment Advisers Act Release No. 5248 (June 5, 2019) [84 FR 33669, 33672 (Jul. 12, 2019)].

[19] The names for these services may vary, such as pricing services, valuation agents, or providers of fairness opinions.

[20] *See* Money Market Fund Reform, Amendments to Form PF, Investment Advisers Act Release No. 3879 (July 23, 2014) [79 FR 47736 (Aug. 14, 2014)].

[21] Good Faith Determinations of Fair Value, Investment Company Act Release No. 34128 (Dec. 3, 2020) [86 FR 748, 756 (Jan. 6, 2021)] (''Fair Value Release''), *available at https://www.sec.gov/rules/final/2020/ic-34128.pdf.*

[22] *See* Fair Value Release, at text following n.98.

[23] Compliance Alert, Division of Examinations (published as Office of Compliance Inspections and Examinations), Securities and Exchange Commission (July 2008), *available at https://www.sec.gov/about/offices/ocie/complialert0708.htm.* This compliance alert and other staff statements (including those cited herein) represent the views of Commission staff and are not a rule, regulation, or statement of the Commission. The Commission has neither approved nor disapproved the content of these documents and, like all staff statements, they have no legal force or effect, do not alter or amend applicable law, and create no new or additional obligations for any person.

[24] 15 U.S.C. 80b–2(a)(11).

[25] Statement of Staff Interpretive Position, Applicability of the Investment Advisers Act to

With respect to the second element, giving advice does not need to constitute the principal business activity or any particular portion of the business activities of a person in order for the person to be considered ''in the business'' of acting as an investment adviser under the Advisers Act. Rather, the giving of advice need only be done on a basis such that it constitutes a business activity occurring with some regularity.[26] Finally, the receipt of any economic benefit, whether in the form of an advisory fee or some other fee relating to the total services rendered, commissions, or some combination of the two, would generally suffice with respect to compensation under the definition. The source of an ''economic benefit'' that would satisfy this element of the definition is not, however, limited to fees and commissions.[27]

As technology and advisory practices have evolved, one aspect of this statutory definition that market participants have questioned is whether certain types of information or data constitute ''analyses or reports concerning securities.'' For example, these questions have arisen in the context of databases and various computer software services offering calculations and pricing models. Our staff has considered these questions, in the context of one part of the statutory definition,[28] and stated that, while this is a facts and circumstances analysis, relevant factors could include whether: (i) The information is not readily available to the public in its raw state, (ii) the categories of information are highly selective, and (iii) the information is organized or presented in a manner that suggests the purchase, holding, or sale of any security or securities.[29]

The Advisers Act expressly excludes from the definition of investment adviser certain types of persons or persons engaging in certain types of activities.[30] The exclusions generally cover persons that are already subject to regulation, either by the Commission or another regulator, or persons that Congress did not intend to be covered by the Act. For example, the Advisers Act excludes from the definition ''any broker or dealer whose performance of such services is solely incidental to the conduct of his business as a broker or dealer and who receives no special compensation therefor.'' [31] The Advisers Act also authorizes the Commission to exempt from the definition of investment adviser any other person ''not within the intent'' of the statutory definition.[32]

In addition, the Advisers Act excludes from the definition the ''publisher of any bona fide newspaper, news magazine or business or financial publication of general and regular circulation'' (''publisher's exclusion'').[33] In *Lowe* v. *SEC,* the Supreme Court construed the publisher's exclusion and held that publishers are excluded from the definition under the Advisers Act as long as their publication: (i) Provides only impersonal advice; (ii) is ''bona fide,'' meaning that it provides genuine and disinterested commentary; and (iii) is of general and regular circulation rather than issued from time to time in response to episodic market activity.[34] Building on *Lowe,* the court in *SEC* v. *Park* stated that the personalized or disinterested nature of a publication ''clearly'' affects whether it is ''bona fide.'' [35]

Certain providers have relied on the publisher's exclusion. We believe that index providers have historically concluded, for example, that, even if they meet the definition of investment adviser, they may rely on the exclusion and thus need not register with the Commission or be subject to any section of the Advisers Act, including section 206. Similarly, other providers, such as pricing services, may be relying on the publisher's exclusion.

Given the length of time since *Lowe* was decided, and understanding that new business models have developed in the interim, we are considering the extent to which providers' activities, in whole or in part, may raise investment adviser status issues. We specifically request comment on the following:

Financial Planners, Pension Consultants, and Other Persons Who Provide Investment Advisory Services as a Component of Other Financial Services, Investment Advisers Act Release No. 1092 (Oct. 8, 1987) [52 FR 38400, 38402 (Oct. 16, 1987)] (''Financial Planners Release'') (''A person who, in the course of developing a financial program for a client, advises a client as to the desirability of investing in, purchasing or selling securities, as opposed to, or in relation to, any non-securities investment or financial vehicle would also be ''advising'' others within the meaning of Section 202(a)(11).''); *see also U.S.* v. *Elliott,* 62 F.3d 1304, 1309–10 (11th Cir. 1996) (citing Financial Planners Release and stating ''[W]e are persuaded that both Elliott and Melhorn are 'in the business' of advising others because they satisfy all three of the disjunctive factors'' in the Financial Planners Release); *Luzerne County Retirement Bd.* v. *Makowski,* 627 F.Supp.2d 506, 572–74 (M.D. Penn. 1995) (applying three-part test of Financial Planners Release and granting summary judgment in favor of defendants as to count alleging violations of the Advisers Act); *infra* note 31 (describing the Solely Incidental Release, as defined therein).

[26] *See, e.g., Elliott,* 62 F.3d at 1310 (stating that defendants ''provided investment advice on more than rare, isolated occasions'' and ''regularly gave advice regarding the safety and effectiveness'' of specific investment vehicles ''based upon the personal circumstances of individual investors''); *SEC* v. *Battoo,* 158 F. Supp. 3d 676, 698 (N.D. Ill. 2016). Our staff took a similar view. *See* Financial Planners Release, 52 FR at 38402 (''The frequency of the activity is a factor, but not determinative.'').

[27] At least one court has found that an ''economic benefit'' could even include an adviser's ill-gotten gains from investors' misappropriated funds. *See U.S.* v. *Ogale,* 378 Fed. Appx. 959, 960–61 (11th Cir. 2010) (''The receipt of any economic benefit qualifies as compensation under the Investment Adviser's [sic] Act and thus the investment adviser enhancement.''); *see also U.S.* v. *Miller,* 833 F.3d 274, 282 (3rd Cir. 2016) (finding that adviser compensation includes ''any economic benefit'' and holding that defendant who sold his firm's promissory notes to his clients met the compensation element of Section 202(a)(11)); *U.S.* v. *Elliott,* 62 F.3d at 1311 (finding that adviser compensation includes ''any economic benefit'' and holding that defendants were investment advisers even though they did not receive an investment adviser's fee but did receive compensation from an economic relationship that included providing ongoing investment advice as a primary aspect of the relationship).

[28] This staff analysis does not consider other aspects of the statutory definition—*e.g.,* whether such information or data constitutes advice ''as to the value of securities,'' *see* section 202(a)(11).

[29] *See, e.g.,* Datastream International, Inc., SEC Staff No-Action Letter (Mar. 15, 1993), *available at https://www.sec.gov/divisions/investment/noaction/1993/datastream-international-031593-202a.pdf*; RDM Infodustries, SEC Staff No-Action Letter (Mar. 25, 1996), *available at https://www.sec.gov/divisions/investment/noaction/1996/rfminfodustries032596.pdf.*

[30] *See* 15 U.S.C. 80b–2(a)(11)(A) through (H). A person relying on any of the exclusions must meet all of its requirements. *See, e.g.,* Solely Incidental Release, *infra* note 31.

[31] 15 U.S.C. 80b–2(a)(11)(C) (''broker-dealer exclusion''). The Commission has adopted an interpretation of the ''solely incidental prong'' of the broker-dealer exclusion that states that ''a broker-dealer's provision of advice as to the value and characteristics of securities or as to the advisability of transacting in securities is consistent with the solely incidental prong if the advice is provided in connection with and is reasonably related to the broker-dealer's primary business of effecting securities transactions.'' Commission Interpretation Regarding the Solely Incidental Prong of the Broker-Dealer Exclusion from the Definition of Investment Adviser, Investment Advisers Act Release No. 5249 (June 5, 2019) [84 FR 33681 (July 12, 2019)] (''Solely Incidental Release''). The Solely Incidental Release also states that ''[w]hether advisory services provided by a broker-dealer satisfy the solely incidental prong is assessed based on the facts and circumstances surrounding the broker-dealer's business, the specific services offered, and the relationship between the broker-dealer and the customer.'' *Id.* In the Solely Incidental Release, the Commission stated that broker-dealers ''receive special compensation where there is a clearly definable charge for investment advice.'' *Id.* at n.68 (internal citations omitted).

[32] 15 U.S.C. 80b–2(a)(11)(H). The Commission is authorized to exempt persons by rule, regulation, or order, *see id.,* and has exercised that authority. *See, e.g.,* In the Matter of 1112 Partners, LLC, Investment Advisers Act Release No. 4917 (May 29, 2018) (order).

[33] 15 U.S.C. 80b–2(a)(11)(D).

[34] *Lowe,* 472 U.S. 181, 208–210 (1985); *see also* Alfred A. Zurl, SEC Staff No-Action Letter (Aug. 7, 1995), *available at https://www.sec.gov/divisions/investment/noaction/1995/alfredzurl080795.pdf* (applying *Lowe*).

[35] *SEC* v. *Park,* 99 F. Supp.2d 889, 895 (N.D. Ill. 2000).

General

1. Are our descriptions of each information provider accurate and comprehensive? What types of potential risks and conflicts of interest does each type of provider present? How many providers of each type do commenters estimate currently offer their services in the United States?

2. Are there any other types of information providers whose activities, in whole or in part, may raise investment adviser status issues? If so, which providers, and why?

General Questions Related to Information Providers' Status

3. How do providers analyze whether they meet the Advisers Act's definition of ''investment adviser'' under each element of the definition? For those providers that have determined that they meet the definition, what were the determining factors?

4. In light of new technologies and current market practices, when determining what constitutes ''analyses or reports concerning securities,'' what factors may raise investment adviser status issues? For example, are the factors described above appropriate? [36] Should they be modified? If so, what modifications and why? What economic benefits and costs would result if advisers were required to consider the factors described above or with modifications? Alternatively, are there other factors that advisers should be required to consider regarding what constitutes ''analyses or reports concerning securities''? Should the Commission provide additional guidance? What benefits and costs would result from requiring other factors or providing additional guidance?

5. We understand that some information providers may determine that providing data or other information is not providing ''analyses or reports concerning securities'' and therefore the provider is not an investment adviser under the Advisers Act based on the factors above. Which types of information providers take this position, and on what basis do they consider such data and information not to be analyses or reports concerning securities?

6. Which providers rely on the publisher's exclusion? On what basis? To what extent do they rely on *Lowe* to inform the determination? How do they determine whether their publications are ''impersonal,'' ''bona fide,'' or of ''general and regular circulation''?

7. Which providers rely on another exclusion from the definition of ''investment adviser''? Which exclusion and on what basis? For example, do some broker-dealers that provide model portfolios to their customers rely on the broker-dealer exclusion from the definition of investment adviser? To what extent do broker-dealer model portfolio providers provide their portfolios to investors or to other financial professionals, such as investment advisers or other managers (*e.g.,* banks, trust companies), which may then use the model portfolios with their own customers or clients? Does this have an impact on the broker-dealer's reliance on the exclusion? How are broker-dealers typically compensated for providing these model portfolios? Under what circumstances does a broker-dealer provide a model portfolio in exchange for a commission or other transaction-based compensation? On what basis is such commission or other transaction-based compensation charged? Do these broker-dealers receive different forms of compensation?

8. To what extent do information providers view themselves as having fiduciary obligations to any investors that rely on the information they provide (for example, when investors receive such information through another financial professional)? How do providers view the scope of such obligations? Do they view their obligations more narrowly than those of a traditional client-facing adviser, and if so, how? How do these providers address potential conflicts of interest that may arise during their relationships with clients or users of their services?

9. How do information providers exercise discretion in providing information? For example, do index providers or model portfolio providers create indexes or portfolios at the request of their licensees or users based on more customized investment objectives and goals? In these circumstances, does the provider include or exclude certain companies, funds, or countries from an index or portfolio based on the input of its licensee or user? As another example, in determining which inputs or factors to prioritize in assessing a security's price, does a pricing service prioritize certain factors over others based on the input of its licensee or user?

10. In what ways do information providers exercise discretion in establishing and updating their services or the information they provide? Is such discretion limited by a service's users? For example, with respect to pricing services, do users limit providers' discretion by contract, either by reference to standard pricing guides or principles or otherwise? If so, do users treat pricing services differently from other providers in how discretion is limited? If so, how and on what basis? Do the responses change when considering other types of information providers?

11. To what extent, and under what circumstances, does each type of information provider personalize the services it offers? For example, what are industry practices around direct indexing and specialized indexes, and how prevalent are they?

12. Do information providers adjust the services offered based on input from the users of their services? Do providers disclose such adjustments to users, including when such adjustments are made to address previous errors of the provider?

13. Under what circumstances do information providers disclose changes or updates to the services provided, and to whom? For example, describe index providers' disclosures about the changes in the index strategy or related aspects (*e.g.,* tracking methodology, portfolio structure, portfolio limitations, index data distribution channels) and the level of discretion that the index provider may exercise. How do information providers communicate these changes or updates?

14. How, and in what form, are information providers compensated? Do information providers charge license, subscription, or other types of fees? Are there tiers of fees? For example, do pricing services' users pay multiple times for use of the same price? Are subscription fees different from engagement fees? If so, how? When an investment adviser or an investment company compensates information providers, is that compensation borne by advisory clients or fund investors?

15. Should the Commission use its authority to exempt any of the information providers from the definition of ''investment adviser''? [37] If so, what facts and circumstances should factor in to an exemption? Please explain your answer.

16. What are the economic benefits and costs associated with investment adviser status for each type of information provider identified above? Are there provisions of the Advisers Act that providers are unable to comply with or that would be operationally complex and burdensome?

Questions Related to Index Providers

17. To what extent are users of index providers' services registered investment companies or other pooled

[36] *See supra* text accompanying note 29.

[37] *See supra* note 32.

investment vehicles? What other types of users license indexes? Is there a difference in this respect between users of broad-based indexes and specialized indexes?

18. Do index providers that develop broad-based indexes raise different investment adviser status issues as compared to those that develop customized or bespoke indexes? If so, what factors categorize or distinguish different types of indexes? Does an index that is specialized raise investment adviser status issues? Are there other parameters that we should utilize?

19. How, if at all, do index providers limit the dissemination of their methodologies or indexes to only those who license such information? Should the limitations placed on dissemination affect the analysis of their status as an investment adviser?

20. Under what circumstances, if any, is an index provider compensated based on the amount of assets that are managed according to its index? Do compensation methods for index providers differ based on whether they provide broad-based indexes or specialized indexes? If so, how or on what basis do such compensation methods differ?

21. What are the economic benefits and costs associated with investment adviser status for index providers that develop broad-based indexes versus specialized indexes?

Questions Related to Model Portfolio Providers

22. Do model portfolio providers raise different investment adviser status issues than those raised by index providers that provide specialized indexes? In what ways are they distinguishable?

Questions Related to Pricing Services

23. Is there a distinction between typical pricing services in the market and a ''valuation specialist'' that exercises informed judgment in determining valuation inputs, methodologies, and the legitimacy of a valuation conclusion? How should any regulation reflect these distinctions, or any other distinction between types of pricing services?

24. To what extent do the results of price challenges to a pricing service's values affect the prices provided to other users of pricing services? Are there times when a pricing service aggregates or delivers information from another pricing service?

III. Implications of Investment Adviser Status

A. Registration Under, and Applicability of, the Advisers Act

Generally, a person that meets the definition of ''investment adviser'' (and cannot rely on an exclusion) must register under the Advisers Act, unless it: (i) Is prohibited from registering under section 203A of the Act, or (ii) qualifies for an exemption from the Act's registration requirement, each as discussed below. All advisers, including an unregistered adviser, are subject to the Advisers Act's antifraud provisions.[38]

1. Advisers Prohibited From Registering Under the Advisers Act

Section 203A of the Advisers Act prohibits certain advisers from registering under the Act, unless they meet an assets-under-management (''AUM'') threshold. In general, a small adviser with less than $25 million in AUM that is regulated or required to be regulated as an adviser in the state where it maintains its principal office and place of business, and a mid-sized adviser with between $25 million and $100 million in AUM that is required to be registered as an adviser in the state where it maintains its principal office and place of business and that is subject to examination by its state securities commissioner, are ineligible to register with the Commission. These smaller and mid-sized advisers are regulated at the state level.[39]

The relevant thresholds reflect an amount ''designed to distinguish investment advisers with a national presence from those that are essentially local businesses.'' [40] Even when advisers lack such a ''national presence,'' we are authorized to exempt from the prohibition on Commission registration those investment advisers for which the prohibition ''would be unfair, a burden on interstate commerce, or otherwise inconsistent'' with the purposes of the Act's provisions allocating authority between the Commission and state securities authorities.[41] On this basis, we have exempted certain types of advisers from the prohibition against registration with the Commission, including pension consultants, internet investment advisers, and some pricing services.[42]

Certain providers, if they are investment advisers, may not have significant AUM, or regulatory assets under management (''RAUM''), depending on how those terms are used,[43] but could service a significant portion of the financial intermediaries and other players in the national financial markets with broad market effects. For example, to the extent that many advisers rely on a single pricing service, and all use that service's evaluated price for a particular security, that pricing service may affect the national market in that security in a way that would not happen if the same advisers each reached independent determinations of, or relied on separate pricing services to determine, the security's price. Similarly, the decisions of index providers can affect domestic and global financial markets in some circumstances. Some analysis has shown an increase in stock price, among other effects, associated with inclusion in the S&P 500 Index.[44] As an example,

[38] *See* section 206 of the Act, rules 206(4)–5 and 206(4)-8 under the Act;*see also, e.g.,* S. Rep. No. 1760, 86th Cong., 2d Sess. 7 (1960), which specifies that the antifraud provisions in section 206 of the Act apply to both registered and unregistered advisers.

[39] The Act also provides several voluntary exemptions from registration. *See, e.g.,* 15 U.S.C. 80b–3(b), (l), and (m). In addition, venture capital fund advisers and private fund advisers with less than $150 million in AUM in the United States (referred to as ''exempt reporting advisers'') are exempt from registration, but are required to file reports on Form ADV with the Commission and are subject to certain rules under the Act. *See* 15 U.S.C. 80b–3(l) and (m); 15 U.S.C. 80b–4(a); 17 CFR 275.204–4.

[40] Exemption for Certain Investment Advisers Operating Through the Internet, Investment Advisers Act Release No. 2091 (Dec. 12, 2002) [67 FR 77620, 77621 (Dec. 18, 2002)], at nn.4–5 and accompanying text (citing S. Rep. No. 293, 104th Cong., 2d Sess. 3–5 (1996) (''Senate Report'')); *see also* Senate Report at 3–4 (''The states should play an important and logical role in regulating small investment advisers whose activities are likely to be concentrated in their home state. Larger advisers, with national businesses, should be registered with the Commission and be subject to national rules.'').

[41] 15 U.S.C. 80b–3a(c).

[42] *See* rule 203A–2(a) and (e); Rules Implementing Amendments to the Advisers Act of 1940, Investment Advisers Act Release No. 1633 (May 15, 1997) [62 FR 28112 (May 22, 1997)], at n.60 and accompanying text (noting the Commission's adoption of a higher assets-under-management threshold for registration by pension consultants as ''necessary to demonstrate that a pension consultant's activities have an effect on national markets''). *See* Interactive Data Corporation, Investment Advisers Act Release No. 1685 (Dec. 9, 1997) (notice) and In the Matter of Interactive Data Corporation, Investment Advisers Act Release No. 1692 (Jan. 6, 1998) (order) (Interactive Data Corporation (''IDC'') argued that it should be permitted to register despite the fact that it did not qualify for an exemption from the prohibition on registration. Specifically, IDC argued that it is the type of large, national investment adviser that Congress intended to be registered with the SEC, that prohibiting its registration would unfairly burden interstate commerce, and that its services have a significant national impact).

[43] *See infra* text accompanying note 47.

[44] *See, e.g.,* Jim Hawley and Jon Lukomnik, The Long and Short of It: Are We Asking the Right Questions? Modern Portfolio Theory and Time Horizons, 41 Seattle U. L. Rev. 449, 453–456 (2018) (summarizing studies describing market effects of

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model portfolios may be used to manage large amounts of assets (serving, in some cases, as the basis for their providers' compensation), even though model portfolio providers do not have discretionary authority over those assets and, accordingly, may not have RAUM.[45]

2. Requirements for SEC-Registered Advisers

Advisers registered (or required to be registered) with the Commission are subject to substantive prohibitions and requirements; contractual requirements; recordkeeping obligations; and oversight by the Commission, including periodic filings and inspection. Many of the rules under the Act are generally designed to apply to the variety of advisers' business models. Form ADV similarly is designed to facilitate reporting by advisers with disparate business models and client types. However, it is possible to differentiate application of the adviser regulatory regime (including reporting requirements) to a type of investment adviser.[46]

To the extent that providers' activities may constitute investment advice, and have the potential to affect broadly the national securities markets, we request comment on all aspects of the investment adviser regulatory regime with respect to these providers. Such comments would be particularly useful given that many of the provisions of the Act, the rules thereunder, and Form ADV are designed primarily for investment advisers that provide investment advice designed for the objectives and needs of specific clients, which may not be the case with all of these information providers. We specifically request comment on the following:

Registration Under the Advisers Act

25. To the extent that a provider meets the Act's definition of ''investment adviser,'' should it register with the SEC or the states in which it maintains its principal office or places of business? As a policy matter, should Commission registration be permitted or required? What economic benefits and costs would result? What would be the effect of registration on the ability of new competitors to come into the marketplace? What would be the effect of registration on providers' ability to speak or communicate? If any type of information provider were required to register, what process might we provide to ensure an orderly transition of registration status?

26. Some providers are currently SEC-registered while others are not. For each type, on what basis? For those providers that have registered with the Commission as investment advisers, what were the determining factors? How would the economic benefits and costs differ between providers that are currently SEC-registered and others that are not?

27. Do providers have RAUM with respect to their information services?[47] For example, do providers ''provide continuous and regular supervisory or management services'' to securities portfolios as required by the instructions on Form ADV for purposes of calculating RAUM? What range of RAUM is common? Should the Commission amend the Instructions to Form ADV to provide a calculation of RAUM that encompasses any or all providers? In particular, should the Commission define RAUM in a manner that explicitly applies to model portfolio providers?

28. Should there be exemptions from the prohibition against registration for providers that have a ''national presence'' or can have a significant effect on the national markets regardless of RAUM? Are there factors that we should take into account in identifying those providers? For example, what characteristics would distinguish providers that have a national presence from ones that do not? Should registration be mandatory or optional? What would be the economic benefits and costs of mandatory or optional registration?

29. Under what circumstances should a provider that acts as an investment adviser be required to treat as its advisory client another investment adviser that uses its services (the ''serviced adviser'')? Under what circumstances, if any, should such a provider's advisory client be the client, or end-user, of the serviced adviser? If a provider's advisory client is the end-user of the serviced adviser, to what extent and under what circumstances should such end-user have the right to approve the assignment of the advisory agreement between the serviced adviser and the provider? To what extent and under what circumstances should such end-user receive the disclosure documents of the provider?

Applicability of the Advisers Act

30. Should we exempt providers that meet the definition of investment adviser, and are required to register with the SEC under the Advisers Act, from any of the provisions of the Act and rules that apply to SEC-registered advisers and, if so, which provisions and why? Would any such provisions raise operational or compliance challenges such that an exemption is necessary? What would be the economic benefits and costs of exempting providers that meet the definition of investment adviser, and are required to register with the SEC under the Act? How would such an exemption affect investors? What would be the effects on competition in the market for information providers if we were to exempt providers from some or all requirements of the Act? Alternatively, should any provisions of the Act or rules apply differently to providers? Which ones, why, and how should they apply? For example, should disclosure obligations differ to the extent the providers do not have a client-facing role?

31. Would requiring providers to register with the SEC and become subject to the regulatory regime under

index inclusion) (internal citations omitted). *But see* Maria Kasch and Asani Sarkar, Is There an S&P 500 Index Effect?, FIRS 2013 (Mar. 2014), *available at https://ssrn.com/abstract=2171235.*

[45] As another example, when major equity index providers included in their emerging market indexes the ''A shares'' of certain Chinese companies listed in China, the weight of Chinese markets in those indexes increased and investors tracking those indexes invested in those companies. *See, e.g.,* Division of Economic and Risk Analysis, U.S. Securities and Exchange Commission, Risk Spotlight: U.S. Investors' Exposure to Domestic Chinese Issuers (July 6, 2020), *available at https://www.sec.gov/files/US-Investors-Exposure-to-Domestic-Chinese-Issuers_2020.07.06.pdf* (noting that the weight of Chinese A shares in the three emerging market indexes ranged between 4% and 5.5% after completion of each index's inclusion process); *see also* Xie Yu, China's Bonds Win Third Key Index Inclusion, Wall Street Journal (Sept. 24, 2020) (reporting that FTSE Russell would add Chinese government debt to certain indices and estimating the inclusion ''could attract more than $100 billion of foreign capital''), *available at https://www.wsj.com/articles/chinas-bonds-win-third-key-index-inclusion-11600994714;* Robin Wigglesworth, Trillions 258–59 (Portfolio 2021) (describing efforts by the Chinese government to affect decisions of index providers).

[46] The Commission has tailored the adviser regulatory regime to recognize advisers in different situations. *See* Exemptions for Advisers to Venture Capital Funds, Private Fund Advisers with Less Than $150 Million in Assets Under Management, and Foreign Private Advisers, Advisers Act Release No. 3222 (June 22, 2011) [76 FR 39645 (July 6, 2011)] (adopting rules to implement exemptions from the registration requirements of the Advisers Act for advisers to certain privately offered investment funds and stating that the Commission does not apply most of the substantive provisions of the Advisers Act to the non-U.S. clients of a non-U.S. adviser registered with the Commission).

[47] Form ADV uses the term ''regulatory assets under management'' instead of ''assets under management.'' Form ADV describes how advisers must calculate RAUM and states that in determining the amount of RAUM, an adviser should ''include the securities portfolios for which [it] provide[s] continuous and regular supervisory or management services as of the date of filing'' the form. *See* Form ADV, Instructions for Part 1A, Instruction 5.b.

the Act in its current form cause them to alter their business models, consolidate, or exit the market? [48] How would this affect investors?

32. At least one regulatory framework for index providers exists outside of the United States, under the European Securities and Market Authority (''ESMA'') and its EU Benchmarks Regulation (''BMR'').[49] Some of the BMR's key provisions include requiring EU administrators of a broad class of benchmarks to be authorized or registered by a national regulator, and for these administrators to implement various governance systems and other controls to ensure the integrity and reliability of their benchmarks. Administrators are also required to provide a code of conduct specifying requirements and responsibilities regarding input data. Although the BMR affects U.S.-based index providers that wish to have market access in the EU, it does not directly affect their business in the United States. Should any U.S. regulatory action, if adopted and implemented, be aligned with the framework placed by the BMR in the EU? Are there particular components of the BMR that should or should not be applied to index providers in the United States, and why? What has been the effect of the BMR on the provision of benchmarks and indexes in the EU? Has the BMR served as a barrier to entry for new benchmark and index providers?

Reporting Obligations and Public Disclosure

33. What information do registered advisers and investment companies currently submit to the Commission with respect to their information providers? What information, if any, should registrants be required to submit? What information currently required should be modified and why? Should some of the information be provided confidentially to the Commission? If so, which types of information and why?

34. Should Form ADV require specific information about advisers' use of information providers? Should we require additional or different information on Form ADV for providers that meet the definition of investment adviser and are required to register with the SEC under the Advisers Act? If so, what information? What would be the economic benefit and cost of requiring additional or different information on Form ADV?

B. Related Investment Company Act Matters

Analysis under the Investment Company Act of whether a person is an investment adviser of a fund generally relies on two main elements:

(i) The person regularly furnishes advice to the fund with respect to the desirability of investing in, purchasing or selling securities or other property, or is empowered to determine what securities or property should be purchased or sold by the fund; and

(ii) The person acts pursuant to a contract with the fund.[50]

In addition, the Investment Company Act includes in the definition of an investment adviser to a fund a person who, pursuant to a contract with an investment adviser of an investment company, ''regularly performs substantially all the duties'' undertaken by such investment adviser.[51]

An investment adviser of a fund under the Investment Company Act is subject to certain requirements and limitations. Among other things, this status may trigger prohibitions related to self-dealing and other types of overreaching of a fund by its affiliates (including its investment adviser), ineligibility criteria for certain affiliated persons (including investment advisers), and requirements related to the approval of compliance procedures and practices by the fund's board of directors.[52] In addition, the Investment Company Act contains specific requirements related to shareholder and board approval of the fund's advisory contract (including of any assignment of the contract).[53]

The Investment Company Act sets out certain exceptions to its definition of investment adviser of a fund, including for persons distributing their publications to subscribers, providing statistical information without regularly furnishing advice or making recommendations concerning specific securities, compensated under the supervision of a court, or persons excluded by rule or regulation.[54]

Certain providers may implicate the Investment Company Act's provisions relating to an investment adviser of an investment company. For example, index providers, particularly to the extent the index provider maintains a bespoke index created for a single fund, could meet the definition of an investment adviser to a fund under the Investment Company Act. This may be the case if the index is maintained with an eye to the specific needs of a fund. To the extent that no exception from the definition applies, the index provider could implicate the Investment Company Act's definition of investment adviser of an investment company, including when the index provider does not contract directly with a fund, but instead indirectly with the fund's investment adviser. A similar analysis may apply to other providers, as well.

We request comment on certain aspects of the Investment Company Act regime with respect to providers. We specifically request comment on the following:

35. How do providers analyze whether they meet the Investment Company Act's definition of ''investment adviser'' of a fund under each element of the definition? What are the economic benefits and costs associated with whether a provider meets the Investment Company Act's definition of ''investment adviser'' of a fund? Would the application of the definition to providers serve as a material barrier to entry for new entrants?

36. To what extent do providers contract directly with funds? For example, do providers typically enter into contracts with the fund's adviser, or an affiliate of the adviser? If a fund's adviser delegates services to a provider, what duties does the adviser retain and what duties does the adviser delegate? Does the fund or its adviser make an affirmative determination made whether the provider is acting as an investment adviser under the Investment Company Act?

37. The Investment Company Act excludes from the definition of investment adviser of a fund ''a person whose advice is furnished solely through uniform publications distributed to subscribers thereto.'' To what extent do providers distribute uniform publications? If so, how do these providers interpret ''uniform''? Do providers that rely on the Advisers Act publisher's exclusion also rely on this exception and, if so, on what basis?

38. To the extent a provider to a fund is an investment adviser of the fund, the fund and its provider would need to comply with various provisions of the Investment Company Act. What would be a reasonable amount of time for a

[48] *See, e.g.,* Kathleen H. Moriarty, Should Index Providers Be Regulated as Investment Advisers Under the U.S. Investment Advisers Act of 1940, Journal of Index Investing (2021), at 67–68, *available at https://jii.pm-research.com/content/iijindinv/11-12/4-1/54.full.pdf.*

[49] Regulation (EU) 2016/1011.

[50] *See* 15 U.S.C. 80a–2(a)(20)(A).

[51] *See* 15 U.S.C. 80a–2(a)(20)(B).

[52] In addition, among other provisions related to its relationship with a fund, an adviser under the Investment Company Act is subject to regulations related to loans, purchases or sales of assets, or the receipt of commissions or similar compensation in connection with such purchases and sales. *See* 15 U.S.C. 80a–17.

[53] 15 U.S.C. 80a–15(a); 15 U.S.C. 80a–15(c).

[54] *See* 15 U.S.C. 80a–2(a)(20).

registered investment company to come into compliance with these provisions? Are there measures we can take to assist with the transition? Are there provisions of the Investment Company Act that present unique challenges for providers?

39. Rule 38a–1 under the Investment Company Act requires a fund's board, including a majority of its independent directors, to approve policies and procedures reasonably designed to prevent violation of the Federal securities laws by the fund and certain service providers.[55] To what extent do funds currently extend their compliance program to information providers, where such entity is not considered an investment adviser or one of the rule's other named service providers (principal underwriters, administrators and transfer agents)? Does this analysis differ depending on the provider? Should we amend Rule 38a–1 to incorporate information providers within a fund's compliance program, rather than requiring registration of information providers as investment advisers? What would be the costs and benefits of such an approach?

40. In circumstances where a fund's adviser contracts with an information provider, how much information is provided to the fund's board regarding the providers on an ongoing basis? Do fund boards approve the engagement of providers in these circumstances? Does this differ depending on the provider?

General Request for Comment

This request for comment is not intended to limit the scope of comments, views, issues, or approaches to be considered. In addition to information providers, investment advisers and investment companies, advisory clients and other investors, we welcome comment from other market participants and particularly welcome statistical, empirical, and other data from commenters that may support their views or support or refute the views or issues raised by other commenters.

By the Commission.

Dated: June 15, 2022.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2022–13307 Filed 6–21–22; 8:45 am]

BILLING CODE 8011–01–P

[55] *See* rule 38a–1 under the Investment Company Act.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 680

[Docket No. FHWA–2022–0008]

RIN 2125–AG10

National Electric Vehicle Infrastructure Formula Program

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA proposes to establish regulations setting minimum standards and requirements for projects funded under the National Electric Vehicle Infrastructure (NEVI) Formula Program and projects for the construction of publicly accessible electric vehicle (EV) chargers under certain statutory authorities. The standards and requirements proposed would apply to the installation, operation, or maintenance of EV charging infrastructure; the interoperability of EV charging infrastructure; traffic control device or on-premises signage acquired, installed, or operated in concert with EV charging infrastructure; data, including the format and schedule for the submission of such data; network connectivity of EV charging infrastructure; and information on publicly available EV charging infrastructure locations, pricing, real-time availability, and accessibility through mapping applications.

DATES: Comments must be received on or before August 22, 2022.

ADDRESSES: To ensure that you do not duplicate your docket submissions, please submit comments by only one of the following means:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, 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. The telephone number is (202) 366–9329.

All submissions should include the agency name and the docket number that appears in the heading of this document or the Regulation Identifier Number (RIN) for the rulemaking. All comments received will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Jensen, Office of Natural Environment, (202) 366–2048, or via email at *Gary.Jensen@dot.gov,* or Ms. Dawn Horan, Office of the Chief Counsel (HCC–30), (202) 366–9615, or via email at *Dawn.M.Horan@dot.gov.* Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

This document and all comments received may be viewed online through the Federal eRulemaking portal at *www.regulations.gov* using the docket number listed above. Electronic retrieval help and guidelines are also available at *www.regulations.gov.* An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *www.FederalRegister.gov* and the Government Publishing Office's website at *www.GovInfo.gov.*

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period and after FHWA has had the opportunity to review the comments submitted.

Executive Summary

The FHWA proposes to establish regulations that would set minimum standards and requirements for projects funded under the NEVI Formula Program and projects for the construction of publicly accessible EV chargers funded under title 23, United States Code.[1] The FHWA is directed by Paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J of the Bipartisan

[1] Refer to ''DOT Funding and Financing Programs with EV Eligibilities'' chart on pages 10–11 in the NEVI Formula Program Guidance, found at: *https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf.*

Infrastructure Law (BIL) (enacted as the Infrastructure Investment and Jobs Act) (Pub. L. 117–58) (Nov. 15, 2021) to create minimum standards and requirements for NEVI-funded projects. As outlined in statute, the purpose of the NEVI Formula Program is to ''provide funding to States to strategically deploy EV charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability.'' This purpose would be satisfied by creating a convenient, affordable, reliable, and equitable network of chargers throughout the country. Currently, there are no national standards for the installation, operation, or maintenance of EV charging stations, and wide disparities exists among EV charging stations in key components, such as operational practices, payment methods, site organization, display of price to charge, speed and power of chargers, and information communicated about the availability and functioning of each charging station. The FHWA is directed by Section 11129 of BIL, which amends 23 U.S.C. 109, by adding a requirement that EV charging station standards apply to all projects that install EV charging infrastructure using funds provided under title 23, United States Code. This proposed rule does not conflict with or supersede other title 23, United States Code statutory requirements or their implementing regulations. This regulation would enable States to implement federally-funded charging station projects in a standardized fashion across a national EV charging network that can be utilized by all EVs regardless of vehicle brand. Such standards would provide consumers with reliable expectations for travel in an electric vehicle across and throughout the United States and support a national workforce skilled and trained in EVSE installation and maintenance.

The BIL specifically required that minimum standards and requirements be developed related to six areas:

(1) Installation, operation, and maintenance by qualified technicians of EV infrastructure.

The FHWA proposes to require general consistency with regard to the installation, operation, and maintenance and technician qualifications of the NEVI Formula Program projects and projects for the construction of publicly accessible EV chargers that are funded under title 23, United States Code. In terms of standards for the installation, operation, and maintenance of EVSE, charging stations would be required to contain a minimum number and type of chargers capable of supplying electrical charge through prescribed standard charging ports. This regulation would further specify the required minimum density of provided chargers, payment methods, and requirements for customer support services. In terms of technician qualifications, the guidance would provide minimum skill, training, and certification standards for technicians installing, operating, and maintaining EVSE to ensure consistency around quality installation and safety across the network. These proposed requirements would provide the traveling public with reliable expectations for their EV charging experience anywhere that NEVI Formula funds or title 23, United States Code funds are used to construct EV charging infrastructure. In addition to proposed requirements that would be customer-facing, a series of additional proposed requirements would provide less visible, yet critical, standardization and uniformity for how charging stations would be installed, maintained, and operated. These types of proposed requirements would address topics such as the certification of charging equipment, security, long-term stewardship, the qualifications of technicians installing and maintaining charging stations, and the privacy of customer data conveyed. There is also proposed language to explain what the NEVI program income can be used for when there is net income from the sale, use, lease, or lease renewal of real property acquired with NEVI Formula Program funds, or when there is income or revenue earned from the operation of the EV charging station.

(2) Interoperability of EV charging infrastructure.

The proposed requirements relating to interoperability similarly address less visible standardization along the national EV charging network. The FHWA proposes a seamless national network of EV charging infrastructure that can communicate and operate on the same software platforms from one State to another. The FHWA proposes interoperability requirements for charger-to-EV communication to ensure that chargers are capable of the communication necessary to perform smart charge management and Plug and Charge.

(3) Traffic control devices and on-premise signs acquired, installed, or operated.

The FHWA proposes to address requirements about traffic control devices and on-premise signs by cross-referencing other existing requirements contained in the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD) found at 23 CFR part 655 and the Highway Beautification regulation at 23 CFR part 750.

(4) Data requested related to a project funded under the NEVI Formula Program, including the format and schedule for the submission of such data.

The FHWA proposes to outline quarterly and annual data submittal requirements that are applicable only to projects funded under the NEVI Formula Program. States would be required to submit quarterly data to identify charging station use, reliability maintenance, and installation cost information. On an annual basis, States would be required to submit identifying information about organizations operating, maintaining, or installing Electric Vehicle Supply Equipment (EVSE) along with information about any certifications of these entities through State or local business opportunity certification programs. Finally, States would be required to submit an annual report describing the community engagement activities conducted in accordance with their approved State EV Infrastructure Deployment Plans.

The proposed regulation would serve an important coordination role by standardizing submissions of large amounts of data from charging stations across the U.S. while providing the Joint Office with the data needed to create the public EV charging database outlined in BIL. The FHWA specifically requests comments on whether the proposed data collection language creates an undue burden on the States with the amount and types of data to be collected and the frequency in which it is to be reported.

(5) Network connectivity of EV charging infrastructure.

The FHWA proposes to outline network connectivity requirements for charger-to-charger network communication, charging network-to-charging network communication, and charging network-to-grid communication. These proposed requirements address standards meant to allow for secure remote monitoring, diagnostics, control, and updates. The FHWA believes these proposed requirements would help address cybersecurity concerns while mitigating against stranded assets (whereby any provider abandons operations at any particular charging station). Proposed network connectivity requirements also would specifically require chargers to be capable of smart charge management and Plug and Charge capabilities by requiring the ability to communicate through Open Charge Point Protocol (OCPP) in tandem with ISO 15118.

(6) Information on publicly available EV charging infrastructure locations, pricing, real-time availability, and accessibility though mapping applications.

The FHWA proposes requirements to standardize the communication to consumers of price and availability of each charging station. Specifically outlined in the proposed regulation, States would be required to ensure that basic charging station information (such as location, connector type, and power level), real-time status, and real-time price to charge would be available free of charge to third-party software developers through application programming interface. The FHWA believes these requirements would enable effective communication with consumers about available charging stations and help consumers make informed decisions about trip planning and when and where to charge their EVs. The FHWA also proposes requirements for public transparency when EV charging prices are to be set by a third party. The FHWA believes that this will protect the public from price gouging.

The proposed rule would apply to the 50 States, the District of Columbia, and Puerto Rico, consistent with the definition of the term ''State'' in 23 U.S.C. 101(a). These proposed regulations would apply to projects funded under the NEVI Formula Program and projects for the construction of publicly accessible EV chargers that are funded with funds made available under title 23, United States Code, with the prioritization of projects along Interstates during the first year in order to create a reliable national network of EV charging infrastructure for those travelling long distances or for multiple hours at a time.

The FHWA requests comment on the proposed approach summarized above and described in detail below to establish a set of minimum standards and requirements for NEVI Formula Program projects and projects for the construction of publicly accessible EV chargers that are funded under title 23, United States Code.

The FHWA requests comment on the consideration, options, and use of information to account for the analysis of the proposed rule, as described in detail in the ''Preliminary Regulatory Impact Analysis (PRIA)'' available in the docket. The PRIA supports this proposed regulation and estimates the costs and benefits associated with establishing minimum standards and requirements, derived from the costs of implementing the proposed regulation for each provision of the rule. All of the topics for the minimum standards and requirements are required under Paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J of BIL. To estimate these costs, the PRIA compares the costs and benefits of proposed provisions to the costs and benefits of the options States would likely choose for their own EVSE programs in the absence of the rule. In many cases, the analysis found that States would likely choose the same requirements that are found in the proposed rule.

Background

Creation of the NEVI Formula Program

The BIL included two new programs with a total of $7.5 billion in dedicated funding to help make EV chargers and alternative fueling facilities accessible to all Americans for long-distance trips. As one of these two new programs, the NEVI Formula Program provides $5 billion as the first major Federal funding program that focuses on a nationwide development of EV charging infrastructure. The FHWA has released program guidance for the NEVI Formula Program, available at *https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf,* as was required by BIL within 90 days of enactment.

This program guidance outlined funding features, information about required State EV Infrastructure Deployment Plans, project eligibility provisions, program administration, and technical assistance and tools. The program guidance also outlined potential topics for these proposed minimum standards and requirements for projects implemented under the NEVI Formula Program.

EV Funding Options

Several additional DOT funding and finance programs are also available to plan for and build EV chargers; support workforce training for new technologies; and integrate EVs as part of strategies to address commuter, freight, and public transportation needs. For more information see the *Federal Funding is Available for Electric Vehicle Charging Infrastructure on the National Highway System* released April 22, 2022.[2]

Statutory Authority for NEVI Formula Program Minimum Standards and Requirements

The BIL required FHWA to release a set of minimum standards and requirements for the implementation of the NEVI Formula Program under Paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J).

This proposed regulation directly addresses the requirements in BIL. This proposed regulation also directly addresses the EV Charging Stations standards requirement added to 23 U.S.C. 109 by Section 11129 of BIL for projects using title 23, United States Code funds for EV charging infrastructure. Through the provision of minimum standards and requirements, the NEVI Formula Program would help set reliable expectations for the experience of EV charging across the nation. Nothing in this regulation is intended to be construed to prevent States from establishing more stringent EV charging infrastructure requirements towards building a convenient, affordable, reliable, and equitable national charging network.

The BIL required establishment of a Joint Office of Energy and Transportation (Joint Office) [3] in the Department of Transportation and the Department of Energy to study, plan, coordinate, and implement issues of joint concern between the two Agencies. The DOT and DOE coordinated on both the NEVI Formula Program Guidance and development of the minimum standards and requirements found in this proposed rule.

Reasoning for NEVI Formula Proposed Regulations

There are no existing national standards for EV charging stations, although there may be some State standards that exist. For any given charging station, the charger manufacturer, charging network, charging network provider, charging station owner, charging station operator, and even the utility providing electricity, may all be different entities, all with different expectations for contracts, maintenance, operations, and customer response. Because EV charging is a relatively new technology, there is wide diversity in the market from small start-up companies to major multi-national corporations. This diversity of entities results in a variety of charging station operations, leaving consumers with a learning curve every time they encounter a new EV charging station. The consumer education required for each use of a new charging station, as well as unreliability of the charging station function and safety issues from the lack of standardized technician qualifications, exacerbates existing

[2] Federal Funding is Available For Electric Vehicle Charging Infrastructure on the National Highway System (*dot.gov*).

[3] *https://www.driveelectric.gov.*

hurdles for the widespread adoption of EVs, including range anxiety and safety risks. Range anxiety is a concept whereby consumers fear that a vehicle has insufficient electrical charge to reach its destination or another charging station and would therefore strand the vehicle's occupants. This also includes the anxiety that chargers would not be available where and when needed. Furthermore, the lack of minimum standards for chargers reduces the reliability of a consistent charging experience (*e.g.,* the charger meets their needs, is working and available, etc.) for consumers when they encounter a new charging station. Beyond standardizing consumer and industry expectations, the proposed regulation would outline minimum standards and requirements to ensure the appropriate use of Federal funds on a new technology and market, and greatly enhance consumer confidence and public safety.

Benefits to NEVI Formula Program Proposed Regulations

The FHWA believes that the establishment of this regulation would provide a powerful antidote to these issues, create energy independence, and encourage more widespread adoption of EVs because EV consumers would be more confident in the availability, safety, and consistency of EV charging stations.

Accordingly, by encouraging the adoption and expansion in use of EVs, title 23 investments in EV charging infrastructure have the potential to significantly address the transportation sector's outsized contributions to climate change. President Biden, American families, automakers, and autoworkers agree: the future of transportation is electric. The electric car future is cleaner, more equitable, more affordable, and an economic opportunity to support good-paying, union jobs across the installation and maintenance of the charging infrastructure as well as in American supply chains as automakers continue investing in manufacturing clean vehicles and the batteries that power them.[4] Currently, the transportation sector is both the largest source of U.S. carbon dioxide emissions,[5] and is increasingly vulnerable because of the higher temperatures, more frequent and intense precipitation, and sea level rise associated with the changing climate. Much of existing transportation infrastructure was designed and constructed without consideration of these changes.

The Sixth Assessment Report by the Intergovernmental Panel on Climate Change (IPCC), released on August 7, 2021, confirms that human activities are increasing greenhouse gas concentrations that have warmed the atmosphere, ocean, and land at a rate that is unprecedented in at least the last 2000 years.[6] According to the report, global mean sea level has increased between 1901 and 2018, and changes in extreme events such as heatwaves, heavy precipitation, hurricanes, wildfires, and droughts have intensified since the last assessment report in 2014.[7] These changes in extreme events, along with anticipated future changes in these events due to climate change, threaten the reliability, safety and efficiency of the transportation system. At the same time, transportation contributes significantly to the causes of climate change [8] and each additional ton of CO_2 produced by the combustion of fossil fuels contributes to future warming and other climate impacts.

By encouraging widespread adoption of a zero-emissions transportation mode, the proposed regulation would supercharge America's efforts to lead the electric future and align with recent Executive Orders (E.O.) 13990, E.O. 14008, and a U.S. target of achieving a 50 to 52 percent reduction from 2005 levels of economy-wide net GHG pollution in 2030, on a course toward reaching net-zero emissions economy-wide by no later than 2050.[9] Section 1 of E.O. 13990, ''Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis,'' 86 FR 7037 (Jan. 25, 2021), articulates national policy objectives, including listening to the science, improving public health and protecting the environment, reducing GHG emissions, and strengthening resilience to the impacts of climate change. E.O. 14008, ''Tackling the Climate Crisis at Home and Abroad,'' 86 FR 7619 (Feb. 1, 2021), recommits the United States to the Paris Agreement and calls on the United States to begin the process of developing its nationally determined contribution to global GHG reductions. 86 FR at 7620.

E.O. 14008 also calls for a Government-wide approach to the climate crisis and acknowledges opportunities to create well-paying, union jobs to build a modern, sustainable infrastructure, to provide an equitable, clean energy future, and to put the U.S. on a path to achieve net-zero emissions, economywide, no later than 2050. 86 FR at 7622. It also supports the principle set forth in section 213 of E.O. 14008 ''to ensure that Federal infrastructure investment reduces climate pollution.'' 86 FR at 7626. Reducing the barriers to charging infrastructure will enable the rapid expansion of zero-emission vehicles, a central component of the U.S. Long Term Strategy to reach net-zero greenhouse gas emissions by 2050.[10] In line with this E.O. and addressing the climate crisis, enabling wider adoption of EVs may also have significant benefits to equity and environmental justice whereby a national network of EV charging infrastructure reduces disparities in access to transportation infrastructure and health effects.[11]

The NEVI Formula Program presents an opportunity to advance both equity and environmental justice for

[4] White House Fact Sheet: The Biden-Harris Electric Vehicle Charging Action Plan (December 13, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/13/fact-sheet-the-biden-harris-electric-vehicle-charging-action-plan/.*

[5] *See* EPA Inventory of U.S. Greenhouse Gas Emissions and Sinks, *available at https://www.epa.gov/ghgemissions/inventory-us-greenhouse-gas-emissions-and-sinks-1990-2019.*

[6] *See* IPCC, 2021: Summary for Policymakers. In: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change, *available at https://www.ipcc.ch/report/ar6/wg1/#SPM.*

[7] IPCC, 2021: Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Masson-Delmotte, V., P. Zhai, A. Pirani, S.L. Connors, C. Péan, S. Berger, N. Caud, Y. Chen, L. Goldfarb, M.I. Gomis, M. Huang, K. Leitzell, E. Lonnoy, J.B.R. Matthews, T.K. Maycock, T. Waterfield, O. Yelekçi, R. Yu, and B. Zhou (eds.)]. Cambridge University Press. In Press.

[8] Jacobs, J.M., M. Culp, L. Cattaneo, P. Chinowsky, A. Choate, S. DesRoches, S. Douglass, and R. Miller, 2018: Transportation. In Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA, pp. 479–511. doi: 10.7930/NCA4.2018.CH12.

[9] White House Fact Sheet: The Biden-Harris Electric Vehicle Charging Action Plan (December 13, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/13/fact-sheet-the-biden-harris-electric-vehicle-charging-action-plan/,* White House Fact Sheet: President Biden Sets 2030 Greenhouse Gas Pollution Reduction Target Aimed at Creating Good-Paying Union Jobs and Securing U.S. Leadership on Clean Energy Technologies (Apr. 22, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/;* White House Fact Sheet: President Biden's Leaders Summit on Climate (Apr. 23, 2021), *available at https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/23/fact-sheet-president-bidens-leaders-summit-on-climate/.*

[10] The Long-Term Strategy of the United States, Pathways to Net-Zero Greenhouse Gas Emissions by 2050 (*whitehouse.gov*).

[11] U.S. Department of Transportation Strategic Plan FY 2022–2026.

communities that have been underserved by transportation infrastructure and overburdened by costs and environmental harms. When determining where EV charging stations should be located, there should be engagement with rural, underserved, and disadvantaged communities to ensure that diverse views are heard and considered and to ensure that the deployment, installation, operation, and use of EV charging infrastructure achieves equitable and fair distribution of benefits and services. Historically, innovations in clean energy and transportation have not been deployed evenly across communities. This has resulted in underserved, overburdened, and disadvantaged communities being left behind.

Achieving our long-term goals requires the equitable deployment of electric vehicle infrastructure, and NEVI Formula Program funding is the opportunity to ensure these investments benefit disadvantaged communities and create safeguards to prevent or mitigate potential harms. Consideration of the benefits and harms is in accordance with E.O. 13985, which requires the Federal Government to pursue a comprehensive approach to advance racial equity for all, and E.O. 14008, which created the Justice40 Initiative, which established a goal that 40 percent of the overall benefits of certain federal investments flow to disadvantaged communities. 86 FR at 7626. OMB M–21–28 Interim Guidance provides that NEVI Formula Program funding is a Justice40 federal covered program.

Consideration for how benefits of EV charging flow to rural, underserved, and disadvantaged communities will be vital towards ensuring NEVI Formula Program funding is distributed meaningfully and equitably in accordance with E.O. 14008. In the absence of the NEVI Formula Program, the market will not prioritize the installation of important EV chargers densely populated urban communities where the cost of real estate is relatively higher or in sparsely populated rural areas lacking access to transportation alternatives. If access to EV chargers is dictated by these market forces, then rural areas, underserved communities, and disadvantaged communities will experience delayed and diminished access to this clean energy technology and the transportation infrastructure that is vital to a healthy economy. Such outcomes would be at odds with E.O. 13985, ''Advancing Racial Equity and Support for Underserved Communities Through the Federal Government,'' at 86 FR 7009.

However, the proposed rule would complement the February 10, 2022, NEVI Formula Program Guidance, which encouraged EV chargers to be spaced a maximum distance of 50 miles apart along designated alternate fuel corridors (AFCs), by requiring minimum standards for the development of each station. Providing minimum standards and requirements for the development of each charging station helps to ensure equitable access to clean transportation options and the electric grid across all communities, increasing parity in clean energy technology access and adoption. Over the long-term, according to the DOE, EV ownership is usually less expensive than ownership of gasoline-powered vehicles.[12] Additionally, the low cost of operation makes some EVs less expensive on a monthly basis, compared to equivalent gasoline-powered vehicles, when vehicle purchase price is financed.[13] Thus, increased adoption in these communities could be associated with a community-wide decrease in transportation energy cost burdens. In communities where transportation corridors see a mode-share shift from gasoline-powered vehicles to EVs, there will be a marked reduction in environmental exposures to transportation emissions. Widespread adoption of EVs in the U.S. would also increase our energy resilience by increasing the share of vehicles that operate on energy sources that are domestically produced and regulated and assist in creating energy independence and domestic job creation.

The NEVI Formula Program also addresses the acknowledgement in E.O. 14008 that the path to a net-zero emissions economy provides opportunities to create well-paying, union jobs to build a modern sustainable infrastructure. 86 FR 7622. This proposed rule would outline minimum qualifications for technicians working on-site at charging stations. Minimum skill, training, and certification standards for technicians ensures that the deployment of charging infrastructure will support stable career-track employment for workers across the country, creating more openings for workers to pursue training in the electrical trades—critical occupations for the clean energy transition. By requiring on-site installation, maintenance, and operations to be performed by a well-qualified, highly-skilled, and certified, licensed, and trained workforce, the proposed regulation would also increase the safety and reliability of charging station function and use, and mitigate project delivery issues such as cost overruns and delays.

The proposed regulation would establish minimum standards and requirements specific to the use of NEVI Formula Program funds and funds made available under title 23, United States Code for projects for the construction of publicly accessible EV chargers with the prioritization of projects along Interstates in order to create a reliable national network of EV charging infrastructure for those travelling long distances or for multiple hours at a time. E.O. 14036 also points out that if successfully deployed an interoperable EV charging network can be expected to give EV manufacturers more space to experiment, innovate, and pursue the new ideas leading to more choices, better service, and lower prices especially with regard to the EVs themselves. 86 FR 36987.

Request for Information

The proposed regulation for minimum standards and requirements under the NEVI Formula Program required consultation with relevant stakeholders. The DOT issued a Request for Information (RFI) published in the **Federal Register** on November 29, 2021 (86 FR 67782). There were 483 comments received in response to the RFI. Commenters included local, State, and regional governments and included those with the full range of experiences installing and operating EV infrastructure. Industry groups and businesses involved with EV infrastructure, ranging from small businesses to trade groups and multi-national corporations, also provided comments. Some comments received were from formal trade organizations: the International Brotherhood of Electrical Workers, AFL–CIO, CLC (IBEW), American Federation of Labor and Congress of Industrial Organizations (AFL–CIO), and Laborers' International Union of North America. Nonprofit groups provided feedback as to how the NEVI Formula Program could positively or negatively impact the communities that these groups represented. The FHWA also received comments from individual members of

[12] *https://afdc.energy.gov/calc/*. This tool calculates the total cost of vehicle ownership. Selecting the 2022 Ford Mustang Mach-E RWD and an equivalent gasoline-powered vehicle, such as the 2022 Ford Explorer RWD Gasoline, shows that the EV's total cost of ownership breaks even with the conventional vehicle after 5 years when gasoline price is set at $4.50/gallon and the state of Ohio is selected.

[13] Comparing total cost of ownership of battery electric vehicles and internal combustion engine vehicles, Most Electric Vehicles are Cheaper to Own Off the Lot Than Gas Cars.

the public to include EV owners and others who would be impacted by the NEVI Formula Program. The FHWA considered this input in the development of this regulation. A discussion of how the most prevalent topics were considered and addressed is provided below.

In addition to the RFI, the White House sponsored 18 stakeholder meetings between November and December 2021, each with multiple organizations attending and each addressing a different stakeholder group. Input from these meetings was also considered during the development of this proposal.

The FHWA inquired to stakeholders how the Buy America provisions would impact the NEVI Formula Program and asked for comments through two **Federal Register** Request for Information discussed below. As stated in E.O. 14005 published on January 25, 2021, *Ensuring the Future Is Made in All of America by All of America's Workers,* Made in America laws, such as the Buy American Act [14] requires the Federal government to buy domestic ''articles, materials, and supplies'' when they are acquired for public use, subject to exceptions for nonavailability of domestic products, unreasonable cost of domestic products, acquisitions subject to certain trade agreements, and situations where it would not be in the public interest to buy domestic products.[15] The FHWA received significant feedback regarding compliance with Buy America through stakeholder engagement and comments from both the RFI published on November 29, 2021 (86 FR 67782) [16] and a separate RFI specific to Buy America published on November 24, 2021 (86 FR 67115). Unless otherwise specified, all applicable requirements under chapter 1 of title 23, United States Code, apply to the use of NEVI Formula Program funds and funds made available under title 23, United States Code for projects for the construction of publicly accessible EV chargers, including Buy America requirements at 23 U.S.C. 313. Additionally, the NEVI Formula Program is an infrastructure program subject to the Build America, Buy America Act (Pub. L. 117–58, div. G sections 70901–70927). Additionally, it is important to note that as expressed in E.O. 14005, *Ensuring the Future Is Made in All of America by All of America's Workers* (86 FR 7475), it is the policy of the executive branch to maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States.

The FHWA acknowledges that the EV charging industry expressed early concerns regarding the difficulty in procuring EV charging equipment that met Buy America compliance. The FHWA also acknowledges that the domestic EV charger manufacturing industry is rapidly adapting with announcements about U.S. manufacturers opening new plants as recently as this calendar year.[17] The comment period for the Buy America RFI closed on January 10, 2022. The RFI was intended to gather information about the shifting manufacturing and assembly processes in the United States for EV chargers and the availability of EV chargers manufactured and assembled in the United States in compliance with Buy America. Continued review of the information received from this RFI may result in updated policy guidance or regulation, as needed.

It is important to also note that several topics raised for concern by comments received from the RFI are not applicable to this proposed regulation because they were outside the scope of the minimum standards and requirements but may be addressed through subsequent guidance.

Some responses to the RFI included various suggestions of station design, in particular vehicle size allowances and pull-through access. Minimum standards for vehicle size in station design are not proposed in this rulemaking. However, States are encouraged to consider large vehicles, including medium- and heavy-duty vehicles (such as electric school buses and delivery vehicles) and vehicles with attached trailers. Pull-through charging stations may provide better access for vehicles pulling a trailer; pull-through charging stations provide ample room to move around a vehicle that may take longer to charge, because they allow vehicles to exit the station without backing up and preclude the need to decouple the trailer to fit within the parking area adjacent to the charger. Front pull-in parking style charging stations may be appropriate in many situations as they allow vehicles to freely access the charger without the potential to be blocked into the location until another vehicle completes charging. Station design consideration is location specific and should provide the public with an efficient, safe, and convenient charging experience.

Other responses to the RFI included suggestion to address emergency situations that could arise for EVs. This proposed rule does not consider minimum standards for traffic incident management specific to emergency situations where EVs lose their charge on the roadway. The proposed minimum standards would address the development of charging stations, and it is recognized that if EVs are able to arrive at charging stations, there are no on-road emergency situations. However, if EVs lose their charge while driving on the roadway, this emergency situation could create a traffic incident. The FHWA requests comments to address this important issue. The FHWA requests specific comment on how traffic incident management, crashes, and emergency situations should be addressed.

Several commenters voiced opinions on the physical safety of the EV charging stations and the consumers as well as cybersecurity concerns. Safety is a top priority at FHWA and must be incorporated in all federally funded projects. Safety was considered throughout the development of the proposed regulations, and this proposed regulation would require States to specifically address physical safety and cybersecurity.

Other comments raised through the RFI include topics that will be addressed by each State through the development of State EV Infrastructure Deployment Plans (as outlined in the NEVI Formula Program Guidance released on February 10, 2022) rather than by the Federal Government through the proposed regulation. For example, FHWA acknowledges that the development of a cohesive reliable national EV charging network will require interstate and regional coordination across State borders. Consideration and discussion of regional coordination is specifically outlined in the NEVI Formula Program Guidance's description of how a State EV Infrastructure Deployment Plan should be formatted. This same section of the NEVI Formula Program Guidance similarly outlines that States are expected to include a discussion of maintenance and operational strategies in their State EV Infrastructure Deployment Plans.

Questions have also arisen about the details of receiving discretionary exceptions to charger spacing requirements along and within the AFCs. Information about discretionary exceptions is included in the NEVI Formula Program Guidance and is not

[14] 41 U.S.C. 10a–10d.

[15] 86 FR 7475 (January 28, 2021).

[16] *https://www.govinfo.gov/app/details/FR-2021-11-29/2021-25868.*

[17] FACT SHEET: Biden-Harris Administration Ensuring Future is Made in America | The White House.

proposed for further discussion within this regulation.

Section-by-Section Discussion of the Proposed Changes

The FHWA invites comments on the proposed minimum standards and requirements and identifies areas where comments may be particularly useful.

Section 680.100 Purpose

Section 680.100 would identify the purpose of the regulation to establish a set of minimum standards and requirements applicable to two types of publicly accessible EV charging projects: those funded under the NEVI Formula Program and those constructed with any funds made available under title 23, United States Code.

Section 680.102 Applicability

The FHWA proposes that the regulation apply to all NEVI Formula Program projects and all publicly accessible EV chargers constructed using funds made available under title 23, United States Code.

Section 680.104 Definitions

The FHWA proposes definitions for the minimum standards and requirements for this regulation. These definitions are provided to identify terms that are common in the EV charging industry but that may not be present elsewhere in 23 U.S.C. or 23 CFR and thus may be unfamiliar in the transportation industry.

Section 680.106 Installation, Operation, and Maintenance by Qualified Technicians of Electric Vehicle Charging Infrastructure

The proposed regulation includes procurement process transparency considerations, the minimum number of chargers, connector type, and power level for each EV charging station. These minimum requirements are proposed to provide the public with a predictable user experience of the public charging infrastructure.

Section 680.106(a) explains the expectation of public transparency when EV charging prices are to be set by a third party. Under Paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J of BIL, the FHWA is required to release a set of minimum standards and requirements for the implementation of the NEVI Formula Program, which includes ''*information on publicly available electric vehicle charging infrastructure locations, pricing, real-time availability, and accessibility through mapping applications.*'' (emphasis added). Since government funds will be, in part, subsidizing these EV charging stations, FHWA proposes there be public disclosure for the documents concerning the operations of EV charging stations where price setting is involved, including the procurement process used, the number of bids received, the identification of the awardee, the proposed contract with the awardee and, in accordance with State law, the financial summary of contract payments (including the price and cost data) and any information describing how prices for EV charging are to be set under the contract. These items shall be made publicly available whether through an announcement, public comment period or other means. The FHWA believes this will protect the public interest in understanding how prices for charging are set or to be determined whenever a private operator is involved in the determination of price. Since the NEVI Formula Program shall be administered as if apportioned under chapter 1 of title 23, United States Code (1st proviso of paragraph (6) under the ''Highway Infrastructure Program'' heading in title VIII of division J of Pub. L. 117–58), States would be subject to 23 U.S.C. 112 and implementing procurement regulations for the procurement of construction and design. Additionally, any agreements for the operation and maintenance of an EV charging station are subject to the State procurement policies and procedures per 2 CFR 200.317.

This language is also consistent with FHWA guidance regarding public transparency in public-private partnership (P3) procurements. The FHWA recognizes that some State DOTs do not have the authority to enter into P3 agreements and FHWA is not requiring any State DOT to enter into a P3 for EV charging stations. The proposed requirements would be applicable to any procurement involving NEVI Formula Program funds, any time EV charging prices are to be set by a third party. The FHWA requests comment on what other actions could be proposed to improve transparency during the procurement process in order to ensure the price of EV charging is as transparent as possible.

The proposed regulation outlines the minimum number and type of chargers required in § 680.106(b). In order to provide appropriate charging for EVs in route to their final destinations, FHWA proposes to require Direct Current Fast Chargers (DCFCs), which are the fastest chargers currently available in the public charging marketplace, when installed under the NEVI Formula Program. While DCFCs are more expensive to install and operate, by providing a faster experience, they allow for convenient charging solutions for those vehicles that will be travelling long distances or for multiple hours at a time in comparison to other chargers that would take longer to charge EVs. The FHWA has identified a need to address this type of EV charging in particular, whereby the charging station would typically provide a waypoint stop but not be the final destination of the EV trip and consider that with the consumers that would be using these types of EV charging stations, time is a premium concern. By servicing this waypoint need, FHWA recognizes that charging stations should be built to prioritize convenience over price in order to be effective and determines this is the best option for those EV charging stations located along Interstates. Convenience is also the goal in the proposed requirement for the number of charging ports at each charging station; § 680.106(b) would require a minimum of four charging ports capable of simultaneously charging four EVs. Because even DCFCs typically require a third of an hour to provide sufficient vehicle charge, long queues of EVs waiting to charge could develop at charging stations if there are insufficient charging ports available. In practice, most current new public charging stations include 2–8 charging ports to address the growing demand, with some industry leaders adopting an internal standard minimum of 8 charging ports per station. In an effort to balance the desire to future proof these facilities in order to handle increasing demand, while creating space to avoid unduly burdens on newer entrants to the EV charging market, FHWA proposes a minimum of four charging ports per station. The FHWA proposes that the minimum number of four ports per charging station apply to projects funded with NEVI Formula Program funds only. States can still install less than four ports DCFC charging stations and AC Level 2 charging stations under non-NEVI funded programs. The FHWA requests comments on whether a different number of DCFC ports should be required at NEVI Formula Program funded charging stations.

Section 680.106(c) proposes a requirement that DCFCs connect and communicate with EVs through an industry standard charging port type called the Combined Charging System (CCS). The CCS port is a non-proprietary, accepted standard port in North America developed and endorsed by the Society of Automotive Engineers (SAE). The CCS connectors are proposed for all DCFCs to accommodate

a baseline of vehicles and to accommodate use of adapters that will provide EV charging for all vehicles. The CCS ports represent the most common port type used across all manufacturers of new EVs today. As stated in the 16th proviso of paragraph (2) under the ''Highway Infrastructure Program'' heading in title VIII of division J of Public Law 117–58, until the Secretary certifies that a State is fully built out on their Alternative Fuel Corridors, NEVI funding is limited to use on EV charging stations along Alternative Fuel Corridors. The program guidance that FHWA released for the NEVI Formula Program,[18] explains that fully built out is inclusive of installing four DCFCs. In an effort to provide redundancy and address different needs of EV drivers, the proposed regulation includes language allowing for the installation of additional AC Level 2 chargers only after the NEVI Formula Program requirements for DCFCs have been met for projects that use NEVI Formula Program funds. Section 680.106(c) would identify the J1772 connector as the proposed connector type requirement for AC Level 2 chargers. The FHWA acknowledges that AC Level 2 chargers may be desired for redundant installation because they are less expensive to install and operate. Section 680.106(c) would further provide for additional flexibility for the provision of charging ports after the aforementioned CCS requirement has been met. This includes adding permanently attached proprietary connectors to DCFCs. In addition, specific to the use of FY22 NEVI Formula Program funds, DCFCs may include permanently attached CHAdeMO connectors for one or more DCFC charging port. The option to install these additional charging connectors is proposed as part of the regulation to allow States the flexibility to address immediate identified needs in their communities while participating in the CCS standard which would be consistent throughout the national network. The FHWA requests comment on how other charging technologies, such as overheard catenary chargers and wireless chargers, should be addressed.

Section 680.106(d) outlines proposed minimum power levels to provide a reliable DCFC experience for convenient EV charging. Requirements for minimum power level capabilities provided at each port are key to ensuring that the DCFCs are able to provide a consistent and speedy charge. Comments received through the RFI indicated that several State DOTs currently require EV charging stations to have the capability to deliver power at or above 150kW per charging port and that this is becoming the prevailing industry preference for DCFC charging. The FHWA encourages the installation of chargers with higher power levels where appropriate to support industry efforts to ensure a consumer's time to charge is at least comparable to filling a gas tank.

The inclusion of a requirement that each DCFC charging port must be at or above 150kW would benefit the charging industry primarily in communicating standards with individual utilities that may not be accustomed to EV industry preferences. Section 680.106(d) would include several such components describing power level requirements for coordination between charging station owners/operators and utility providers. This regulation would also outline minimum requirements for the participation of DCFC and AC Level 2 chargers in smart charge management programs to ensure a consistent charging experience and prioritize charging speed. This section would also outline power level requirements for any AC Level 2 ports, including a proposed requirement that all AC Level 2 chargers have the capability to deliver at least a maximum power level of 6 kW per port simultaneously across all AC ports (these charger types would only be allowed after the minimum requirement in § 680.106(b) is met). The FHWA requests comment on how longer-dwell parking locations and locations that offer battery swapping technology should be addressed.

Section 680.106(e) would require that charging stations be available for use by the public 24 hours a day, seven days a week, and on a year-round basis, with minor exceptions. The FHWA believes the near constant availability of chargers is key for providing a convenient national EV charging network especially along long-distance travel routes. Consideration should be paid to the need of users to access EVSE during times of emergency such as evacuation from natural disasters, and the risk associated with locating EVSE in base-floodplains, as required by FHWA regulations at 23 CFR 650 Subpart A. Additional consideration may be paid to whether EVSE located in floodplains will not be at risk from their locations being within the projected future base floodplains, as described by the Federal Flood Risk Management Standard in E.O. 14030, Climate-Related Financial Risk (86 FR 27967) and 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input (80 FR 6425.) Isolated or temporary interruption to service or access for maintenance and repairs would not constitute a violation of this proposed requirement. The FHWA requests specific comment on what additional considerations should be contemplated to ensure EVSE resilience/reliability in floodplains and during natural disasters.

Section 680.106(f) outlines proposed requirements for payment methods used at EV charging stations. The proposed regulation would include requirements meant to ensure the interoperability of EV charging stations across the national network by requiring payment methods to adhere to industry standards and also requiring that memberships not be required for use. The interoperability of charging stations is key to ensuring EV drivers can have a consistent payment experience across the country. The proposed regulation also outlines several requirements meant to ensure payment options are secure, equitable, and accessible, while still ensuring that the rule will accommodate future innovations in payment methods. This includes proposed requirements that payment options include contactless payment methods, that contactless payment be accepted from all major debit and credit cards, and that access and service are not restricted by membership or payment method type. The FHWA requests comments on whether there are other factors that could be considered to avoid an instance of creating an EV charging station that is limited to one type of EV consumer wanting to use it or benefiting from its use (sometimes also referred to as a walled garden). Plug and Charge payment capabilities are also required. The FHWA requests comment on the payment methods that are currently proposed including whether non-contactless payment options should be required. The FHWA is not requiring that the sole payment method be credit card, in order to be mindful of the needs of the unbanked and underbanked who may need to pay via another payment method such as the option to purchase a prepaid card to be used at the EV charging station. This section also would require that multilingual access and access for people with disabilities be provided in the creation of payment instructions. The FHWA specifically requests comments on whether the proposed payment method language adequately meets the needs of the

[18] *https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/nominations/90d_nevi_formula_program_guidance.pdf.*

unbanked and underbanked as well as strategies to address multilingual access and access for people with disabilities in the creation of EV charging payment instructions. The FHWA also requests comments on whether other payment methods should be required beyond what is currently proposed.

Section 680.106(g) outlines proposed requirements for equipment certification. All EVSE would be required to obtain certification from an Occupational Safety and Health Administration Nationally Recognized Testing Laboratory.[19] ENERGY STAR certification was considered in the development of this proposed regulation due to its established credentials in certifying energy-efficient products, thus promoting climate benefits such as low energy use and reduced emissions. For AC Level 2 EVSE ENERGY STAR certification is required. For DCFCs 50–350kW, while ENERGY STAR certification exists the product availability is limited therefore certification is not required at this time.

Section 680.106(h) would require States to implement physical and cybersecurity strategies consistent with their State EV Infrastructure Deployment Plans. This section also includes options for both physical security, such as lighting, siting, driver and vehicle safety, fire prevention, tampering, charger locks, and illegal surveillance of payment devices, and cybersecurity strategies that may be addressed in order to mitigate charging infrastructure, grid, and consumer vulnerability associated with the operation of charging stations. The FHWA encourages States to implement policies to safeguard consumer privacy and requests comments on best practices available in the industry.

Section 680.106(i) proposes to establish a requirement for States to maintain charging infrastructure in compliance with the provisions in this proposed regulation for at least 5 years. The period of 5 years was chosen to provide a reasonable useful life while providing sensitivity to the emerging nature of this type of equipment and the fast pace of technological advancements in the EV charging arena. At the conclusion of the 5 year required maintenance period, States can choose to retire the infrastructure that has reached the end of its useful life and should consider upgrading or replacing the EVSE if necessary. However, if the EVSE is still functioning to meet its intended purpose after 5 years, States should consider maintaining, or supporting the maintenance of, the EVSE to most efficiently make use of Federal resources. The FHWA requests comments on whether 5 years is a reasonable timeframe to require States to maintain EV charging infrastructure in compliance with these proposed regulations or if another timeframe should be considered.

Section 680.106(j) requires States ensure that the installation and maintenance of EVSE is performed safely by a skilled workforce that has appropriate licenses, certifications, and training. The proposed regulation would further encourage States to utilize a diverse workforce of electricians and other laborers.

The proposed regulation also requires that, with the exception of apprentices, all electricians installing, maintaining, and operating EVSE be certified through the Electric Vehicle Infrastructure Training Program (EVITP). The EVITP refers to a comprehensive training program for the installation of EV supply equipment. To be eligible for EVITP, a participant must be a State licensed or certified electrician or if the participant works in a States that does not license or certify electricians, the participant must provide documentation of a minimum of 8,000 hours of hands-on electrical construction experience. The EVITP was created by a collaboration of industry stakeholders from the private sector and educational institutions. For more information, refer to *https://evitp.org/*. The FHWA requests comments on whether there should be an alternative to the proposed requirement of certification through the EVITP, such as a U.S. DOL—recognized Registered Apprenticeship EVSE training program.

The FHWA is aware of both support and concerns from some portions of the EV charging industry regarding the EVITP. One concern with the EVITP (as submitted through the RFI comments) is that making it the sole provider of licensing EV technicians would serve to privatize the licensing process or impose a significant hurdle to obtaining qualified electricians to install, operate, or maintain EVSE. The FHWA has addressed this concern by providing an option that States can meet the requirement through another Registered Electrical Apprenticeship program that includes EVSE-specific training. Section 680.106(j) also requires that, for projects where more than one electrician is needed, at least one electrician be an apprentice in a registered electrical apprenticeship program. Section 680.106(j) further requires that all other, non-electrical laborers directly working on EVSE have appropriate licenses, training and certification in support of providing a safe and quality charging station. The FHWA specifically requests comments on how best to utilize the registered apprenticeship system to ensure qualified electricians, whether EVSE-specific training should be required, whether EVITP and its associated costs will impose a significant hurdle to obtaining qualified electricians to install, operate, and maintain EVSE, and what other equivalent EVSE training programs like EVITP should be considered as meeting the requirement.

As stated in the NEVI Formula Program Guidance, FHWA recommends that States take proactive steps to work with training providers, workforce boards, labor unions and other worker organizations, community-based organizations, and non-profits to build a local workforce that will support the EV network. This includes encouraging the expansion of registered apprenticeship programs and apprenticeship readiness or pre-apprenticeship programs that prepare workers for registered apprenticeship. States are encouraged to support training pathways that are inclusive of women, Black, Latino, Asian American Pacific, Indigenous, and other underrepresented groups. There are several sources of funding that can be used to provide financial assistance to such programs, additional information can be found at *https://www.fhwa.dot.gov/environment/alternative_fuel_corridors/resources/ev_funding_report_2021.pdf*. Consistent with Justice40,[20] States should also consider how disadvantaged communities will benefit from this added job growth. The FHWA requests comments regarding the availability of the workforce to meet these proposed requirements.

Section 680.106(k) outlines proposed requirements that EVSE allow for customers to report outages, malfunctions, and other issues with charging infrastructure. This section also would specify that States make these reporting mechanisms accessible and equitable by complying with the American Disabilities Act of 1990 requirements and multilingual access. The proposed regulation would provide States with flexibility to address customer service needs while recognizing the important and varied role customer service requirements

[19] OSHA's Nationally Recognized Testing Laboratory (NRTL) Program—Current List of NRTLs | Occupational Safety and Health Administration.

[20] Section 219 of Executive Order 14008, Tackling the Climate Crisis at Home and Abroad and OMB, ''Interim Implementation Guidance for the Justice40 Initiative,'' M–21–28 (July 20, 2021) available at *https://www.whitehouse.gov/wp-content/uploads/2021/07/M-21-28.pdf*.

could serve. In an effort to identify real-time incidents, FHWA requests comments on customer service strategies to enter any issues as part of the real-time status data that would be outlined in § 680.116(c). The FHWA would also encourage States to provide emergency response information on-site at charging stations. The FHWA also specifically requests comments on customer service strategies to connect charging stations to or provide access for traffic incident management solutions such as the provision of an emergency call box.

Section 680.106(l) proposes requirements to protect customer data privacy. The proposed regulation would require that only the information strictly necessary to provide service to the customer be collected, processed, and retained. The FHWA encourages States to implement policies to safeguard consumer privacy and requests comments on best practices available in the industry.

Section 680.106(m) proposes to explain the purposes for which State DOTs and third parties can use NEVI program income. The requirement of what the net income from the sale, use, lease, or lease renewal of real property acquired can be used for is consistent with 23 U.S.C. 156. The explanation of use for the program income or revenue earned from the operation of an EV charging station mimics the limitations on use of revenues for toll roads, bridges, tunnels, and ferries found in 23 U.S.C. 129.

Section 680.108 Interoperability of Electric Vehicle Charging Infrastructure

Proposed § 680.108 outlines minimum interoperability standards for charger communication with EVs. This section outlines and would promote industry standards for charging infrastructure consistent with standards outlined in ISO 15118, incorporated by reference in § 680.120. ISO 15118 is an international standard for EV-to-charger communication. ISO 15118 allows for several innovative techniques that are not yet widely adopted in the domestic EV charging marketplace, but that are of significant interest in the industry for future adoption such as Plug and Charge and smart charge management. As stated in the definitions section, Plug and Charge is a method of initiating charging and payment for charging upon plugging an EV into a charger. Smart charge management is another innovative technique that can provide tremendous benefits to include load management and grid resilience.

In order to address both the desire to position EV charging infrastructure for long-term success and the potential for hesitation from certain parts of the industry to invest in newer technological capabilities provided for through compliance with ISO 15118, proposed regulations would require chargers to conform with ISO 15118 to reciprocate communications with CCS-compliant EVs that have implemented ISO 15118.

Because EV technology is relatively new and evolving across the global market landscape, the regulatory environment for EV chargers is nascent and technological advances are occurring on an international, rather than a national scale. Therefore, one of the most trusted industry and market standards for charger to EV communication is an international group of standards, ISO 15118, developed by the International Electrotechnical Commission and the International Organization for Standardization. The ISO 15118 is recognized as the standard for charger to EV communication and is already used by the many major EV and charger manufacturers with products in the United States. While it is expected that EV communication standards and protocols will be updated on an iterative basis, FHWA understands that ISO 15118 provides an important industry baseline and future versions/iterations of this standard are expected to be implemented as additional software updates are developed to accommodate future vehicles implementing future versions of the international standard. The FHWA acknowledges that there is not a history of unanimous support for ISO 15118; however, FHWA views the prevailing trend of the domestic EV market's reference for ISO 15118 as evidence that it provides an appropriate standard to reference in the proposed rule.[21] The FHWA requests comment on the proposed reference to ISO 15118 and requests information about any other known standards that could be referenced in place of ISO 15118 while maintaining a seamless, uniform, and consistent experience across the national network. The FHWA also requests comment on whether a performance standard (*i.e.,* a standard that requires outcomes rather than specifying a specific means to an end) would be more appropriate and, if so, what such a performance standard might look like.

Section 680.110 Traffic Control Devices or On-Premises Signs Acquired, Installed or Operated

This section proposes that minimum standards and requirements regarding traffic control devices and on-premise signage would be set by existing applicable regulations in 23 CFR part 655 and 23 CFR part 750 for NEVI Formula Program projects and projects for the construction of publicly accessible EV charging infrastructure funded under title 23, United States Code. These established regulations cover the traffic signs, signals, and pavement markings as well as directional and official signs adjacent to Interstates and the Federal-aid primary system (respectively). The FHWA is in the process of updating the Manual on Uniform Traffic Control Devices (MUTCD), which is governed by 23 CFR part 655, through a parallel rulemaking.[22] While the MUTCD is being updated, it currently does allow for and outlines requirements for EV charging signs.

Section 680.112 Data Submittal

This section would outline the minimum data submittal requirements particular only to NEVI Formula Program projects. Section 680.112 would not apply to other EV charging projects funded through title 23, United States Code. The proposed data submittal requirements in § 680.112 include quarterly data submittal requirements (§ 680.112(b)), annual data submittal requirements (§ 680.112(c)), and a requirement to create an annual community engagement outcomes report (§ 680.112(d)). Throughout this section, FHWA proposes that States ensure data are properly collected, maintained, and submitted in a prescribed format. The FHWA is proposing that the data collected through § 680.112 will be coordinated and maintained by the Joint Office. The FHWA will work with the Joint Office on ways to provide State DOTs with resources to facilitate the data collection and submission, which could include an online data portal, instructions for data formatting, standard reporting templates and automating data collection from charging network providers. The data management role of the Joint Office is consistent with the 26th proviso of paragraph (2) under the ''Highway Infrastructure Program'' heading in title VIII of division J of

[21] List of automaker members of CharIN, the industry consortium implementing ISO 15118 as the basis for a variety of charging technologies, including DC and AC conductive charging: Community—CharIN, List of CharIN members testing their implementations of CCS, including parts of ISO 15118, as of November 2021: *charin_testival_na_2021_press-release.pdf*.

[22] *https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=202110&RIN=2125-AF85*.

Public Law 117–585858, which states that one of the responsibilities of the Joint Office is ''data sharing of installation, maintenance, and utilization in order to continue to inform the network build out of zero emission vehicle charging and refueling infrastructure.''

Section 680.112(b) proposes that charging station use, reliability, and maintenance data be collected quarterly. These proposed quarterly data submittals would include data describing basic operations and usage of each charging station such as data that identify charging station locations, charging session metrics, and how much energy has been dispensed per port. Section 680.112(b) also outlines the proposed collection of maintenance and reliability data, such as charging station uptime, the total monthly cost of electricity that the charging station operator must pay to operate on a charging station each month (including demand charges, energy charges [$/kWh], fixed charges, taxes, and all other fees), and the monthly maintenance and repair costs per charging station. Where monthly data is utilized, this data would be required per month for each of the previous three months, provided every quarter.

The FHWA also proposes to require the collection and submittal of charging station construction and charger installation data on a quarterly basis. The proposed regulation would require the submittal of detailed costs, such as the EVSE acquisition and installation costs, details about distributed energy resource acquisition and installation, and grid connection and upgrade costs paid by the charging station operator. Grid connection and upgrade data submittals would only be required specific to the costs on the utility side of the electric meter. Where distributed energy resources are involved, additional data is proposed for submittal regarding distributed energy resource capacity per charging station. The type of data proposed for collection through § 680.112(b) is consistent with the description in BIL of the data the Joint Office is responsible for coordinating.

Through § 680.112(c), FHWA proposes to require the collection of three datasets on an annual basis. Proposed data requirements include identifying information for the organizations that operate, maintain and install the EVSE and whether these organizations participate in State or local business opportunity certification programs such as programs for minority-owned businesses, Veteran-owned businesses, woman-owned businesses, and/or businesses owned by economically disadvantaged individuals for private entities. These datasets are generally more static and require less frequent updates than the proposed data required through § 680.112(b).

Finally, § 680.112(d) would require the creation of a community engagement outcomes report to document, on an annual basis, the community engagement activities conducted in compliance with a State's approved State EV Infrastructure Deployment Plan (these Plans are described in the NEVI Formula Program Guidance, released February 10, 2022). This annual report would document adherence to the community engagement methodology described in approved Plans and would allow States to analyze feedback from the public regarding both successes and opportunities for improvement in NEVI Formula Program implementation. The community engagement plan would allow States to assess ways to improve future NEVI Formula Program projects, thus adapting and protecting future Federal investments.

The proposed regulation would serve an important coordination role by standardizing submissions of large amounts of data from the types of charging stations funded by the NEVI Formula Program across the United States. The proposed regulation would provide the Joint Office with the data needed to create the public EV charging database outlined in BIL. If the data proposed in § 680.112 were not submitted as requested, FHWA and States would be unable to meet intended Program implementation objectives outlined in BIL, such as the sharing of installation, maintenance, and utilization data in order to continue to inform the network build out of zero emission vehicle charging and refueling infrastructure.

The PRIA identifies benefits and costs associated with requirements proposed through § 680.112. While the data submittals will play a key role in assisting FHWA and the Joint Office in both communicating information to consumers and monitoring the effectiveness of the NEVI Formula Program, FHWA recognizes that data collection, maintenance, and submittal can incur large costs for States. The FHWA has included an estimate of burden hours for this data collection under the Paperwork Reduction Act of 1995 section below and is requesting comment on the number of burden hours associated with this collection. The FHWA requests comment on the frequency of data collection and whether the quarterly and annual timeframes are appropriate.

Section 680.114 Charging Network Connectivity of Electric Vehicle Charging Infrastructure

The FHWA proposes to set minimum standards for the charging network connectivity of EV charging infrastructure to include charging network communication, charging network-to-charging network communication, and charging network-to-grid communication.

Section 680.114(a) outlines several minimum standards for charger-to-charging network communication. These proposed standards reference the Open Charge Point Protocol (OCPP), which is an industry standard that is designed to work in tandem with ISO 15118 to enable smart charge management and Plug and Charge communications protocols. The Open Charge Alliance upholds OCPP specifically to address interoperable communication standards between chargers charging networks. As stated in the discussion regarding § 680.108, FHWA recognizes that smart charge management and Plug and Charge are newer technological capabilities not yet widely adopted in the industry and, as such, proposed regulations would require the capability to support these methods through compliance with OCPP, rather than requiring these methods outright. The FHWA recognizes that OCPP is a widely used industry standard for EV charger communication but solicits comments regarding the reference to OCPP and requests information on any alternative standards, including whether a performance standard would be more appropriate and, if so, what such a performance standard might look like.

Several of these minimum standards also help address cybersecurity threats for assets monitored and maintained from remote locations. Covered in this section are requirements that chargers use a secure communication method; that they can receive secure remote software monitoring, management, and updates; and that they can conduct secure real-time authentication and authorization. The standardization of communications protocols proposed through requirements in § 680.114(a) not only facilitate ease of secure remote charger station monitoring and management consistent with existing market standards, but also help mitigate against the installation of stranded assets whereby a charger installed by one company can easily be operated by another should the first voluntarily or involuntarily abandon operations of those chargers at that location. The FHWA retains a keen interest in

protecting Federal investments; therefore, by helping to avoid stranding assets, the proposed regulation helps to ensure that EVSE is usable by the public throughout the timeframe of the equipment's' useful lives.

Other charger-to-charging network minimum standards proposed under § 680.114(a) concern data collection to include a proposed requirement that chargers and charging networks securely measure, communicate, store and report real-time data to support the data submittal requirements outlined in §§ 680.112 and 680.116.

The FHWA proposes to include a requirement in § 680.114(b) that, where credential-based electric charge initiation or payment is implemented, charging networks be capable of communicating with other charging networks to enable customers to use a single credential regardless of the charging network responsible for a charging station.

Finally, § 680.114(c) proposes to require that charging networks be capable of secure communication with electric utilities, other energy providers, or local energy management systems. This proposed requirement addresses cybersecurity threats to the electric grid while facilitating a collaborative market environment across private industry and utilities to enable ease of charging. The FHWA requests information about highly regarded EV charging cybersecurity and security resources in order to identify further potential specific associated protocols and standards to include in the final rule.

Section 680.116 Information on Publicly Available Electric Vehicle Charging Infrastructure Locations, Pricing, Real-Time Availability, and Accessibility Through Mapping Applications

The FHWA proposes to establish minimum standards and requirements for chargers to communicate their status with consumers and third-party mapping applications. Section 680.116(a) proposes several requirements regarding the communication, display, and structure of the pricing for electrical charging. Chargers would be required to display and base the price of electrical charge in $/kWh. The FHWA is aware that several States restrict the ability to display charge in $/kWh; therefore, FHWA requests comments on how to best require the display and base the price of electrical charge in those States, seeking specific comment on whether $/minute, $/mile, or some other display and base should be considered. Additional pricing requirements would outline how chargers communicate real-time pricing to include proposed requirements regarding the display of pricing and access to information about price structure, including whether providers impose dwell-time fees or additional fees in addition to the price for electricity. The FHWA specifically requests comments on whether additional fees should be allowed or encouraged. These proposed minimum requirements are meant to ensure that consumers can have standard expectations for understanding pricing across the entire national EV charging network. The FHWA also requests comments on whether there are factors that could be considered to avoid an instance of charging the consumer too high a price for electric vehicle charging, especially when demands are high and supplies are limited (sometimes also referred to as price gouging).

Section 680.116(b) also proposes a minimum annual uptime requirement of greater than 97 percent for the charging ports. Comments from the RFI indicated that a minimum uptime requirement is highly desired both from a government and a consumer perspective. Comments also indicated that minimum uptime requirements currently in place for existing EV chargers can range from not specifying a number to requiring 95–99 percent uptime. The FHWA proposes an uptime requirement of at least 97 percent in an effort to provide a reliable national network for EV charging. The FHWA proposes to require that uptime be available as a dataset submitted quarterly (see § 680.112(b)(2)(iii)) and retained for historical review (see § 680.114(a)(4)).

Uptime is calculated for the time when a charger's hardware and software are both online and available for use, or in use, and the charging port successfully dispenses electricity as expected. For the purposes of the required minimum uptime calculation, FHWA proposes that charging port uptime must be calculated on a quarterly basis for the previous 12 months. Charging port uptime percentage would be calculated using the equation $\mu = ((8760 - (T\_outage - T\_excluded))/8760) \times 100$ where μ = port uptime percentage, T_outage = total hours of outage in previous year, and where T_excluded = total hours of outage in previous year for reasons outside the charging station operator's control, such as electric utility service interruptions, internet or cellular service provider interruptions, and outages caused by the vehicles, provided that the Charging Station Operator can demonstrate that the charging port would otherwise be operational.

Third-party mapping applications play an important role for consumers by communicating real-time and geolocated information. Recognizing this important role, FHWA proposes in § 680.116(c) that States ensure several data are made available, free of charge, to third party software developers, via application programming interface.

Many of the data proposed for collection through § 680.116(c) are currently being coordinated through the Alternative Fuel Data Center (AFDC).[23] The AFDC collects data through robust data mining and submission requests from a diversity of sources to include trade media, Clean Cities coordinators, the AFDC website, charging station owners, original equipment manufacturers (OEMs), and industry groups. By proposing to require these data, the proposed regulation would provide an ancillary benefit to another federally funded program by streamlining the data collection burden on the AFDC and thus enabling the AFDC services to be more immediately responsive to real-time updates to provide more accurate information to the public.

Included in this list of data are several static data entries (*i.e.,* data entries that will rarely change), such as basic charger station descriptive information. This includes a requirement to identify the number of charging ports accessible to persons with disabilities at each charging station. The accessibility of charging ports is of particular interest to the FHWA in identifying compliance with the American Disabilities Act of 1990 (ADA) and promoting equitable access to EV charging. The results of this data field will also help communicate the availability of chargers for those with disabilities through real-time internet searches.

The FHWA also proposes to require the availability to third party software developers of two real-time datasets updated at a frequency that meets reasonable expectations. The two real-time datasets proposed to be required by § 680.116(c) include real-time status of each charging port and real-time price to charge. The proposed real-time dataset requirements reference the Open Charge Point Interface (OPCI) 2.2, which defines the standardized content and format of data needed to communicate status and price. The FHWA acknowledges that there are other references that chargers could use to communicate status and price to charge,

[23] Alternative Fuels Data Center: Alternative Fueling Station Locator (*energy.gov*).

but OPCI 2.2 is widely used within the EV charging industry. The FHWA anticipates that consumers will need these real-time data to make decisions as to where and when to charge along the national EV charging network. The FHWA solicits comments regarding the reference to OCPI and requests information on any alternative standards, including whether a performance standard would be more appropriate and, if so, what such a performance standard would look like.

Section 680.118 Other Federal Requirements

This section would direct NEVI Formula Program projects and projects for the construction of publicly accessible EV charging infrastructure funded under title 23, United States Code to existing applicable requirements under chapter 1 of title 23, United States Code, 2 CFR part 200, and 23 CFR parts 35 and 36.

Section 680.120 Reference Manuals

The FHWA recognizes the value to the EV charging community of several cited resources to include ISO 15118, Open Charge Point Protocol (OCPP), and Open Charge Point Interface 2.2. The FHWA proposes that § 680.120 would incorporate ISO 15118, Open Charge Point Protocol (OCPP), and Open Charge Point Interface 2.2 by reference.

Discussion Under 1 CFR Part 51

The documents that FHWA is proposing to incorporate by reference are reasonably available to interested parties, primarily State DOTs and local agencies carrying out Federal-aid highway projects. These documents represent recent refinements that professional organizations have formally accepted. The documents are also available for review at FHWA Headquarters or may be obtained online. The specific standards and specifications are summarized below.

Open Charge Point Interface (OCPI) 2.2.1

This protocol defines communication between charging network providers, charging station operators, and other entities to improve the EV charging customer experience. The OCPI's primary purpose is to allow roaming, so EV charging customers can use a single credential at charging stations operated by different charging station operators and/or charging network providers. This requires the automated exchange of information, such as identity authentication, charging session authorization, and charging session billing, between charging network providers and charging station operators. The OCPI also defines data content and format to allow these entities to share information about charging stations, such as price, location, and real-time status.

The OCPI is an open protocol with no cost or licensing requirements. The document describing the protocol is made accessible to the general public through the website of its sponsoring organization, EVRoaming Foundation. Changes in version 2.2.1 include addition of data fields such as country code, efficiency improvements, and addition of error messages.

The material may be obtained from the EVRoaming Foundation at *https://www.evroaming.org.*

International Organization for Standardization (ISO) 15118

Officially titled Electric Road Vehicles: *Road Vehicles—Vehicle to Grid Communication Interface,* this standard defines the communication between an EV and a charger to allow EV charging through the CCS connector interface or other means of coupling an EV with a charger. The standard consists of six published and active parts, named as follows: ISO 15118–1: General information and use-case definition; ISO 15118–2: Network and application protocol requirements; ISO 15118–3: Physical and data link layer requirements; ISO 15118–4: Network and application protocol conformance test; ISO 15118–5: Physical and data link layer conformance test; and ISO 15118–8: Physical layer and data link layer requirements for wireless communication. Each part is updated and published independently, following change management processes defined by ISO.

Use cases defined in the standard include automated charging customer identification and authorization via Plug and Charge,[24] manual charging customer identification and authorization via RFID card or other method, AC and DC wired charging, and smart charge management. The ISO 15118–1 was updated in 2019 to include use cases for wireless charging, bidirectional power transfer allowing the EV to provide energy to the grid, and electric bus charging via overhead charging devices called pantographs. Charger and EV manufacturers and other industry stakeholders collaborate on the development of the standard but implement the standard independently.

The material may be obtained from the International Organization for Standardization at *https://www.iso.org/contact-iso.html.*

Open Charge Point Protocol (OCPP) 2.0.1

This protocol provides a method of communication between any type of charger and a charging network to allow remote monitoring and management of one or many chargers. The OCPP is an open protocol with no cost or licensing requirements. Instruction documents and software code for implementing the protocol are made accessible to the general public through the website of its sponsoring organization, Open Charge Alliance. Chargers that conform to OCPP can communicate with any OCPP-compliant charging network. This allows the charging station operators that own the chargers to choose between multiple charging network providers.

The OCPP 2.0.1 was released in March 2020. It made improvements over version 2.0 in the areas of security, compatibility with ISO 15118 related to Plug and Charge, smart charge management, and the extensibility of OCPP. Version 2.0.1 also enhanced capabilities related to charger monitoring, transaction handling, and display of information such as pricing to customers.

The material can be obtained from Open Charge Alliance at *https://www.openchargealliance.org.*

Society of Automotive Engineers (SAE) J1772

This standard, officially titled *SAE Surface Vehicle Recommended Practice J1772, SAE Electric Vehicle* and Plug in Hybrid Electric Vehicle *Conductive Charge Coupler,* defines the charging connector interface between an EV and a charger. It specifies the physical, electrical, and communication requirements of the connector and mating vehicle inlet for both AC Level 2 and DC fast charging. The October 2017 version of the standard refined language, corrected errors found in the previous version, and updated information to reflect the addition of higher-power-capacity DC charging. The standard can be purchased from the sponsoring organization, SAE International at *https://www.sae.org.*

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563 (Improving Regulation and Regulatory Review), and DOT Regulatory Policies and Procedures

The Office of Management and Budget (OMB) has determined that the proposed rule would be a significant

[24] The basics of Plug & Charge | Switch (*switch-ev.com*).

regulatory action within the meaning of E.O. 12866.

The preliminary regulatory impact analysis (PRIA) supports this proposed regulation and estimates the costs and benefits associated with establishing minimum standards and requirements. All of the topics for the minimum standards and requirements are required by BIL. To estimate these costs, the PRIA compared the costs and benefits of proposed provisions to the costs and benefits of the options States would likely choose for their own EVSE programs in the absence of the rule. In many cases, the analysis found that States would likely choose the same requirements that are found in the proposed rule. While many of the costs and benefits in the proposed rule are difficult to quantify, FHWA believes that the benefits justify the costs. The full regulatory impact analysis is available in the docket.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), FHWA has evaluated the effects of this proposed rule on small entities and has determined that it is not anticipated to have a significant economic impact on a substantial number of small entities. The proposed rule would impact directly State governments, which are not included in the definition of small entity set forth in 5 U.S.C. 601. Small entities that may be impacted indirectly by a rulemaking are not subject to analysis under the Regulatory Flexibility Act, see *Mid-Tex Electric Cooperative, Inc.* v. *Federal Energy Regulatory Commission,* 773 F.2d 327 (D.C. Cir 1985). Therefore, FHWA certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule would not result in the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector, of $168 million or more in any one year (2 U.S.C. 1532). In addition, the definition of ''Federal Mandate'' in the Unfunded Mandates Reform Act excludes financial assistance of the type in which State, local, or Tribal governments have authority to adjust their participation in the program in accordance with changes made in the program by the Federal Government. The Federal-aid highway program permits this type of flexibility.

Executive Order 13132 (Federalism Assessment)

This proposed rule has been analyzed in accordance with the principles and criteria contained in E.O. 13132, and FHWA has determined that this proposed rule would not have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA also has determined that this proposed rule would not preempt any State law or State regulation or affect the States' ability to discharge traditional State governmental functions.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal contains collection of information requirements for the purposes of the PRA. This proposed rule identifies minimum standards and requirements for the implementation of NEVI Formula Program projects and projects for the construction of publicly accessible EV chargers that are funded with funds made available under title 23, United States Code. The collection of quarterly, annual, and real-time data in support of 23 CFR 680.112(b), 23 CFR 680.112(c), 23 CFR 680.112(d), and 23 CFR 680.116(c) is covered by OMB Control No. 2125–XXXX.

The FHWA has analyzed this proposed rule under the PRA and has determined the following:

Respondents: 52 State DOTs.

Frequency: Quarterly reporting (23 CFR 680.112(b)). Annual reporting (23 CFR 680.112(c) and 23 CFR 680.112(d)). Real-time reporting (23 CFR 680.116(c)).

Estimated Average Burden per Response: Approximately 58 hours annually to complete, maintain, and submit requested data.

Estimated Total Annual Burden Hours: Approximately 3,016 hours annually.

FHWA invites interested persons to submit comments on any aspect of the information collection in this NPRM.

National Environmental Policy Act

The FHWA has analyzed this proposed rule pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) and has determined that it is categorically excluded under 23 CFR 771.117(c)(20), which applies to the promulgation of rules, regulations, and directives. Categorically excluded actions meet the criteria for categorical exclusions under the Council on Environmental Quality regulations and under 23 CFR 771.117(a) and normally do not require any further NEPA approvals by FHWA. This proposed rule would establish a regulation on minimum standards and requirements for the NEVI Formula Program as directed by BIL to provide funding to States to strategically deploy EV charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability. The FHWA does not anticipate any adverse environmental impacts from this proposed rule; no unusual circumstances are present under 23 CFR 771.117(b).

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this proposed rule in accordance with the principles and criteria contained in E.O. 13175, ''Consultation and Coordination with Indian Tribal Governments.'' The proposed rule would establish a regulation on minimum standards and requirements for the NEVI Formula Program to provide funding to States to strategically deploy EV charging infrastructure and to establish an interconnected network to facilitate data collection, access, and reliability. This measure applies to States that receive title 23 Federal-aid highway funds, and it would not have substantial direct effects on one or more Indian Tribes, would not impose substantial direct compliance costs on Indian Tribal governments, and would not preempt Tribal laws. Accordingly, the funding and consultation requirements of E.O. 13175 do not apply and a Tribal summary impact statement is not required.

Executive Order 12898 (Environmental Justice)

E.O. 12898 requires that each Federal agency make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. The FHWA has determined that this proposed rule does not raise any environmental justice issues.

Regulation Identifier Number

A RIN is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes

the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 680

Grant programs—transportation, Highways and roads, Incorporation by reference, Reporting and recordkeeping requirements, Transportation.

Issued under authority delegated in 49 CFR 1.81 and 1.85.

Stephanie Pollack,

Deputy Administrator, Federal Highway Administration.

■ In consideration of the foregoing, FHWA proposes to amend Title 23, Code of Federal Regulations by adding part 680, to read as follows:

PART 680—NATIONAL ELECTRIC VEHICLE INFRASTRUCTURE FORMULA PROGRAM

Sec.

Authority: Public Law 117–58, title VIII of division J; 23 U.S.C. 109, 23 U.S.C. 315.

§ 680.100 Purpose.

The purpose of these regulations is to prescribe minimum standards and requirements for projects funded under the National Electric Vehicle Infrastructure (NEVI) Formula Program and projects for the construction of publicly accessible electric vehicle (EV) chargers that are funded with funds made available under title 23, United States Code.

§ 680.102 Applicability.

Except where noted, these regulations apply to all NEVI Formula Program projects as well as projects for the construction of publicly accessible EV chargers that are funded with funds made available under title 23, United States Code.

§ 680.104 Definitions.

AC Level 2 means a charger that uses a 240-volt alternating-current (AC) electrical circuit to deliver electricity to the EV.

Alternative Fuel Corridor (AFC) means national EV charging and hydrogen, propane, and natural gas fueling corridors designated by FHWA pursuant to 23 U.S.C. 151.

CHAdeMO means a type of protocol for a charging connector interface between an EV and a charger (see *www.chademo.com*). It specifies the physical, electrical, and communication requirements of the connector and mating vehicle inlet for direct-current (DC) fast charging. It is an abbreviation of ''charge de move'', equivalent to ''charge for moving.''

Charger means a device with one or more charging ports and connectors for charging EVs.

Charging network means a collection of chargers located on one or more property(ies) that are connected via digital communications to manage the facilitation of payment, the facilitation of electrical charging, and any related data requests.

Charging Network Provider means the entity that operates the digital communication network that remotely manages the chargers. Charging Network Providers may also serve as Charging Station Operators and/or manufacture chargers.

Charging port means the system within a charger that charges one (1) EV. A charging port may have multiple connectors, but it can only provide power to charge one EV through one connector at a time.

Charging station means the area in the immediate vicinity of a group of chargers and includes the chargers, supporting equipment, parking areas adjacent to the chargers, and lanes for vehicle ingress and egress. A charging station could comprise only part of the property on which it is located.

Charging Station Operator means the entity that operates and maintains the chargers and supporting equipment and facilities at one or more charging stations. This is sometimes called a Charge Point Operator (CPO). In some cases, the Charging Station Operator and the Charging Network Provider are the same entity.

Combined Charging System (CCS) means a standard connector interface that allows direct current fast chargers to connect to, communicate with, and charge EVs.

Community means either a group of individuals living in geographic proximity to one another, or a geographically dispersed set of individuals (such as individuals with disabilities, migrant workers or Native Americans), where either type of group experiences common conditions.

Connector means the device that attaches EVs to charging ports in order to transfer electricity.

Contactless payment methods means a secure method for consumers to purchase services using a debit, credit, smartcard, or another payment device by using radio frequency identification (RFID) technology and near-field communication (NFC).

Direct Current Fast Charger (DCFC) means a charger that uses a 3-phase, 480-volt alternating-current (AC) electrical circuit to enable rapid charging through delivering a direct-current (DC) electricity to the EV.

Disadvantaged communities (DACs) mean census tracts or communities with common conditions identified by the U.S. Department of Transportation and the U.S. Department of Energy that consider appropriate data, indices, and screening tools to determine whether a specific community is disadvantaged based on a combination of variables that may include, but are not limited to, the following: low income, high and/or persistent poverty; high unemployment and underemployment; racial and ethnic residential segregation, particularly where the segregation stems from discrimination by government entities; linguistic isolation; high housing cost burden and substandard housing; distressed neighborhoods; high transportation cost burden and/or low transportation access; disproportionate environmental stressor burden and high cumulative impacts; limited water and sanitation access and affordability; disproportionate impacts from climate change; high energy cost burden and low energy access; jobs lost through the energy transition; and limited access to healthcare.

Distributed energy resource means small, modular, energy generation and storage technologies that provide electric capacity or energy where it is needed.

Electric vehicle (EV) means an automotive vehicle that is either partially or fully powered on electric power.

Electric Vehicle Infrastructure Training Program (EVITP) refers to a comprehensive training program for the installation of electric vehicle supply equipment. For more information, refer to *https://evitp.org/.*

Electric vehicle supply equipment (EVSE) See definition of a charger.

Open charge point protocol means an open-source communication protocol that governs the communication

between chargers and the charging networks that remotely manage the chargers.

Open charge point interface means an open-source communication protocol that governs the communication between multiple charging networks, other communication networks, and software applications to provide information and services for EV drivers.

Plug and charge means a method of initiating charging, whereby an EV charging customer plugs a connector into their vehicle and their identity is authenticated, a charging session initiates, and a payment is transacted automatically, without any other customer actions required at the point of use.

Private entity means a corporation, partnership, company, other nongovernmental entity, or nonprofit organization.

Secure payment method means a type of payment processing that ensures a user's financial and personal information is protected from fraud and unauthorized access.

Smart charge management means controlling the amount of power dispensed by chargers to EVs to meet customers' charging needs while also responding to external power demand signals to provide load management or resilience benefits to the electric grid.

State EV Infrastructure Deployment Plan means the plan submitted to the FHWA by the State describing how it intends to use its apportioned NEVI Formula Program funds.

§ 680.106 Installation, operation, and maintenance by qualified technicians of electric vehicle charging infrastructure.

(a) Procurement Process Transparency for the Operation of EV Charging Stations.

(1) *Applicability.* This section applies only to NEVI Formula Program projects for the operation of EV charging stations where price setting involves a third party.

(2) *Transparency.* Agencies shall ensure public transparency for how the price will be determined and set for EV charging and make available for public review the following:

(i) Summary of the procurement process used;

(ii) Number of bids received;

(iii) Identification of the awardee;

(iv) Proposed contract to be executed with the awardee;

(v) Financial summary of contract payments suitable for public disclosure including price and cost data, in accordance with State law; and

(vi) Any information describing how prices for EV charging are to be set under the proposed contract, in accordance with State law.

(b) *Number of chargers.*—(1) *Applicability.* This section applies only to NEVI Formula Program projects.

(2) *Number.* Charging stations must have at least four charging network-connected Direct Current Fast Charger (DCFC) ports and be capable of simultaneously charging at least four EVs.

(c) *Connector type.* All non-proprietary charging connectors must meet applicable industry standards. Each DCFC charging port must have a permanently attached Combined Charging System (CCS) Type 1 connector and must charge any CCS-compliant vehicle. For NEVI projects using FY22 funds, one or more DCFC charging port(s) may also have a permanently attached CHAdeMO connector (see *www.chademo.com*). Each AC Level 2 charging port must have a permanently attached J1772 (incorporated by reference, see § 680.120) connector and must charge any J1772-compliant vehicle. One or more DCFC charging port(s) may also have a permanently attached proprietary connector.

(d) *Power level.* (1) Maximum power per DCFC charging port must be at or above 150 kilowatt (kW). Each charging station must be capable of providing at least 150 kW per charging port simultaneously across all charging ports. DCFC must supply power according to an EV's power delivery request up to 150 kW. DCFC may participate in smart charge management programs so long as each charging port continues to meet an Electric Vehicle's request for power up to 150 kW.

(2) Maximum power per AC Level 2 charging port must be at or above 6 kW and the charging station must be capable of providing at least 6 kW per port simultaneously across all AC ports. AC Level 2 chargers may participate in smart charge management programs so long as each charging port continues to meet an Electric Vehicle's demand for power up to 6 kW.

(e) *Availability.* Charging stations must be available for use and sited at locations physically accessible to the public 24 hours per day, seven days per week, year-round. This section does not prohibit isolated or temporary interruptions in service or access due to maintenance or repairs.

(f) *Payment methods.* (1) Charging stations must provide for secure payment methods, accessible to persons with disabilities, which at a minimum shall include a contactless payment method that accepts major debit and credit cards, and Plug and Charge payment capabilities using the ISO 15118 standard (incorporated by reference, see § 680.120);

(2) Charging station operators must not require a membership for use;

(3) Charging stations must not delay, limit, or curtail power flow to vehicles on the basis of payment method or membership; and

(4) Charging station payment instructions must provide multilingual access and accessibility for people with disabilities.

(g) *Equipment certification.* States must ensure that all EVSE are certified by an Occupational Safety and Health Administration Nationally Recognized Testing Laboratory and that all AC Level 2 EVSE are ENERGY STAR certified.

(h) *Security.* States must implement physical and cybersecurity strategies consistent with their respective State EV Infrastructure Deployment Plans to mitigate charging infrastructure, grid, and consumer vulnerability associated with the operation of charging stations.

(1) Physical security strategies may address lighting, siting, driver and vehicle safety, fire prevention, tampering, charger locks, and illegal surveillance of payment devices.

(2) Cybersecurity strategies may address user identity and access management, selection of appropriate encryption systems, intrusion and malware detection, event logging and reporting, management of software updates, and secure operation during communication outages.

(i) *Long-term stewardship.* States must ensure that EVSE is maintained in compliance with NEVI standards for a period of not less than 5 years from the date of installation.

(j) *Qualified technician.* States shall ensure that the workforce installing, maintaining, and operating EVSE has appropriate licenses, certifications and training to ensure that the installation and maintenance of EVSE is performed safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers. Further:

(1) Except as provided in paragraph (j)(2) of this section, all electricians installing, operating, or maintaining ESVE must meet one of the following requirements:

(2) Certification from the Electric Vehicle Infrastructure Training Program (EVITP).

(3) Graduation from a Registered Apprenticeship Program for electricians that includes EVSE-specific training and is developed as a part of a national guideline standard approved by the Department of Labor in consultation with the Department of Transportation.

(4) For projects requiring more than one electrician, at least one electrician must meet the requirements above, and at least one electrician must be enrolled in an electrical registered apprenticeship program.

(5) All other onsite, non-electrical workers directly involved in the installation, operation, and maintenance of EVSE must have graduated from a registered apprenticeship program or have appropriate licenses, certifications, and training as required by the State.

(k) *Customer service.* States must ensure that EV charging customers have mechanisms to report outages, malfunctions, and other issues with charging infrastructure. States must comply with the American with Disabilities Act of 1990 requirements and multilingual access when creating reporting mechanisms.

(l) *Customer data privacy.* Charging Station Operators must collect, process, and retain only that personal information strictly necessary to provide the charging service to a consumer, including information to complete the charging transaction and to provide the location of charging stations to the consumer. Charging Stations Operators must also take reasonable measures to safeguard consumer data.

(m) *Use of program income.* (1) Any net income from revenue from the sale, use, lease, or lease renewal of real property acquired with NEVI Formula Program funds shall be used for title 23, United States Code, eligible projects.

(2) For purposes of program income or revenue earned from the operation of an EV charging station, the State DOT should ensure that all revenues received from operation of the EV charging facility are used only for:

(i) Debt service with respect to the EV charging station project, including funding of reasonable reserves and debt service on refinancing;

(ii) A reasonable return on investment of any private person financing the EV charging station project, as determined by the State DOT;

(iii) Any costs necessary for the improvement and proper operation and maintenance of the EV charging station, including reconstruction, resurfacing, restoration, and rehabilitation;

(iv) If the EV charging station is subject to a public-private partnership agreement, payments that the party holding the right to the revenues owes to the other party under the public-private partnership agreement; and

(v) Any other purpose for which Federal funds may be obligated under this title 23, United States Code.

§ 680.108 Interoperability of electric vehicle charging infrastructure.

Charger-to-EV communication. Chargers must conform to ISO 15118 (incorporated by reference, see § 680.120) to communicate with CCS-compliant vehicles that have implemented ISO 15118.

§ 680.110 Traffic control devices or on-premises signs acquired, installed or operated.

(a) (a) *Manual on Uniform Traffic Control Devices for Streets and Highways.* All traffic control devices must comply with 23 CFR part 655.

(b) *On-premises signs.* On-property or on-premise advertising signs must comply with 23 CFR part 750.

§ 680.112 Data submittal.

(a) *Applicability.* This section applies only to NEVI Formula Program projects.

(b) *Quarterly data submittal.* States must ensure the following charging station use, cost, reliability, and maintenance data are collected, maintained, and submitted on a quarterly basis in a manner prescribed by the FHWA:

(1) Charging station location identifier that the following data can be associated with;

(2) Charging session start time, end time, and successful session completion (yes/no) by port;

(3) Energy (kWh) dispensed to EVs per session by port;

(4) Peak session power (kW) by port;

(5) Charging station uptime calculated in accordance with the equation in § 680.116(b) for each of the previous 3 months;

(6) Cost of electricity to operate per charging station in each of the previous 3 months;

(7) Maintenance and repair cost per charging station for each of the previous 3 months;

(8) Charging station real property acquisition cost, charging equipment acquisition and installation cost, distributed energy resource acquisition and installation cost, and grid connection and upgrade cost on the utility side of the electric meter; and

(9) Distributed energy resource installed capacity, in kW or kWh as appropriate, of asset by type (*e.g.,* stationary battery, solar, etc.) per charging station.

(c) *Annual data submittal.* States must ensure the following data are collected, maintained, and submitted on an annual basis in a manner prescribed by the FHWA for each charging station:

(1) The name, address and type of private entity involved in the operation, maintenance, and installation of EVSE.

(2) For private entities identified in paragraph (c)(1) of this section, identification of and participation in any state or local business opportunity certification programs including but not limited to minority-owned businesses, Veteran-owned businesses, woman-owned businesses, and businesses owned by economically disadvantaged individuals.

(d) *Community engagement outcomes report.* States must make publicly available in a manner prescribed by the FHWA an annual report describing the community engagement activities conducted as part of the development and approval of their most recently-submitted State EV Infrastructure Deployment Plan, including engagement with DACs. This report should include community engagement type, date, number of attendees, communities represented by attendees, and how information on that engagement was reflected in the State's EV Infrastructure Deployment Plan.

§ 680.114 Charging network connectivity of electric vehicle charging infrastructure.

(a) *Charger-to-Charger-Network communication.* (1) Chargers must communicate with a charging network via a secure communication method.

(2) Chargers must have the ability to receive and implement secure, remote software updates and conduct real-time protocol translation, encryption and decryption, authentication, and authorization in their communication with charging networks.

(3) Charging networks must perform and chargers must support remote charger monitoring, diagnostics, control, and smart charge management.

(4) Chargers and charging networks must securely measure, communicate, store, and report energy and power dispensed, real-time charging-port status, real-time price to the customer, and historical charging-port uptime.

(5) Chargers must be capable of using Open Charge Point Protocol (OCPP) (incorporated by reference, see § 680.120) to communicate with any Charging Network Provider.

(6) Chargers must be designed to securely switch Charging Network Providers without any changes to hardware.

(b) *Charging-Network-to-Charging-Network communication.* A Charging Network must be capable of communicating with other Charging Networks to enable an EV driver to use a single credential to charge at Charging Stations that are a part of multiple Charging Networks.

(c) *Charging-Network-to-grid communication.* Charging Networks

must be capable of secure communication with electric utilities, other energy providers, or local energy management systems.

§ 680.116 Information on publicly available electric vehicle charging infrastructure locations, pricing, real-time availability, and accessibility through mapping applications.

(a) *Communication of price.* (1) Chargers must display and base the price for electricity to charge in $/kWh.

(2) Price of charging displayed on the chargers and communicated via the charging network must be the real-time price (*i.e.,* price at that moment in time). The price at the start of the session cannot change during the session.

(3) Price structure including any other fees in addition to the price for electricity to charge must be clearly explained via an application or a website, with instructions for finding the information posted in an accessible manner at the charging station.

(b) *Minimum uptime.* States must ensure that charging ports have an average annual uptime of greater than 97%.

(1) A charging port is considered ''up'' when its hardware and software are both online and available for use, or in use, and the charging port successfully dispenses electricity as expected.

(2) Charging port uptime must be calculated on a quarterly basis for the previous twelve months.

(3) Charging port uptime percentage must be calculated using the following equation:

$$\mu = ((8760 - (T\_outage - T\_excluded))/8760) \times 100$$

Where:

μ = port uptime percentage,

T_outage = total hours of outage in previous year, and

T_excluded = total hours of outage in previous year for reasons outside the charging station operator's control, such as electric utility service interruptions, internet or cellular service provider interruptions and outages caused by the vehicles, provided that the Charging Station Operator can demonstrate that the charging port would otherwise be operational.

(c) *Third-party data sharing.* States must ensure that the following data fields are made available, free of charge, to 3rd-party software developers, via application programming interface:

(1) Charging station name or identifier;

(2) Address (city, state, and zip code) of the property where the charging station is located;

(3) Global positioning system (GPS) coordinates in decimal degrees of exact charging station location;

(4) Charging station operator name;

(5) Charging station phone number;

(6) Charging network provider name;

(7) Number of charging ports;

(8) Connector types available at each charging port;

(9) Maximum power level of each charging port;

(10) Power sharing by port (*i.e.,* whether power sharing between EVSEs is enabled);

(11) Date when charging station first became available for use;

(12) Pricing structure;

(13) Physical dimensions of the largest vehicle that can access a charging port at the charging station;

(14) Payment methods accepted;

(15) Number of charging ports accessible to persons with disabilities;

(16) Real-time status of each charging port, including identification of whether a port is accessible to persons with disabilities, in terms defined by Open Charge Point Interface 2.2 (incorporated by reference, see § 680.120), updated at a frequency that meets reasonable customer expectations;

(17) Real-time price to charge at each charging port, in terms defined by Open Charge Point Interface 2.2 (incorporated by reference, see § 680.120), updated at a frequency that meets reasonable customer expectations; and

(18) Station Status (Available or Planned).

§ 680.118 Other Federal requirements.

All applicable Federal statutory and regulatory requirements apply to the EV charger projects. These requirements include, but are not limited to:

(a) All statutory and regulatory requirements that are applicable to funds apportioned under chapter 1 of title 23, United States Code, and the requirement of 2 CFR part 200 apply. This includes the applicable requirements of title 23, United States Code, and title 23, Code of Federal Regulations, such as the applicable Buy America requirements at section 313, of title 23 United States Code, and Build America, Buy America Act (Pub. L. 117–58, div. G sections 70901–70927).

(b) As provided at 23 U.S.C. 109(s)(2), projects to install EV chargers are treated as if the project is located on a Federal-aid highway. As a project located on a Federal-aid highway, Section 113 of title 23, United States Code, applies and Davis Bacon Federal wage rate requirements included at subchapter IV of chapter 31 of title 40, U.S.C., must be paid for any project funded with NEVI Formula Program funds.

(c) The American with Disabilities Act of 1990 (ADA), and implementing regulations, apply to EV charging stations by prohibiting discrimination on the basis of disability by public and private entities. EV charging stations must comply with applicable accessibility standards adopted by the Department of Transportation into its ADA regulations (49 CFR part 37) in 2006, and adopted by the Department of Justice into its ADA regulations (28CFR parts 35 and 36) in 2010.

(d) Title VI of the Civil Rights Act of 1964, and implementing regulations, apply to this program to ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

(e) All applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and implementing regulations, apply to this program.

(f) The Uniform Relocation Assistance and Real Property Acquisition Act, and implementing regulations, apply to this program by establishing minimum standards for federally funded programs and projects that involve the acquisition of real property (real estate) or the displacement or relocation of persons from their homes, businesses, or farms.

(g) The National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's NEPA implementing regulations, and applicable agency NEPA procedures apply to this program by establishing procedural requirements to ensure that federal agencies consider the consequences of their proposed actions on the human environment and inform the public about their decision making for major Federal actions significantly affecting the quality of the human environment.

§ 680.120 Reference manuals.

Certain material is incorporated by reference into this subpart with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. All approved incorporation by reference (IBR) material is available for inspection at the U.S. Department of Transportation (DOT) and at the National Archives and Records Administration (NARA). Contact DOT: DOT Library, 1200 New Jersey Avenue SE, Washington, DC 20590 in Room W12–300. For information on the availability of these documents at NARA, email *fr.inspection@nara.gov* or go to *https://www.archives.gov/federal-register/cfr/ibr-locations.html.* The material may be obtained from the following sources:

(a) EVRoaming Foundation, Vondellaan 162, 3521 GH, Utrect—The Netherlands, *https://www.evroaming.org.*

(1) Open Charge Point Interface (OCPI) 2.2.1, October 6, 2021, IBR approved for § 680.116(c)(16)–(17).

(2) [Reserved]

(b) International Organization for Standardization, Chemin de Blandonnet 8, CP 401, 1214 Vernier, Geneva, Switzerland, +41 22 749 01 11, *https://www.iso.org/contact-iso.html.*

(1) International Classification for Standards Catalogue: ''Electric Road Vehicles: Road vehicles—Vehicle to grid communication interface,'' 43.120.15118, Sections 1 (published 2019), 2 (published 2014), 3 (published 2015), 4 (published 2018), 5 (published 2018), and 8 (published 2020), IBR approved for § 680.106(f)(1) and 680.108.

(2) [Reserved]

(c) Open Charge Alliance, Businesspark Arnhems Buiten, Utrechtseweg 310, Office Building B42, 6812 AR Arnhem—The Netherlands, tel: +31 26 312 0223, *https://www.openchargealliance.org.*

(1) Open Charge Point Protocol (OCPP) 2.0.1, March 31, 2020, IBR approved for § 680.114(a)(5).

(2) [Reserved]

(d) SAE International, 400 Commonwealth Drive, Warrendale, PA 15096, tel: (724) 776–4841; *https://www.sae.org.*

(1) SAE Electric Vehicle and Plug in Hybrid Electric Vehicle Conductive Charge Coupler, J1772_201710, October 13, 2017, IBR approved for § 680.106(c).

(2) [Reserved]

[FR Doc. 2022–12704 Filed 6–21–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2020–0718; FRL–9935–01–R4]

Air Plan Approval; NC: Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of North Carolina on December 14, 2020, through the North Carolina Department of Environmental Quality (DEQ), Division of Air Quality (DAQ), for the purpose of removing Lee, Onslow, and Rockingham Counties from North Carolina's motor vehicle inspection and maintenance (I/M) program. The I/M Program was previously approved into the SIP for use as a component of the State's Nitrogen Oxides (NO_X) Budget and Allowance Trading Program. EPA has evaluated whether this SIP revision would interfere with the requirements of the Clean Air Act (CAA or Act), including EPA regulations related to statewide NO_X emissions budgets. In summary, EPA proposes to find that Lee, Onslow, and Rockingham Counties would continue to attain and maintain the national ambient air quality standards (NAAQS or standards) after removal of the I/M program, and to rely on an emissions inventory comparison to inform its determination that the three counties would continue to attain and maintain the ozone and carbon monoxide (CO) NAAQS. Consequently, EPA is proposing to determine that North Carolina's December 14, 2020, SIP revision is consistent with the applicable provisions of the CAA.

DATES: Comments must be received on or before July 22, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2020–0718 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9222. Ms. Sheckler can also be reached via electronic mail at *sheckler.kelly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is being proposed?

The DAQ submitted a SIP revision on December 14, 2020, seeking to remove Lee, Onslow, and Rockingham counties from North Carolina's SIP-approved I/M program. The DAQ submitted this SIP revision in response to North Carolina legislation enacted in Session Law 2020–5, House Bill 85, which amended North Carolina General Statute (NCGS) section 143–215.107A(c) to remove these three counties from the North Carolina I/M Program.[1] Specifically, the North Carolina Act requires the elimination of Lee, Onslow, and Rockingham counties from the I/M program, and the retention of the I/M program in 19 counties (Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Forsyth, Franklin, Gaston, Guilford, Iredell, Johnston, Lincoln, Mecklenburg, New Hanover, Randolph, Rowan, Union, and Wake).

As explained in Section II, below, sections 187(a)(4) and 182(b)(4) of the CAA require the implementation of an I/M program in certain areas classified as moderate nonattainment or higher for the ozone or CO NAAQS.[2] Lee, Onslow, and Rockingham counties have never been designated nonattainment for ozone and CO, or any other NAAQS, and are currently in attainment for all NAAQS. These three counties were included in the State's I/M program to provide North Carolina with emissions credit for the NO_X SIP Call obligations. *See* 67 FR 66056 (October 30, 2002). The NO_X SIP Call, issued by EPA in 1998, required some states, including North Carolina, to meet statewide NO_X emission requirements during the ozone season (May 1 through September 30 control period) to reduce the amount of ground level ozone that is transported across the eastern United States. *See* 84 FR 8422 (March 8, 2018).

As part of the State's December 14, 2020, submittal requesting removal of Lee, Onslow, and Rockingham counties from North Carolina's SIP-approved I/M program, the State included a CAA section 110(l) non-interference demonstration. Under section 110(l) of the CAA, EPA cannot approve a SIP revision if it would interfere with any

[1] The removal becomes effective sixty days after the State's Secretary of the Department of Environmental Quality certifies to the State's Revisor of Statutes that EPA approved the SIP revision.

[2] The I/M program was never a mandatory program pursuant to the CAA for Lee, Onslow, or Rockingham counties.

applicable requirement concerning attainment and reasonable further progress (as defined by section 171 of the CAA), or any other applicable requirement of the CAA. Section III, below, provides EPA's analysis of the non-interference demonstration.

For the reasons discussed more fully in Section III, EPA is proposing to find that removal of Lee, Onslow, and Rockingham counties from North Carolina's SIP-approved I/M program (and consequently, the removal of reliance on credits gained from I/M emissions reductions from Lee, Onslow and Rockingham counties in the State's NO_X Budget and Allowance Trading Program) will not interfere with North Carolina's obligations under the NO_X SIP Call. This proposed finding is based on a number of federal rules and SIP-approved State provisions promulgated and implemented subsequent to the 2002 approval of North Carolina's NO_X SIP Call submission. These federal rules and SIP provisions have created significant NO_X emission reductions in North Carolina such that the credits gained by the three counties' participation in the I/M program are no longer needed for North Carolina to meet its NO_X SIP Call Statewide NO_X emissions budget. North Carolina has provided an analysis which supports this proposed finding, and which discusses some of these federal rules and SIP-approved State provisions. See Section III, below.

In addition, North Carolina's SIP revision evaluates the impact that the removal of the I/M program for the Lee, Onslow, and Rockingham counties would have on the State's ability to attain and maintain the NAAQS. The SIP revision contains a technical demonstration with revised emissions calculations showing that removing the three counties from the I/M program will not interfere with North Carolina's attainment or maintenance of any NAAQS or with any other applicable requirement of the CAA. As discussed more fully in Section III, EPA is proposing to find that North Carolina's revised emissions calculations demonstrate that removing Lee, Onslow, and Rockingham counties from the I/M program will not interfere with the State's ability to attain or maintain any NAAQS.

II. What is the background of North Carolina's I/M program and its relationship to the NO_X SIP call and the State's NO_X budget and allowance trading program?

A. History of North Carolina's I/M Program

The North Carolina I/M program began in 1982 in Mecklenburg County utilizing a ''tail-pipe'' emissions test. In 1984, Wake County was first added to the program for CO NAAQS violations. From 1986 through 1991 the program expanded to include Cabarrus, Davidson, Durham, Forsyth, Gaston, Guilford, and Union Counties, to address violations of the ozone and/or CO NAAQS. The I/M program was also implemented in Orange County although it was not designated nonattainment for the ozone or CO NAAQS.

In 1999, the North Carolina General Assembly (NCGA) passed legislation (Session law 1999–328) to expand the coverage area for the I/M program to gain additional emission reductions to achieve the 1997 8-hour ozone NAAQS in the State. This legislation expanded the I/M program to add 38 counties between July 1, 2003, and July 1, 2006, for a total of 48 counties.[3] [4] The I/M program in the expanded coverage area used on-board diagnostic (OBD) rather than tail-pipe testing.

On August 7, 2002, North Carolina submitted a SIP revision to amend the I/M regulations included in the SIP at that time to, among other things, expand the counties subject to the I/M program as discussed above, and to require OBD in the subject counties for all light duty gasoline vehicles with a model year (MY) of 1996 and newer. Additionally, the SIP revision proposed to terminate the tail-pipe testing program on January 1, 2006, for the nine counties subject to continued tail-pipe testing of MY 1995 and older vehicles. EPA approved these changes to North Carolina's I/M program into the SIP on October 30, 2002. *See* 67 FR 66056.

In 2012, the NCGA enacted Session Law 2012–199 which required North Carolina and the Department of Motor Vehicles to change the I/M program to exempt the three newest MY vehicles with less than 70,000 miles, and the State subsequently submitted a SIP revision to modify the SIP accordingly. EPA approved this SIP revision on February 5, 2015. *See* 80 FR 6455.

In 2017, the NCGA passed Senate Bill 131, which removed 26 of the 48 counties from the North Carolina I/M program.[5] On November 17, 2017, DAQ submitted to EPA a request to amend its SIP to remove the 26 counties specified in Senate Bill 131 from the I/M program. This submittal also included a CAA section 110(l) demonstration providing support that the removal of the 26 counties from North Carolina's SIP approved I/M program would not interfere with continued attainment and maintenance of all the NAAQS or with any other applicable CAA requirement. EPA approved this SIP revision on September 25, 2018. *See* 83 FR 48383. In 2019, EPA approved a rolling 20-year timeframe for vehicle MY coverage into the SIP, replacing a specific year-based timeframe for coverage. *See* 84 FR 47889 (September 11, 2019). This action did not change the counties subject to the I/M program. *Id.*

After all the aforementioned changes, the remaining counties in the North Carolina I/M program currently include Alamance, Buncombe, Cabarrus, Cumberland, Davidson, Durham, Franklin, Forsyth, Gaston, Guilford, Johnston, Iredell, Lee, Lincoln, Mecklenburg, New Hanover, Onslow, Randolph, Rockingham, Rowan, Union, and Wake.

B. NO_X SIP Call

On August 7, 2002, North Carolina submitted a SIP revision to EPA as a component of its response to the NO_X SIP call requirements. As mentioned previously, the NO_X SIP Call required some states to meet statewide NO_X emission requirements during the ozone season to reduce the amount of ground level ozone transported across the eastern United States. *See* 84 FR 8422 (March 8, 2019). In response to the SIP Call, North Carolina's SIP revision expanded the I/M program from 10 counties to 48, pursuant to North Carolina Session Law 1999–328, Section 3.1(d), and incorporated the OBD test procedure.

The expansion to the I/M program helped reduce certain criteria pollutants and their precursors, including NO_X, by

[3] The 38 counties added during this time period were Alamance, Buncombe, Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Cumberland, Edgecombe, Franklin, Grainville, Harnett, Haywood, Henderson, Iredell, Lee, Lenoir, Lincoln, Johnston, Moore, Nash, New Hanover, Onslow, Pitt, Randolph, Robertson, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes, and Wilson.

[4] In 2004, the Charlotte/Gastonia/Rock Hill area was designated as moderate nonattainment for the 1997 8-hour ozone NAAQS, which required Iredell, Lincoln, and Rowan Counties to be included in the I/M program.

[5] The 26 counties removed were Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Cleveland, Craven, Edgecombe, Granville, Harnett, Haywood, Henderson, Lenoir, Moore, Nash, Orange, Pitt, Robertson, Rutherford, Stanly, Stokes, Surry, Wayne, Wilkes and Wilson counties.

identifying and requiring the repair of more high-emitting vehicles. The OBD test helps reduce certain criteria pollutants and their precursors by checking the vehicles increasingly advanced OBD systems to monitor the performance of a vehicle's emissions-related components and provides owners with an early warning of malfunctions through the dashboard ''check engine'' light (also known as a Malfunction Indicator Light). By identifying degrading parts early through the OBD system, owners of these vehicles can perform the type of preventative maintenance that extends the long-term durability of expensive components (catalytic converter, fuel injections, oxygen sensors, and transmissions).

While the addition of 38 counties to the I/M program pursuant to Section 3.1(d) of the 1999 Session law was initially ratified to satisfy the 1997 8-hour ozone NAAQS, it was included in the SIP with the new OBD testing procedure to support the establishment of emission credits for North Carolina's NO_X budget and trading program. *See* 67 FR 66056 (October 30, 2002). On October 30, 2002, EPA approved the I/M rule revision and North Carolina's use of the I/M program credits for the NO_X SIP call budget and trading program. *Id.* The ozone season I/M NO_X emissions credit was 914 tons in 2004; 2,078 tons in 2006; and 4,385 tons in 2007 and beyond.

Subsequent to the NO_X SIP Call, a number of federal rules, as well as North Carolina SIP provisions, have created significant NO_X emission reductions in North Carolina, including ozone season reductions. For stationary sources, including large Electric Generating Units (EGUs), one of these federal rules included the Clean Air Interstate Rule (CAIR) in 2005 and its replacement in 2011, the Cross State Air Pollution Rule (CSAPR).[6] [7] Consequently, any emissions reduction credits derived from the three counties' participation in the expanded I/M program are no longer needed for North Carolina to meet its Statewide NO_X emissions budget.

Other federal rules that have created significant NO_X emission reductions in the area of mobile-sources include: the Tier 2 vehicle and fuel standards; [8] nonroad spark ignition engines and recreational engine standards; heavy-duty gasoline and diesel highway vehicle standards; [9] and large nonroad diesel engine standards.[10] These mobile source measures, coupled with fleet turnover (*i.e.,* the replacement of older vehicles that predate the standards with newer vehicles that meet the standards), have resulted in, and continue to result in, large reductions in NO_X emissions over time.

In 2002, North Carolina also enacted and subsequently implemented its Clean Smokestacks Act (CSA), which created system-wide annual emissions caps on actual emissions of NO_X and SO_2 from coal-fired power plants within the State, the first of which became effective in 2007. The CSA required certain coal-fired power plants in North Carolina to significantly reduce annual NO_X emissions by 189,000 tons (or 77 percent) by 2009 (using a 1998 baseline year). This represented about a one-third reduction of the NO_X emissions from all sources in North Carolina. *See* 76 FR 36468, 36470 (June 11, 2011).[11] The CSA's requirement to meet annual emissions caps and disallow the purchase of NO_X credits to meet the caps led to a reduction of NO_X emissions beyond the requirements of the NO_X SIP Call even though the CSA did not limit emissions only during the ozone season. EPA approved the CSA emissions caps into North Carolina's SIP on September 26, 2011. *See* 76 FR 59250.

North Carolina also has its own SIP-approved State provisions that have helped create significant NO_X emission reductions in North Carolina. The majority of these rules are contained in 15A North Carolina Administrative Code (NCAC) Subchapter 02D, Section .1400, *Nitrogen Oxides.* These rules contain NO_X SIP Call requirements and work in conjunction with the CSA to reduce NO_X emissions in the State.

Together, implementation of these federal rules and SIP-approved state provisions have created significant NO_X emissions reductions since North Carolina's NO_X SIP Call emissions budget was approved into the SIP in 2002. These federal rules and State provisions have significantly reduced ozone season NO_X emissions from EGUs in particular, resulting in overall emissions levels well below the original NO_X SIP Call budget. This last point is illustrated in Table 1, which compares the EGU NO_X SIP Call budget to actual emissions in 2007 and 2017 (the attainment base year), as well as 2018 and 2019. Actual EGU emissions in 2007 and 2017, the attainment base year, were 23 percent (7,274 tons) and 60 percent (18,906 tons) below the NO_X SIP Call budget for EGUs, respectively. Notably, the entirety of the emissions reduction credits from the expanded I/M program (and used by the State in its NO_X emissions budget) only totaled 4,385 tons, of which approximately only 1,000 tons was initially needed to meet the overall budget.

[6] CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in 28 eastern states, including North Carolina, that contributed to downwind nonattainment or interfered with maintenance of the 1997 8-hour ozone NAAQS or the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. CAIR was challenged in federal court and in 2008, the United States Court of Appeals for the District of Columbia (D.C. Circuit) remanded CAIR to EPA without vacatur. *North Carolina* v. *EPA,* 550 F.3rd 1176, 1178 (D.C. Cir. 2008).

[7] In response to the D.C. Circuit's remand of CAIR, EPA promulgated CSAPR to replace it. CSAPR requires 28 eastern states, including North Carolina, to limit their statewide emissions of SO_2 and NO_X in order to mitigate transported air pollution impacting other states' ability to attain or maintain four NAAQS: the 1997 ozone NAAQS, the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, and the 2008 8-hour ozone NAAQS. The CSAPR emissions limitations are defined in terms of maximum statewide ''budgets'' for emissions of annual SO_2 and NO_X, and/or ozone-season NO_X by each covered state's large EGUs. The CSAPR state budgets are implemented in two phases of generally increasing stringency, with Phase I budgets applying to emissions in 2015 and 2016 and the Phase 2 budgets applying to emissions in 2017 and later years. CSAPR was challenged in the D.C. Circuit, and on August 12, 2012, it was vacated and remanded to EPA. The vacatur was subsequently reversed by the United States Supreme Court on April 29, 2014. *EPA* v. *EME Homer City Generation, L.P.,* 134 S.Ct. 1584 (2014). This litigation ultimately delayed implementation of CSAPR for three years.

[8] The Tier 2 standards, begun in 2004, continue to significantly reduce NO_X emissions and EPA expects that these standards will reduce NO_X emissions from vehicles by approximately 74 percent by 2030 (or nearly 3 million tons annually by 2030). *See* 80 FR 44873, 44876 (July 28, 2015) (citing EPA, Regulatory Announcement, EPA 420–F–99–051 (December 1999).

[9] Also begun in 2004, implementation of this rule is expected to achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses by 2030. *See* 80 FR 44873, 44876 (July 28, 2015).

[10] EPA estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide. *See* 80 FR 44873, 44876 (July 28, 2015).

[11] North Carolina indicates that the utilities reduced NO_X emissions by 83 percent as of 2017 relative to the 1998 emissions levels. See Letter from Michael A. Abraczinskas, Director of the Division of Air Quality for the North Carolina Department of Environmental Quality, dated July 11, 2018. A copy of this letter is included in the docket for this proposed action.

TABLE 1—COMPARISON OF OZONE SEASON NO_X SIP CALL BUDGET TO ACTUAL EMISSIONS FOR EGUS

	2007	2017	2018	2019
NO_X SIP Call Budget, Tons*	31,451	31,451	31,451	31,451
Actual Emissions, Tons	24,177	12,545	13,046	12,989
Below Budget, Tons	7,274	18,906	18,405	18,462
Below Budget, Percent	23	60	59	59

*From EPA's proposed approval of North Carolina's NO_X SIP Call submission. *See* 67 FR 42519 (June 24, 2002).

Further, the State has provided modeling results showing that NO_X emissions will remain below the NO_X SIP Call budgets after removal of the three counties from the I/M program. Table 2 shows the impact of the estimated ozone season NO_X emissions increases due to the proposed changes to the I/M program. Despite this increase, EPA expects NO_X emissions in 2022 to continue to be lower than the attainment base year in 2017. This is further explained in Section III.C, below. As noted above, in 2019, EGU emissions were 18,462 tons (59 percent) below the NO_X SIP Call budget for EGUs. The proposed change to the I/M program, combined with other recently approved changes to North Carolina's SIP-approved I/M program, would reduce the gap between the budget and actual emissions by 950 tons, or about 5.15 percent, to 17,512 tons below the NO_X SIP Call budget for EGUs based on 2019 EGU emissions. Thus, based on this EGU-focused analysis, EPA concludes that the ozone season NO_X emissions increase associated with the proposed change to the expanded I/M program will not interfere with North Carolina's obligations under the NO_X SIP call to meet its Statewide NO_X emissions budget.

TABLE 2—IMPACT OF NO_X EMISSIONS INCREASES DUE TO PROPOSED CHANGES TO I/M PROGRAM ON EGU REDUCTIONS AND NO_X SIP CALL I/M CREDITS

I/M Emissions increases from I/M program changes	Impact in tons
Removal of 26 counties (previous action)	611
Revision to vehicle MY coverage in 22 counties (previous action)	311
Removal of three counties (this proposed action)	28
Total NO_X Emission Increase	950
Amount NO_X EGU emissions below budget in 2019 (From table 1 above)	18,462
Emissions increases from I/M program changes	(−) 950
Amount below budget in 2019 after increases from I/M changes	17,512
NO_X SIP Call Budget	31,451

III. What is EPA's analysis of North Carolina's submittal?

A. Impact on the State's NO_X SIP Call Obligations

North Carolina's December 14, 2020, submittal seeks to remove Onslow, Lee, and Rockingham counties from the I/M program contained in the SIP. This removal consequently removes reliance on the I/M reduction credits gained from these three counties' participation in the I/M program in meeting the State's NO_X emissions budget. North Carolina has indicated that it no longer needs these reduction credits to meet its obligation under the NO_X SIP Call.

In light of the analysis in Section II.B, above, EPA is proposing to find that North Carolina's removal of the three counties from the expanded I/M program contained in its SIP (and the use of I/M emissions reductions generated from those counties as part of the reduction credits in the State's NO_X emissions budget) will not interfere with the State's obligations under the NO_X SIP Call to meet its Statewide NO_X emissions budget. Subsequent to the NO_X SIP Call, the promulgation and implementation of a number of federal rules and SIP-approved State provisions, and in particular those impacting EGUs, have created significant NO_X emissions reductions in the State that are more than sufficient to offset the I/M reduction credits from Lee, Onslow, and Rockingham counties to meet its Statewide NO_X emissions budget.

B. North Carolina's Non-Interference Analysis of Removing Three Counties From the I/M Program

Section 110(l) of the CAA requires that a revision to the SIP not interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of the CAA. EPA evaluates section 110(l) non-interference demonstrations on a case-by-case basis considering the circumstances of each SIP revision. EPA interprets section 110(l) as applying to all NAAQS that are in effect, including those that have been promulgated but for which EPA has not yet made designations. The degree of analysis focused on any particular NAAQS in a non-interference demonstration varies depending on the nature of the emissions associated with the proposed SIP revision. There are six NAAQS established to protect human health and the environment. These NAAQS are CO, lead, nitrogen dioxide (NO_2), ozone, particulate matter (PM)—including $PM_{2.5}$ [12] and PM_{10} [13], and SO_2. Considering modern fuel types and the science and technology related to emissions from motor vehicles, EPA does not believe that there would be any changes in emissions of lead [14] or

[12] $PM_{2.5}$ refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as ''fine'' particles. Lee, Onslow, and Randolph counties have never been designated as nonattainment for the $PM_{2.5}$ NAAQS.

[13] PM_{10} refers to particles with an aerodynamic diameter less than or equal to 10 micrometers, which includes $PM_{2.5}$.

[14] On November 12, 2008, EPA promulgated a revised lead NAAQS of 0.15 microgram per cubic meter ($\mu g/m^3$). *See* 73 FR 66964. EPA designated the entire state of North Carolina as unclassifiable/attainment for the 2008 lead NAAQS. *See* 76 FR 72097 (November 22, 2011). As of January 1, 1996, the sale of leaded fuel for use in on-road motor vehicles was banned. Therefore, removing the I/M program for Lee, Onslow, and Randolph counties from the North Carolina SIP will not have any impact on ambient concentrations of lead.

PM_{10} [15] resulting from the removal of the I/M program in Lee, Onslow, and Randolph counties from the North Carolina SIP. Furthermore, EPA does not believe that SO_2 air quality would be threatened given the mandatory use of ultra-low sulfur (ULSD) diesel fuel.[16] Therefore, this section is focused on evaluating air quality for NO_2, ozone, CO, and $PM_{2.5}$. North Carolina is in attainment for all NAAQS.

North Carolina's December 14, 2020, SIP revision included a non-interference demonstration to support the removal of the I/M program in Lee, Onslow, and Rockingham Counties from North Carolina's SIP-approved expanded I/M program. This demonstration addresses all NAAQS with a focus on ozone (through its precursors NO_X and VOC) and CO, the criteria pollutants addressed by I/M programs. I/M programs are not designed to address lead and SO_2 emissions, and NO_2 is captured generally through the same measures that target NO_X impacts.

Both VOC and NO_X emissions contribute to the formation of ozone. The rate of ozone formation can be limited by either VOCs or NO_X. When an area has high-NO_X conditions and low-VOC conditions, the rate of ozone production is more sensitive to the number of VOCs and is considered a NO_X-rich regime. Alternatively, when the atmosphere has high-VOC conditions and low-NO_X conditions, the formation of ozone is influenced by a NO_X-limited regime, which means ozone formation is more sensitive to changes in NO_X concentration. In North Carolina approximately 81 percent of the statewide VOC emissions come from biogenic or natural sources, which cannot be controlled. As a result, North Carolina is NO_X-limited for ozone formation, meaning controlling NO_X emissions is a more effective way to reduce the formation of ozone. In the three counties being removed, very few anthropogenic sources of NO_X exist.

EPA used an emissions inventory comparison to determine whether the three counties would maintain the ozone and CO NAAQS after removal of the I/M program. North Carolina provided much of this data, which it later supplemented with additional data for EPA. This is a long-standing approach EPA uses to determine whether an area can maintain the NAAQS and is very similar to the maintenance demonstrations that support the redesignations of areas from nonattainment to attainment and the second 10-year maintenance plans. EPA has not required photochemical modeling or any other modeling analyses to support these demonstrations. In general, EPA compares future year emissions to emissions in a base year with an attaining design value.[17] If the *total* future year emissions for the relevant pollutant(s) are less than the *total* base year emissions, EPA considers that to be a sufficient and reasonable demonstration that the area will maintain the NAAQS because the base year emissions are at a level sufficient to achieve the NAAQS.

As mentioned above, North Carolina's December 14, 2020, SIP revision included a non-interference demonstration to support the State's request to remove Lee, Onslow, and Rockingham counties from North Carolina's SIP-approved expanded I/M program. This demonstration includes an evaluation of the impact that the removal of the I/M program for these counties would have on North Carolina's ability to attain or maintain any NAAQS in the State.

For North Carolina's non-interference demonstration, EPA used 2017 as an attainment base year [18] and compared the total emissions of NO_X, VOC, and CO in 2017 to the total emissions of these pollutants in 2022, the year when the I/M program in Lee, Onslow and Rockingham Counties is expected to end. EPA chose 2017 because that point, nonroad, and non-point data was provided in North Carolina's December 14, 2020, submission as it was the most complete data available to the State at the time of the development of the SIP revision. For consistent comparisons, EPA obtained the 2017 mobile emissions from the National Emissions Inventory (NEI). Tables 3, 4, and 5 provide a summary for Lee, Onslow, and Rockingham Counties of the total emissions for NO_X, VOC, and CO in 2017; total emissions for NO_X, VOC, and CO in 2022 with the I/M program; and total emissions for NO_X, VOC, and CO in 2022 without the I/M program. Table 6 shows the three county total for emissions in 2017, in 2022 with I/M and in 2022 without I/M.

As shown in Table 6 below, the total difference in emissions in 2022 with and without the I/M program in the three counties combined is a decrease of 0.47 tpd for NO_X and an increase of 0.20 tpd for VOC. However, the total NO_X emissions in 2022 without the I/M program are 11.38 tpd under the total NO_X emissions in 2017, and the total VOC emissions in 2022 without the I/M program is 2.07 tpd below the total VOC emissions in 2017. The difference in emissions in 2022 with and without the I/M program is an increase of 5.78 tpd for CO. However, the total CO emissions without the I/M program are 18.66 tpd under the total CO emissions in 2017. Because 2022 total emissions without the I/M program are under total 2017 base year emissions, it is reasonable to conclude that removal of the I/M program in Lee, Onslow, and Rockingham Counties will not interfere with attainment or maintenance of the NAAQS. Additionally, as shown in Table 7 below, the highest ozone design value associated with 2017 is 5 ppb above the most recently available ozone design value for 2019–2021, thereby providing an additional buffer.[19]

[15] On March 15, 1991, EPA completed initial designations for the PM_{10} NAAQS. *See* 56 FR 11101. The current primary and secondary PM_{10} NAAQS are each set at 150 $\mu g/m^3$ over a 24-hour average, not to be exceeded more than an average of once per year over a three-year period. The entire state of North Carolina has been designated attainment for every PM_{10} standard. On-road motor vehicles do not emit PM_{10}, therefore, removing the I/M program for Lee, Onslow, and Randolph counties from the North Carolina SIP will not have any impact on ambient concentrations of PM_{10}.

[16] On June 22, 2010, EPA revised the 1-hour SO_2 NAAQS to 75 parts per billion (ppb) which became effective on August 23, 2010. *See* 75 FR 35520. On February 25, 2019, based on a review of the full body of currently available scientific evidence and exposure/risk information, EPA retained the existing 2010 1-hour SO_2 primary NAAQS. *See* 84 FR 9866. All areas in the State are currently designated as attainment/unclassifiable for the SO_2 NAAQS. In 2006, EPA finalized regulations that began to phase in a requirement to use ULSD, a diesel fuel with a maximum of 15 ppm sulfur. Since 2010, EPA's diesel standards have required that all highway diesel fuel vehicles use ULSD, and all highway diesel fuel supplied to the market is ULSD. Due to the requirements to use ULSD under the on-road diesel fuel standards, the amount of SO_2 emitted from on-road vehicles is already low. Furthermore, the I/M program in North Carolina's SIP is not designed to reduce emissions of SO_2, and the removal of the three counties from the program will not have any appreciable impact on ambient concentrations of SO_2.

[17] Design values are how EPA measures compliance with the NAAQS.

[18] As shown in Table 1 above, 2017 is one of the years associated with attaining design values for the ozone NAAQS.

[19] With respect to ozone transport obligations, EPA determined through the CSAPR Update that North Carolina does not contribute significantly to nonattainment or interfere with maintenance in downwind states for the 2008 8-hour ozone NAAQS. *See* 81 FR 74504 (October 26, 2016); *See also* the Revised CSAPR Update, 82 FR 230676 (April 30, 2021) (reiterating EPA's finding that North Carolina does not contribute significantly to nonattainment, or interfere with maintenance, in any other state with respect to the 2008 ozone NAAQS). Additionally, EPA determined that emissions from sources in North Carolina will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state. *See* 86 FR 68413 (December 2, 2021).

TABLE 3—LEE COUNTY ANTHROPOGENIC EMISSIONS

[tpd]

Sector	2017 Emissions			2022 Projected emissions with I/M			2022 Projected emissions without I/M		
	NO_X	VOC	CO	NO_X	VOC	CO	NO_X	VOC	CO
Onroad	8.6	0.97	14.2	1.40	1.01	12.91	1.44	1.06	14.31
Point	3.0	0.63	0.84	0.12	0.74	0.06	0.12	0.74	0.06
Nonroad	1.4	0.40	6.8	0.54	0.35	6.65	0.54	0.35	6.65
Nonpoint	0.15	2.5	1.3	0.46	2.82	0.08	0.46	2.82	0.08
Total	13.15	4.5	23.14	2.52	^4.93	19.70	2.56	4.97	21.1

Note 1: For tables 3, 4, and 5, tpd emissions for the 2017 baseline NO_X and VOC were derived from the 2017NEI_Apr2020 with an apportioned emissions factor. Table 6 shows the three county totals. The apportioned emissions factor for each pollutant and data category were developed from EPA's 2016v1 modeling platform, and what North Carolina relied on for the basis in developing the future year emissions projection as part of the SIP submission.

^ difference in total emission is due to rounding convention.

TABLE 4—ONSLOW COUNTY ANTHROPOGENIC EMISSIONS

[tpd]

Sector	2017 Emissions			2022 Projected emissions with I/M			2022 Projected emissions without I/M		
	NO_X	VOC	CO	NO_X	VOC	CO	NO_X	VOC	CO
Onroad	3.69	2.18	28.9	2.27	1.92	23.65	2.35	2.02	26.39
Point	0.73	0.50	1.3	0.75	0.49	0.09	0.75	0.49	0.09
Nonroad	1.29	2.0	15.3	1.64	1.32	12.49	1.64	1.32	12.49
Nonpoint	0.8	5.4	2.9	0.17	4.36	0.17	0.17	4.36	0.17
Total	6.51	10.08	48.4	4.83	8.09	36.4	4.91	8.19	39.14

TABLE 5—ROCKINGHAM COUNTY ANTHROPOGENIC EMISSIONS

[tpd]

Sector	2017 Emissions			2022 Projected emissions with I/M			2022 Projected emissions without I/M		
	NO_X	VOC	CO	NO_X	VOC	CO	NO_X	VOC	CO
Onroad	3.1	1.9	23.0	2.43	1.86	18.56	2.49	1.92	20.20
Point	2.1	3.13	2.4	3.23	1.47	0.88	3.23	1.47	0.88
Nonroad	0.58	0.69	8.9	0.90	0.54	8.17	0.90	0.54	8.17
Nonpoint	0.39	3.13	2.4	0.36	4.27	0.09	0.36	4.27	0.09
Total	6.17	8.85	36.7	6.92	8.14	27.7	6.98	8.20	29.34

TABLE 6—THREE COUNTY TOTAL ANTHROPOGENIC EMISSIONS

[tpd]

Sector	2017 Emissions			2022 Projected emissions with I/M			2022 Projected emissions without I/M		
	NO_X	VOC	CO	NO_X	VOC	CO	NO_X	VOC	CO
Lee	13.15	4.5	23.14	2.52	4.93	19.70	2.56	4.97	21.1
Onslow	6.51	10.08	48.4	4.83	8.09	36.4	4.91	8.19	39.14
Rockingham	6.17	8.85	36.7	6.92	8.14	27.7	6.98	8.20	29.34
Total	25.83	23.43	108.24	14.92	21.16	83.80	14.45	21.36	89.58

i. Non-Interference Analysis for the Ozone NAAQS

EPA promulgated a revised 8-hour ozone standard of 0.08 ppm on July 18, 1997. On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 ppm to provide increased protection of public health and the environment. *See* 73 FR 16435 (March 27, 2008). On October 26, 2015, EPA published a final rule lowering the level of the 8-hour ozone NAAQS to 0.070 ppm. *See* 80 FR 65292. The 2015 ozone NAAQS retains the same general form and averaging time as the 1997 ozone NAAQS and 2008 ozone NAAQS but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2015 8-hour ozone NAAQS is attained when the 3-year

average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.070 ppm.

Lee, Onslow, and Rockingham counties were originally designated unclassifiable/attainment for the 1997 8-hour ozone NAAQS and have continued to attain the standard. On May 21, 2012, EPA designated all three counties as ''unclassifiable/attainment'' for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088. Finally, on November 6, 2017, EPA designated the entire state of North Carolina attainment/unclassifiable for the 2015 8-hour ozone NAAQS. *See* 82 FR 54232 (November 6, 2017). North Carolina continues to maintain attainment designation statewide for all ozone NAAQS.

As discussed above, the emissions inventory comparison made in Tables 3, 4, and 5 above for the ozone precursors (NO_X and VOC) demonstrates that the removal of the I/M program from all three counties will not interfere with attainment or maintenance of the ozone NAAQS. Table 6 shows the three county totals. Additionally, Table 7 presents recent design values (the measure of compliance with the ozone NAAQS) that have demonstrated attainment of the 2015 ozone NAAQS of 0.070 ppm or 70 parts per billion (ppb). For these reasons, EPA proposes to find that removal of Lee, Onslow, and Rockingham counties from the SIP-approved expanded I/M program would not interfere with maintenance of the ozone NAAQS in the State.

TABLE 7—MONITOR OZONE DESIGN VALUES (DV) [20]

Monitor	2013–2015 DV (ppb)	2014–2016 DV (ppb)	2015–2017 DV (ppb)	2016–2018 DV (ppb)	2017–2019 DV (ppb)	2018–2020 DV (ppb)	2019–2021 DV (ppb)
Lee County	NA	62	61	Shut down *	Shut down *	Shut down *	Shut down.*
Onslow County	No monitor	No monitor	No monitor	No monitor	No monitor	No monitor	No monitor.
Rockingham County	64	66	65	63	63	60	60.

* The Blackstone monitor in Lee County operated from November 2013 to July 2018 and only collected enough data for the two complete DVs. It was a special purpose monitoring site and was not required to be part of the Part 58 monitoring network and it was subsequently shut down.

ii. Non-Interference Analysis for the Fine Particulate Matter ($PM_{2.5}$) NAAQS

Over the course of several years, EPA has reviewed and revised the $PM_{2.5}$ NAAQS a number of times. On July 18, 1997, EPA established an annual $PM_{2.5}$ NAAQS of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour $PM_{2.5}$ NAAQS of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 62 FR 36852. On September 21, 2006, EPA retained the 1997 annual $PM_{2.5}$ NAAQS of 15.0 $\mu g/m^3$ but revised the 24-hour $PM_{2.5}$ NAAQS to 35 $\mu g/m^3$, based again on a 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144 (October 17, 2006). On December 14, 2012, EPA retained the 2006 24-hour $PM_{2.5}$ NAAQS of 35 $\mu g/m^3$ but revised the annual primary $PM_{2.5}$ NAAQS to 12.0 $\mu g/m^3$, based again on a 3-year average of annual mean $PM_{2.5}$ concentrations. *See* 78 FR 3086 (January 15, 2013).

EPA promulgated designations for the 1997 Annual $PM_{2.5}$ NAAQS on January 5, 2005 (70 FR 943). Lee, Onslow, and Rockingham counties were designated unclassifiable/attainment for the 1997 Annual $PM_{2.5}$ NAAQS. On November 13, 2009, and on January 15, 2015, EPA published notices determining that the entire state of North Carolina was unclassifiable/attainment for the 2006 daily $PM_{2.5}$ NAAQS and the 2012 Annual $PM_{2.5}$ NAAQS, respectively. *See* 74 FR 58688 (November 13, 2009) and 80 FR 2206 (January 15, 2013).

In North Carolina's December 14, 2020, SIP revision, the State concluded that the removal of Lee, Onslow, and Rockingham counties from the expanded I/M program would not interfere with attainment or maintenance of the $PM_{2.5}$ NAAQS. The pollution control systems for light-duty gasoline vehicles subject to the I/M program are not designed to reduce emissions for $PM_{2.5}$; therefore, removing counties from the program will not have any impact on ambient concentrations of $PM_{2.5}$ NAAQS. In addition, MOVES2014(b) modeling results in the State's SIP revision indicate that removing these three counties from the expanded I/M program would not increase $PM_{2.5}$ emissions. For these reasons, EPA proposes to find that removal of Lee, Onslow, and Rockingham counties from the SIP-approved expanded I/M program would not interfere with maintenance of the $PM_{2.5}$ NAAQS in the State.

iii. Non-Interference Analysis for the 2010 NO_2 NAAQS

The 2010 NO_2 1-hour standard is set at 100 ppb, based on the 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. The annual standard of 53 ppb is based on the annual mean concentration. On February 17, 2012, EPA designated all counties in North Carolina as unclassifiable/attainment for the 2010 NO_2 NAAQS. *See* 77 FR 9532.

Based on the technical analysis in North Carolina's December 14, 2020, SIP revision, the projected increase in total anthropogenic NO_X emissions (of which NO_2 is a component) associated with the removal of the three counties from the expanded I/M program ranges from 0.04 tpd (Lee County) to 0.08 tpd (Onslow County) in 2022. However, it is important to note that the total NO_X emissions in 2022 without the I/M program in these three counties decreases by 11.38 tpd from 2017. All NO_2 monitors in the State are measuring below the annual NO_2 standard, and all near road monitors are measuring well below the 1-hour NO_2 standard. For these reasons, EPA proposes to find that removal of Lee, Onslow, and Rockingham counties from the SIP-approved expanded I/M program would not interfere with maintenance of the NO_2 NAAQS in the State.

iv. Non-Interference Analysis for the CO NAAQS

EPA promulgated the CO NAAQS in 1971 and has retained the primary standards since its last review of the standard in 2011. The primary NAAQS for CO include: (1) an 8-hour standard of 9.0 ppm, measured using the annual second highest 8-hour concentration for two consecutive years as the design value; and (2) a 1-hour average of 35 ppm, using the second highest 1-hour average within a given year. The three counties subject to this proposed action have always been designated as unclassifiable/attainment for the CO NAAQS.

As discussed in Section III.B above, the emissions inventory comparison

[20] All design values in this notice of proposed rulemaking are available on EPA's website at *https://www.epa.gov/air-trends/air-quality-design-values#report.*

made in Tables 3, 4, 5, and 6 above for CO demonstrates that the removal of the I/M program from all three counties will not interfere with attainment or maintenance of the CO NAAQS. In North Carolina's December 14, 2020, SIP revision, the State concluded that the removal of Lee, Onslow, and Rockingham counties from the expanded I/M program would not interfere with attainment or maintenance of the CO NAAQS. MOVES2014(b) mobile emissions modeling results show a slight increase in CO emissions for each of the three counties of 1.4 tpd (Lee County), 2.74 tpd (Onslow County), and 1.64 tpd (Rockingham County)—5.78 tpd total for all three counties when comparing emissions with and without the I/M program in 2022. This increase is not expected to interfere with continued attainment of the CO NAAQS in any of the three counties or adjacent counties, particularly because the three-county total CO emissions in 2022 without I/M is 18.66 tpd less than the total CO emissions in 2017. Furthermore, statewide, the current ambient air quality levels for CO are less than 20 percent of the CO NAAQS. For these reasons, EPA proposes to find that removal of Lee, Onslow, and Rockingham counties from the SIP-approved I/M program would not interfere with maintenance of the CO NAAQS in the State.

IV. Proposed Action

For the reasons explained above, EPA is proposing to approve North Carolina's December 14, 2020, SIP revision. Specifically, EPA is proposing to approve the removal of Lee, Onslow, and Rockingham counties from the SIP-approved expanded I/M program. Additionally, EPA is proposing to find that North Carolina's removal of Lee, Onslow, and Rockingham counties from the SIP-approved expanded I/M program (and the removal of reliance on the additional I/M emissions reductions generated for the NO_X Budget and Allowance Trading Program) will not interfere with the State's obligations under the NO_X SIP Call to meet its Statewide NO_X emissions budget. In addition, EPA is also proposing to find that the removal of Lee, Onslow, and Rockingham counties from the SIP-approved—I/M program will not interfere with continued attainment or maintenance of any applicable NAAQS or with any other applicable requirement of the CAA, and that North Carolina has satisfied the requirements of section 110(l) of the CAA.

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 13, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–13163 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 174 and 180

[EPA–HQ–OPP–2022–0161; FRL–9410–02–OCSPP]

Receipt of Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities May 2022

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notices of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before July 22, 2022.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2022–0161, through the Federal eRulemaking Portal at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. For the latest information on EPA/DC docket access, services and submitting comments, visit *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Marietta Echeverria, Registration Division (RD) (7505P), main telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov*. The mailing address for each contact person is Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *https://www.epa.gov/dockets/comments.html*.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 174 or part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), summaries of the petitions that are the subject of this document, prepared by the petitioners, are included in dockets EPA has created for these rulemakings. The dockets for these petitions are available at *https://www.regulations.gov*.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petitions so that the public has an opportunity to comment on these requests for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petitions may be obtained through the petition summaries referenced in this unit.

A. Amended Tolerance Exemptions for Inerts (Except PIPS)

PP IN–11643. (EPA–HQ–OPP–2022–0363). Technology Services Group Inc. (1150 18th Street NW, Suite 1000, Washington, DC 20036) on behalf of Organisan Corporation (P.O. Box 2085, Carrollton, Georgia 30112) requests to amend an exemption from the requirement of a tolerance for residues of nitric acid (CAS Reg. No. 7697–37–2) when used as a pesticide inert ingredient (acidifier) in pesticide formulations under 40 CFR 180.910 (limited to no more than 10% by weight in pesticide formulations). The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

B. Amended Tolerances for Non-Inerts

PP 2F8996. (EPA–HQ–OPP–2021–0787). SePRO Corporation, 11550 North Meridian Street, Suite 600, Carmel, IN 46032, requests to amend the tolerances in 40 CFR 180.420(b) by removing the existing time-limited tolerances for residues of the herbicide fluridone, including its metabolites and degrades, in or on the specified agricultural commodities of peanut and peanut, hay at 0.1 parts per million (ppm). The enzyme-linked immunosorbant assay (ELISA), high performance liquid chromatography with ultraviolet detection (HLPC/UV), liquid chromatography with tandem mass spectroscopy (LC/MS/MS) and QuEChERS are used to measure and evaluate the chemical residues. *Contact:* RD.

C. New Tolerance Exemptions for Inerts (Except PIPS)

1. *PP IN–11599.* (EPA–HQ–OPP–2021–0645). This notice of filing corrects the names of Arbuscular mychorrizae species in the previous notice of filing published in the **Federal Register** on March 22, 2022. Valent BioSciences LLC (1910 Innovation Way, Suite 100, Libertyville, Il. 60048) requests to establish an exemption from the requirement of a tolerance for residues of arbuscular mycorrhizae (*funneliformis mosseae, rhizophagus irregularis, claroideoglomus etunicatum, rhizophagus clarus, claroideoglomus luteum, claroideoglomus claroideum, septoglomus desertícola, gigaspora margarita, paraglomus brasilianum*) for use as an inert ingredient (biostimulant) in pesticide formulations applied to growing crops pre-harvest under 40 CFR 180.920. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD.

2. *PP IN–11613.* (EPA–HQ–OPP–2021–0612). Spring Regulatory Sciences (SRS) on behalf of Lamberti-USA, Inc. (Lamberti), 161 Washington Street, Conshohocken, PA 19428, requests to establish an exemption from the requirement of a tolerance for residues of D-Glucopyranose, oligomeric, maleates, C8–16-branched and linear alkyl glycosides, sulfonated, potassium salts (CAS Reg. Nos. 2585031–35–0, 2587364–77–8, and 1228577–37–4)

when used as inert ingredients in pesticide formulations applied under 40 CFR 180.910. The petitioner believes no analytical method is needed because it is not required for an exemption from the requirement of a tolerance. *Contact:* RD

D. New Tolerances for Non-Inerts

1. *PP 1F8922.* (EPA–HQ–OPP–2021–0433). Valent U.S.A. LLC, 4600 Norris Canyon Road, San Ramon, CA 94583, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, inpyrfluxam in or on cotton, undelinted seed at 0.01 ppm, cotton, gin byproducts (gin trash) at 0.02 ppm. The analytical method RM–50C–1 LC/MS/MS and external standardization) is used to measure and evaluate the chemical inpyrfluxam. *Contact:* RD.

2. *PP 1F8924.* (EPA–HQ–OPP–2021–0433). Valent U.S.A. LLC, 4600 Norris Canyon Road, San Ramon, CA 94583, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, inpyrfluxam in or on wheat, forage at 0.01 ppm, wheat, grain at 0.01 ppm, wheat, hay at 1.5 ppm, and wheat, straw at 0.3 ppm. The analytical method RM–50C–1 LC/MS/MS and external standardization) is used to measure and evaluate the chemical inpyrfluxam. *Contact:* RD.

3. *PP 1F8942.* (EPA–HQ–OPP–2021–0833). Valent U.S.A. LLC, 4600 Norris Canyon Road, San Ramon, CA 94583, requests to establish a tolerance in 40 CFR part 180 for residues of the fungicide, inpyrfluxam in or on rapeseed, seed (crop subgroup 20A) at 0.01 ppm. The analytical method RM–50C–1 LC/MS/MS and external standardization) is used to measure and evaluate the chemical inpyrfluxam. *Contact:* RD.

4. *PP 1F8979.* (EPA–HQ–OPP–2022–0452). Gowan Company, LLC., 370 South Main Street, Yuma, AZ 85364, requests to establish a tolerance in 40 CFR part 180 for residues of the miticide Acynonapyr, 3-*endo*-[2-propoxy-4-(trifluoromethyl)phenoxy]-9-[5-(trifluoromethyl)-2-pyridyloxy]-9-azabicyclo[3.3.1]nonane) and its metabolites AP, 3-*endo*-[2-propoxy-4-(trifluoromethyl)phenoxy]-9-azabicyclo[3.3.1]nonane, and AY, 5-(trifluoromethyl)-2-pyridinol in or on almond at 0.03 ppm; almond, hulls at 4.0 ppm; crop group 10, citrus fruits at 0.3 ppm; citrus, oil at 15.0 ppm; orange, dried pulp at 0.7 ppm; grape at 0.6 ppm; raisins at 3.0 ppm; hops at 50.0 ppm; crop group 11, pome fruits at 0.2 ppm; and apple, wet pomace at 0.4 ppm. LC/MS/MS is used to measure and evaluate the chemical acynonapyr and its metabolites (AP, AP–2, AY, AY–3, and AY–1-Glc). *Contact:* RD.

5. *PP 2F8996.* (EPA–HQ–OPP–2021–0787). SePRO Corporation, 11550 North Meridian Street, Suite 600, Carmel, IN 46032, requests to establish tolerances in 40 CFR part 180.420(a)(2) for residues of the herbicide fluridone, 1-methyl-3-phenyl-5-[3-(trifluoromethyl)phenyl]-4(1H)-pyridinone, including its metabolites and degradates, in or on the raw agricultural commodities of peanut at 0.1 ppm and peanut, hay at 0.15 ppm. ELISA, HLPC/UV, LC/MS/MS, and QuEChERS are used to measure and evaluate the chemical residues. *Contact:* RD.

(Authority: 21 U.S.C. 346a)

Dated: June 10, 2022.

Delores Barber,

Director, Information Technology and Resources Management Division, Office of Program Support.

[FR Doc. 2022–13291 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 563

[Docket No. NHTSA–2022–0021]

RIN 2127–AM12

Event Data Recorders

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA is proposing to amend its regulations regarding Event Data Recorders (EDRs) to extend the EDR recording period for timed data metrics from 5 seconds of pre-crash data at a frequency of 2 Hz to 20 seconds of pre-crash data at a frequency of 10 Hz (*i.e.,* increase from 2 samples per second to 10 samples per second). This NPRM begins the process of fulfilling the mandate of the Fixing America's Surface Transportation Act (FAST Act) to establish the appropriate recording period in NHTSA's EDR regulation.

DATES: You should submit your comments early enough to be received not later than August 22, 2022. We are proposing an effective date of the first September 1st one year from the publication of the final rule.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://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:* 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

Docket: For access to the docket to read background documents or comments received, go to *https://www.regulations.gov* at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays. Telephone: 202–366–9826.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making 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.transportation.gov/privacy*. In order to facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential

business information, to the Docket at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

FOR FURTHER INFORMATION CONTACT: For technical questions, please contact Ms. Carla Rush, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–1740, fax: 202–493–2739). For legal questions, please contact Ms. Sara Bennett, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–366–2992, fax: 202–366–3820).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

A. Overview of Event Data Recorder Technology and Regulatory History

Event data recorders (EDRs) are devices that are used to record safety information about motor vehicle crashes immediately before and during a crash. The recorded information can aid crash investigators to assess the performance of specific safety equipment before and during a crash. This information can assist the agency and others with identifying potential opportunities for safety improvement in vehicles already on the road, as well as contributing to improve future vehicle designs and more effective safety regulations. This information could also aid first responders in assessing the severity of a crash and estimating the probability of serious injury in vehicles equipped with Advanced Automatic Crash Notification (AACN) systems and can improve defect investigations and crash data collection quality. (See the 2006 final rule establishing the EDR regulation (discussed below) for further details. (71 FR 50998.)

In August 2006, NHTSA established 49 CFR part 563 (part 563), which sets forth requirements for data elements, data capture and format, data retrieval, and data crash survivability for EDRs. (71 FR 50998.) Part 563 does not mandate that vehicles have EDRs, but is instead an ''if equipped'' standard that applies only to light vehicles required to have frontal air bags that a manufacturer chooses to voluntarily equip with EDRs.[1] Part 563 ensures that all EDRs subject to the regulation capture the same core set of data elements in a crash, standardizes the parameters (format, duration, etc.) of captured data elements, and sets minimum requirements for data survivability.[2] Part 563 further requires that manufacturers of vehicles with EDRs that are subject to part 563 make commercially available a tool for the purpose of imaging [3] the data collected by the EDR.

Tables I and II of part 563 list the various data elements that are covered under the standard. Table I lists data elements that all EDRs subject to part 563 are required to record, along with the recording interval (duration) and sampling frequency. Table II lists data elements that EDRs subject to part 563 are not *required* to record, but that are subject to part 563 *if* they are recorded. Table II also provides the recording interval (duration) and sampling frequency for each listed data element. In addition, all data elements in Tables I and II must be reported according to the range, accuracy, and resolution in Table III. As is relevant to this rulemaking, several data elements in both Table I and Table II must be captured for a duration of 5 seconds prior to the crash (speed, engine throttle, service brake, engine RPM, ABS activity, stability control, steering input). NHTSA established this 5-second duration because the agency concluded that it would be long enough to ensure the usefulness of the data in crash reconstruction while also minimizing the risk that the data capture process would over-tax the EDR's microprocessor, which could cause a malfunction that could lead to a loss of data.[4]

Part 563 became fully effective on September 1, 2012. The agency estimates that 99.5 percent of model year 2021 passenger cars and other vehicles with a gross vehicle weight rating (GVWR) of 3,855 kilograms (kg) (8,500 pounds) or less have part 563 compliant EDRs.[5]

B. The Fixing America's Surface Transportation Act

Section 24303 of the Fixing America's Surface Transportation Act (FAST Act), Public Law 119–14 (Dec. 4, 2015), requires NHTSA to conduct a study ''to determine the amount of time event data recorders installed in passenger motor vehicles should capture and record for retrieval [of] vehicle-related data in conjunction with an event in order to provide sufficient information to investigate the cause of motor vehicle crashes,'' and to submit a report containing the findings of this study to Congress. Further, within two years of submitting this report to Congress, NHTSA ''shall promulgate regulations to establish the appropriate period during which event data recorders installed in passenger motor vehicles may capture and record for retrieval vehicle-related data to the time necessary to provide accident investigators with vehicle-related information pertinent to crashes involving such motor vehicles.''

As discussed in detail in section C below, NHTSA completed the Event Data Recorders Duration Study required by Section 24303. On September 28, 2018, NHTSA submitted a Report to Congress summarizing the results of the study to the House Committee on Energy and Commerce and the Senate Committee on Commerce, Science, and Transportation.[6] This NPRM begins the process of promulgating regulations to establish appropriate EDR data recording durations as mandated under the FAST Act.

[1] In 2012, NHTSA proposed to convert part 563's ''if equipped'' requirements for EDRs into a new Federal Motor Vehicle Safety Standard (FMVSS) mandating the installation of EDRs in most light vehicles. The NPRM did not propose making any changes to the current EDR regulation's performance requirements, including those for the required data elements (77 FR 74145). In 2019, NHTSA withdrew this proposal due to the near universal installation of EDRs on light vehicles (84 FR 2804).

[2] Part 563 requires EDR data to survive the crash tests in FMVSS Nos. 208, ''Occupant crash protection,'' and 214, ''Side impact protection.''

[3] For the purposes herein, we are using the term ''imaging'' to refer to the process by which data are retrieved from an EDR. When imaging the data on an EDR, the original data set remains intact and unchanged in the memory banks of the EDR.

[4] NHTSA had originally proposed an 8-second duration in the NPRM. 69 FR 32942 (June 14, 2004). However, NHTSA decided to reduce the duration in response to public comments. 71 FR 51020 (Aug. 28, 2006).

[5] In the 2012 NPRM it was estimated that about 92 percent of model year 2010 light vehicles had some EDR capability.

[6] National Highway Traffic Safety Administration. (2022, March) Results of event data recorders pre-crash duration study: A report to Congress (Report No. DOT HS 813 082A).

C. Event Data Recorders Duration Study

To meet the agency's obligations under Section 24303 of the FAST Act, NHTSA contracted with researchers at Virginia Polytechnic Institute and State University (Virginia Tech) to conduct a study to determine the recording duration that would be necessary for EDRs to provide sufficient vehicle-related data to investigate the cause of motor vehicle crashes (the ''EDR Duration Study'').[7] Because crash investigators must understand the events leading up to a crash to determine crash causation, the EDR Duration Study sought to determine the necessary recording duration to encompass a vehicle's relevant maneuvers for three crash types that could benefit from more than 5 seconds of pre-crash recording time: rear-end, intersection, and road departure crashes.[8] For all three of these crash types, the study hypothesizes that it is necessary to capture the initiation of crash avoidance maneuvers by the driver, if any, to better determine causation. The specific crash avoidance maneuvers examined in the study were the driver's release of the accelerator, and the initiation of pre-crash braking and evasive steering. In addition, for intersection crashes, it is also necessary to capture vehicle data for the duration that the vehicle is approaching and traversing an intersection, since intersection crashes often have complex causes that extend back further than when the driver begins making crash avoidance maneuvers (*e.g.,* a rolling stop at the stop sign or any indication of erratic driving during the approach).

The EDR Duration Study was conducted in two phases. Phase I provided an estimate of how often EDRs fail to record a sufficient duration of pre-crash data; however, this analysis did not provide insight into what duration beyond 5 seconds of pre-crash data is needed to capture crash causation. The emphasis in Phase II was on using driver actions in normal driving to determine the complete duration of driver pre-crash actions.

Phase I used cumulative distributions of the EDR data pulled from NHTSA's National Automotive Sampling System Crashworthiness Data System (NASS–CDS) database [9] [10] to estimate how frequently the current 5-second EDR duration requirement failed to capture the initiation of pre-crash driver maneuvers in rear-end, intersection, and road departure crashes. The Phase I study also estimated how frequently the 5-second duration did not capture the vehicle's approach and traversal phase of an intersection or road departure.[11] The results of Phase I helped establish the need for an increase in the EDR recording duration by proving the inadequacy of the 5-second recording duration.

For Phase II of the EDR Duration Study, researchers used data from two previously conducted naturalistic driving studies (NDS) to understand the complete duration (5 seconds or longer) of driver pre-crash actions and estimate the recording duration that would be necessary to capture the initiation of these actions in the same three types of crash scenarios examined in Phase I.[12]

1. Phase I Study

The purpose of the Phase I study was to determine the frequency with which EDRs with a 5-second recording duration fail to record a sufficient duration of pre-crash data to determine crash causation for rear-end,[13] intersection, and roadway departure crashes. Using EDR data pulled from NHTSA's NASS–CDS database from 2000–2015,[14] Phase I researchers examined 1,583 raw cases. Of these cases, 329 were rear-end crashes, 839 were intersection crashes, and 415 were road departure crashes. Based on these cases, researchers found that the current 5-second recording duration required under part 563 failed to capture the initiation of driver crash avoidance maneuvers for a certain percentage of all three selected crash types. These findings are good indications that a 5-second pre-crash recording duration is inadequate if the goal is to capture the complete pre-crash time history—principally the driver's pre-crash behavior—so that NHTSA, crash investigators, and manufacturers can better understand the crash causation.

To determine whether the EDR had captured an entire crash event, Phase I researchers examined the status of the available EDR pre-crash data elements—vehicle's accelerator pedal, service brakes, and steering angle—over the course of the 5 seconds of data. The initiation of the crash event would be indicated by the release of the accelerator pedal, the initiation of braking, or a change in the steering angle from zero degrees. Again, cumulative distributions of the data were used to determine the percentage of crashes where the initiation of the driver's pre-crash maneuver falls outside the 5-second pre-crash recording duration.

For rear-end crashes, the Phase I researchers found that the current 5-second EDR recording duration failed to capture 9% of accelerator pedal releases, 35% of pre-crash braking initiations, and 80% of evasive steering initiations. For intersection crashes, the 5-second recording duration failed to capture 4% of accelerator pedal release instances, 35% of pre-crash braking initiations, and 64% of evasive steering initiations. In addition, it did not capture 13% of initial intersection boundary crossings.[15] Finally, for road departure crashes, the 5-second recording duration failed to capture 8% of accelerator pedal releases, 35% of pre-crash braking initiations, and 88% of evasive steering initiations. However, the analysis of road departure traversal time shows that, in nearly all road departure events, the time period between initial road departure to final rest was less than 5 seconds, which indicates that the pre-crash maneuvers that were not recorded by the 5-second duration likely took place before the vehicle went off-road. Table 1 below summarizes the Phase I findings.

[7] Chen, R.J., Tatem, W.M., & Gabler, H.C. (2022, March) Event data recorder duration study (Appendix to a Report to Congress. Report No. DOT HS 813 082B). National Highway Traffic Safety Administration.

[8] Ibid. Phase I did not analyze lane departure behavior prior to a road departure crash.

[9] NASS–CDS was utilized because it contains over 9,000 EDR downloads. NASS–CDS sampling weights were used in the calculations unless otherwise specified.

[10] The National Motor Vehicle Crash Causation Study (NMVCCS) was also analyzed, but due to the small sample size distributions of pre-crash maneuvers were not conducted. However, the NMVCCS dataset was analyzed to determine the frequency of vehicle malfunctions in crashes, and none of the 50 vehicles in the final dataset were reported as having a vehicle malfunction by the on-site investigator.

[11] Intersection traversal time is not directly measured by a vehicle's EDR; researchers calculated traversal time for this study by reconstructing crash events.

[12] The two studies used were a 100-Car NDS conducted by Virginia Tech Transportation Institute [Neale, V.L., Klauer, S.G., Knipling, R.R., Dingus, T.A., Holbrook, G.T., and Petersen, A. (2002) The 100-Car Naturalistic Driving Study, Phase 1—Experimental Design. (DOT Report HS 809 536) Washington, DC: National Highway Traffic Safety Administration], and the Second Strategic Highway Research Program (SHRP–2) NDS conducted by the Transportation Research Board of The National Academies, [Hankey, J.M., M.A. Perez, and J.A. McClafferty. Description of the SHRP 2 naturalistic database and the crash, near-crash, and baseline data sets, Task Report, Virginia Tech Transportation Institute, Blacksburg, VA, 2016].

[13] For rear-end crashes the striking vehicle was examined.

[14] Up until 2015, NASS was comprised of two probability sampling systems: the General Estimates System (GES) and CDS. Then in 2016, the Crash Investigation Sampling System (CISS) replaced the CDS.

[15] Intersection boundaries were used as a reference point to divide the approach and traversal phase of an intersection (*e.g.,* the edge of the stop bar or cross walk marking closest to the center of the intersection was used as the boundary).

TABLE 1—PERCENTAGE OF EVENTS FOR WHICH 5 SECONDS OF EDR RECORDING DURATION WAS INSUFFICIENT FROM NASS–CDS

Driver pre-crash maneuver	EDR failed to record maneuver initiation (percent)
Rear-End:	
Braking Input	35%
Steering Input	80
Accelerator Release	9
Intersection:	
Braking Input	35
Steering Input	64
Accelerator Release	5
Road Departure:	
Braking Input	35
Steering Input	88
Accelerator Release	8

Based on these findings, the EDR Duration Study concluded that in many cases, the 5-second recording duration may not be sufficient to determine the factors that led to the crash or the pre-crash actions taken by the driver to avoid the collision, meaning that EDRs currently would not always provide investigators crash-related information that could assist in the determination of crash causation.

2. Phase II Study

The purpose of the Phase II study was to determine an appropriate EDR recording duration to provide crash investigators with sufficient data to determine crash causation. NDS data were analyzed to understand the complete duration (5 seconds or longer) of driver pre-crash actions in car following, intersection traversal, and lane departure crashes. The Phase II study used data from two previously conducted naturalistic driving studies: a 2002 100-Car study conducted by Virginia Tech, and the 2016 Second Strategic Highway Research Program (SHRP–2) NDS conducted by the Transportation Research Board of The National Academies.[16] To estimate the recording duration needed to capture the initiation of a crash event, the Phase II researchers analyzed near-miss driving events as proxies for actual crash avoidance driving maneuvers that were analyzed in the Phase I study.[17] The main finding in Phase II of the study was that 20 seconds of pre-crash data would encompass the 90th percentile recording duration required for the three crash modes and the crash avoidance maneuvers analyzed. A ''90th percentile recording duration'' means that, based on the cumulative distributions for all three crash modes and crash avoidance maneuvers analyzed, a minimum of 20 seconds of pre-crash data recording is necessary to investigate crash causation, as this period captures the driver pre-crash actions in 90% of the dataset.[18]

To determine the recording duration needed to capture rear-end crashes, the Phase II researchers examined the duration of ''car following'' braking events from the 100-car NDS. By looking at the time duration between the start of the braking event (*i.e.,* when the driver applies the brake) and the vehicle's closest approach to the lead vehicle, the Phase II researchers were able to approximate the duration of a rear-end crash event. The results were different depending on whether the lead vehicle was stopped or travelling (*e.g.,* events with stopped lead vehicle are associated with longer time to closest approach). The findings in the study are that for braking events with a stopped lead vehicle, the median was 4.5 seconds and the 90th percentile time to closest approach [19] was 12.3 seconds. The SHRP–2 dataset was also used to characterize driver pre-crash behavior in striking rear-end crash events. The approach was to use striking rear-end crash events from the SHRP–2 NDS to provide a threshold to determine the required time duration to fully capture driver pre-crash behavior.[20] The analysis of rear-end crashes in the SHRP–2 NDS resulted in 90th percentile distributions of final accelerator release, brake initiation, and evasive steering durations of 12, 10, and 3 seconds, respectively.[21]

To determine the recording duration needed to capture intersection crashes, the Phase II researchers examined the time duration for drivers to approach and traverse through an intersection during normal driving.[22] This analysis used the 100-Car NDS data, and found that the current EDR pre-crash recording time of 5 seconds captures less than 1 percent of the total intersection event time. The results of this analysis support that a recording time of 15 seconds would capture approximately 50 percent of the total intersection event time, and 18.6 seconds would capture 90 percent.[23] The proposed recording

[16] A naturalistic driving study is a research method that involves equipping vehicles with unobtrusive cameras and instrumentation to record real-world driver behavior and performance.

[17] Phase II of the study assumed that the driver's behavior in near-miss driving events would correlate to actual crash avoidance driving maneuvers.

[18] This duration is influenced heavily by the inclusion of intersection crashes. Without the inclusion of intersection crashes 12.3 seconds of data would encompass the 90th percentile recording duration for rear-end and road departure crashes.

[19] The time to closest approach is calculated as the time between driver brake applications to time when the instrumented vehicle is at the closest longitudinal distance with respect to the lead vehicle.

[20] SHRP–2 data were used to better capture the diversity of driver behavior nationwide.

[21] Final accelerator release was calculated as the time point prior to impact, where impact is time 0, when the driver releases the accelerator (accelerator status ''0'') for the final time. Final brake initiation was calculated as the time point prior to impact when the driver depresses the brake pedal. Time of evasive steering initiation was calculated as the time point prior to impact when the driver's steering rate equaled or exceeded 500°/s for the first time. These metrics were not collected in the 100-car NDS.

[22] The sequence of driver actions leading to and resulting in an intersection collision can be divided into four phases: the approach phase, the traversal phase, any evasive action, and finally the impact. For almost all intersection crash types, the driver actions which lead to the crash, *e.g.* running a red light, occurred during the approach phase. In most crashes once in the intersection, the error has already been committed. If an EDR can capture the approach phase of an intersection crash then the entire crash will be captured. However, EDRs, which record the time of transition between the approach and traversal phase, can capture stop sign running, rolling stops, and red-light running.

[23] Cumulative distributions for the approach, traversal, and total times were analyzed for each traffic control device type, approach action, traversal action, and lane size.

time of 20 seconds would capture approximately 99 percent of the total intersection event time.

To determine the recording duration needed to capture road departure crashes, the Phase II researchers examined ''lane excursion'' events (*i.e.,* minor lane departures which occur as a result of normal lane keeping behavior that do not result in crashes) in the 100-Car NDS. The duration of a lane excursion event was calculated as the time from the moment a vehicle began to drift, depart the lane, to the time when the vehicle fully recovers back within the lane lines. The finding of the study was that the median duration of all lane excursion events was about 3.2 seconds, and the 90th percentile of the distribution was 6 seconds. The analysis of 14 road-departure crashes in SHRP–2 NDS showed that the median accelerator pedal release time to road departure was 23 seconds, the median brake application was at 1.9 seconds after road departure, but as early as 21 seconds prior to road departure.[24]

Table 2 summarizes the pertinent Phase II findings:

TABLE 2—SUMMARY OF TYPICAL DRIVER MANEUVER TIME

Driver pre-crash maneuver	Duration of driver action (seconds)	
	50th percentile	90th percentile
Rear-End:		
Time to Closest Approach	4.5	12.3
Intersection:		
Approach + Traversal	12.6–15.1	[25] 16.0–18.6
Road Departure: *		
Drift out of lane to Recovery	3.2	6.0

* Lane excursion events were examined in the 100-car NDS.

II. Proposal

A. Pre-Crash EDR Recording Duration

Widespread deployment of EDRs offers an opportunity to use EDR data to assist in the determination of crash causation and better understand driver pre-crash behavior. EDRs can provide a comprehensive snapshot of the driver inputs in the seconds prior to a crash (*e.g.,* acceleration, brake application, and steering inputs).

Pursuant to Section 24303 of the FAST Act, and in light of the conclusions of the EDR Duration Study, NHTSA is proposing to extend the EDR recording duration for timed data elements from 5 seconds of pre-crash data to 20 seconds.

As noted above, Phase I of the EDR Duration Study found that, in a substantial percentage of crashes in which the EDR is triggered, the currently required 5-second recording duration was insufficient to record important information that would assist investigators with crash reconstruction, such as the initiation of crash avoidance driving maneuvers, *e.g.,* pre-crash braking. Phase II of the EDR Duration Study found that 20 seconds of pre-crash data would encompass the 90th percentile recording duration required for the three crash modes and the crash avoidance maneuvers analyzed.

The EDR Duration Study has determined that the 5-second recording duration is a limitation of current EDRs for the purposes of investigating crash causation. To assist investigators and vehicle manufacturers in determining crash causation, the research indicated that the EDR needs to be able to capture the driver's pre-crash behavior. The study found that a better understanding of the driver's pre-crash behavior will also assist in the evaluation of emerging crash avoidance systems (*e.g.,* lane departure warning, lane keeping assist, forward collision avoidance, automatic emergency braking, and intersection safety assistance systems).[26] Based on the study, it appears that extending the EDR recording duration to 20 seconds would help ensure that critical pre-crash data are captured. Therefore, based on the conclusions of the EDR Duration Study, NHTSA believes it is reasonable to propose requiring a minimum of 20 seconds of pre-crash data.

Further, this proposal is also based on information NHTSA has learned from its defects investigation experience that EDR data can be used to assist the agency in assessing whether the vehicle was operating properly at the time of the event, or to help detect undesirable operations. For example, in March 2010, NHTSA began to obtain data from Toyota EDRs as part of its inquiry into allegations of unintended acceleration (UA), and as a follow-up to the recalls of some Toyota models for sticking and entrapped accelerator pedals. The Toyota unintended acceleration study helped determine the root cause of each crash.[27] For NHTSA, this served as affirmation of the significant value that EDR pre-crash data can have.

Finally, we believe a 20 second pre-crash recording duration is feasible. We are aware that, previously, several manufacturers' EDRs recorded pre-crash data in excess of the minimum time intervals required in part 563. For example, a 2007 Ford was shown to have reported over 25 seconds of data (23.6 seconds pre-crash and 1.6 seconds post-crash) on five separate data elements, at a frequency of 5 data points per second (5 Hz).[28] This includes all three required Table I elements and two optional Table II elements. We are seeking comment on the need and practicability of increasing the pre-crash recording duration.

[24] Both lane and road departures were analyzed, because, while most normal lane excursions do not result in crashes, lane excursions can lead to road departure crashes if the driver does not initiate corrective measures in time. Therefore, a characterization of normal lane excursions duration provides a baseline to establish sufficient EDR recording duration in order to capture driver lane keeping behavior prior to road departure crashes.

[25] Note the range of time shown for intersection was derived from intersections with different number of lanes. The lower bound represents time for 2-lane intersections while the upper bound for 7-lane intersections.

[26] We note that, although SAE has specifications on them and some vehicle manufacturers have started to record crash avoidance EDR data elements, there are no required or optional EDR data elements specific to these crash avoidance technologies. However, knowing the status of required data elements such as service brake application and accelerator pedal percent and optional data elements such as steering input, will assist in understanding the performance of these technologies.

[27] NHTSA Report No. NHTSA–NVS–2011–ETC, ''Technical Assessment of Toyota electronic Throttle Control (ETC) Systems,'' January 2011.

[28] NHTSA, Special Crash Investigation No. IN10013. *https://crashviewer.nhtsa.dot.gov/nass-sci/GetBinary.aspx?Report&ReportID=804261920&CaseID=804261915&Version=-1.*

B. Pre-Crash EDR Recording Frequency

The current Table I in part 563 requires an EDR to capture pre-crash data at a sample rate of 2 samples per second (Hz). The same sample rate applies to Table II elements of engine revolutions per minute (RPM), anti-lock braking system (ABS) status, electronic stability control (ESC) status and steering input. Generally, 5 seconds worth of pre-crash event data at 2 Hz sampling rate has been sufficient for the agency's crash investigators to better understand the vehicle speed and driver inputs prior to the event. However, from the agency's experience investigating allegations of unintended acceleration, NHTSA identified a need for the agency to consider improving the pre-crash data sample rate. Increasing the sampling rate in addition to the pre-crash recording duration, will be critical in determining crash causation.

NHTSA believes that increasing the EDR sampling frequency would provide the agency with a more detailed representation of pre-crash actions because in some crash circumstances, 2 Hz may be insufficient to identify crash causation factors and lead to misinterpretation of the data. For example, NHTSA is concerned that it is possible for rapid vehicle control inputs (*e.g.,* brake application and release or rapid reversals in steering input of less than 0.5 seconds,) to be completely missed by an EDR that records data at 2 Hz. Thus, although more crash causation information will be captured with the 20 second time duration, there is a concern that it could be misinterpreted without a refinement in acquisition frequency. An improved data sampling rate is also needed because of how fast the sequence of events leading to crashes can happen and how fast the vehicle's systems need to activate, such as the activations of crash avoidance technologies (*e.g.,* Anti-lock Braking System, and Electronic Stability Control). The current sampling rate is well below the timing necessary to understand the performance and effectiveness of such systems.

In addition, the EDR output for the pre-crash data elements are not synchronized,[29] even at the sampling rate of 2 Hz, which could result in uncertainty when it becomes necessary to compare the data at specific points in time with precision. A greater sampling rate for the pre-crash data elements would reduce the potential uncertainty related to the relative timing of data elements, specifically for correlating the driver's commands and the vehicle's performance.

Furthermore, at least one vehicle manufacturer (Honda) has begun to voluntarily collect EDR data on the status and operation of advanced driver assistance systems, like the activation of forward crash warning alerts, automatic emergency braking activations, and similar lane keeping assist technologies. Generally, manufacturers have adopted the sampling rate used for pre-crash data elements that are voluntarily recorded by the EDR. An improved sampling rate of 10 Hz will provide the resolution to understand the real-world performance and effectiveness of these advanced crash avoidance systems that is not currently possible with the current 2 Hz sampling rate and non-synchronized data collection. The combination of manufacturers' voluntary integration of advanced driver assistance system data elements and the increased sampling frequency would provide valuable insight on the performance of new technologies.

We believe a 10 Hz pre-crash recording frequency is feasible. We are aware of 10 Hz pre-crash recordings for steering angle and electronic stability control as far back as 2010.[30] 2012 EDRs in Chrysler vehicles recorded all Table I data elements and 5 Table II elements at 10 Hz.[31] [32] Also pointing to the practicability and appropriateness of 10 Hz sampling are statements of vehicle manufacturers and suppliers made to Virginia Tech researchers during the 2011–2013 timeframe (EDR Technology Study).[33] When asked about near-term plans for EDR designs, these manufacturers and suppliers stated, ''Higher sampling frequency and longer recording interval for pre-crash data, *i.e.,* sampling frequency better than 1/10 of a second.'' [34]

As with the increased recording duration, we welcome comments on the need and practicability of increasing the sampling rate.

C. Benefits

Based on the EDR Duration Study findings, the current 5 second EDR pre-crash recording duration did not capture the initiation of pre-crash braking and steering maneuvers in a substantial percentage of cases. The proposed increased recording time for the pre-crash data would help ensure that data on the initiation of pre-crash actions and maneuvers are captured for most crashes. This increased data will enhance the usefulness of the recorded information and potentially lead to further improvements in the safety of current and future vehicles.

The increase in data recording frequency will clarify the interpretation of recorded pre-crash information. Specifically, this proposed refinement in acquisition frequency can capture rapid vehicle control inputs (*e.g.,* brake application and release or rapid reversals in steering input of less than 0.5 seconds) and activation of crash avoidance technologies that would otherwise be completely missed in the data stream under the current 2 Hz frequency sampling rate. Furthermore, without the increase in the data recording frequency, even with the proposed 20 second duration, crash investigators and researchers could still misinterpret the recorded data.

As discussed in past EDR rulemaking notices, EDR data improve crash investigations and crash data collection quality to assist safety researchers, vehicle manufacturers, and the agency to understand vehicle crashes better and to help determine crash causation.[35] Similarly, vehicle manufacturers can utilize EDR data in improving vehicle designs and developing more effective vehicle safety countermeasures. In addition, the data can be used, by the vehicle manufacturers or the agency, to assess whether the vehicle was operating properly at the time of the event, or to help detect undesirable operations. For example, as discussed previously in Section II.A, the Toyota unintended acceleration study [36] served as affirmation of the significant value that EDR pre-crash data can have.

EDR data can also aid in the improvement of existing safety standards and the development of new

[29] The individual data elements collected from various sensors and modules may be running at different clock and processor speeds, and when recorded by the EDR during an event, they may not be precisely timed. A greater sampling rate for the pre-crash data elements can reduce the potential uncertainty related to the relative timing of data elements, specifically for correlating the driver's commands and the vehicle's performance.

[30] NASS CDS Case 2010–82–045. EDR download FTP site: *https://www.nhtsa.gov/node/97996/2921.* Download nass2010.zip.

[31] DOT HS 812 929, Pg. 18.

[32] NASS CDS Case 2012–12–075. EDR download FTP site: *https://www.nhtsa.gov/node/97996/2921.* Download nass2012.zip.

[33] Five vehicle manufacturers and three suppliers were interviewed as part of the study.

[34] DOT HS 812 929, Pg. 39.

[35] Even though crash investigators gather insightful information about the dynamics of crashes, some parameters cannot be determined or cannot be as accurately measured (such as the change in velocity) by traditional post-crash investigation procedures, such as visually examining and evaluating physical evidence, *e.g.,* the crash-involved vehicles and skid marks.

[36] NHTSA Report No. NHTSA–NVS–2011–ETC, ''Technical Assessment of Toyota electronic Throttle Control (ETC) Systems,'' January 2011.

ones. For example, the requirement for EDRs to record parameters of advanced restraint systems during an event of interest could help industry and the agency monitor the real-world performance of these systems and detect injury trends. As a result, vehicle manufacturers could more quickly improve advanced restraint systems and other occupant protection countermeasures. The agency would promulgate the necessary vehicle standards to further protect vehicle occupants. An increasing number of vehicles in the fleet today have advanced safety technologies, including advanced driver assistance system technologies. We anticipate that a better understanding of driver pre-crash behavior may assist in the evaluation of these emerging crash avoidance systems (*e.g.,* lane departure warning, lane keeping assist, forward collision avoidance, automatic emergency braking, and intersection safety assistance systems).

D. Costs

Increasing the recording time of the pre-crash data would improve the current part 563 data collection requirements, but could add additional cost for increased memory if there is little or no excess memory in the module. Another study on EDRs recently published by the agency (referred to throughout this document as the EDR Technologies Study) reported from information provided by industry that a typical recorded event requires about 2 kilobytes (Kb) of memory depending on the manufacturer.[37] Information from manufacturers also indicated that the typical microprocessor used in vehicle applications, in approximately the 2013 timeframe, had 32 Kb or 64 Kb of flash data as part of the air bag control module (ACM) and that only a fraction of the memory is dedicated to the EDR data. This study also estimated the total memory usage for all Table I[38] and Table II[39] data elements recorded for the minimum duration and frequency requirements in part 563. It reported that to record Table I and II data elements would require 0.072 Kb and 0.858 Kb of memory storage, respectively.[40] This would represent the baseline memory, both required (0.072 Kb) and optional (0.858 Kb), needed for complying with part 563 and would account for only about 1.45 percent [0.93/64] of a 64 Kb microprocessor's memory and 2.9 percent [0.93/32] of a 32 Kb microprocessor's memory.

The table below specifies the Table I and II pre-crash data element memory usage under the current regulation (baseline memory) as well as the proposed increase in pre-crash recording duration from 5 seconds to 20 seconds with no change in the 2 Hz frequency and the second scenario is an increase in recording frequency from 2 Hz to 10 Hz, for a 20 second duration. The pre-crash duration-only increase requires 0.21 Kb [1.14 Kb–0.93 Kb] of additional memory (a factor of 1.23 increase from the baseline).[41] An increase in pre-crash recording duration from 5 seconds to 20 seconds with an increase in recording frequency from 2 Hz to 10 Hz would require 1.33 Kb of additional memory (a factor of 2.43 increase from the baseline).[42]

The EDR Technologies Study reported that the cost of flash memory (the type that could be used to permanently store an EDR image) was 0.000072 $/Kb (0.072 ¢/megabyte (Mb)) in 2013, with the projection of a drop to .00003 $/Kb (0.03 ¢/Mb) by 2020. Cost estimates from the Federal Motor Carrier Safety Administration (FMCSA) for flash memory for commercial vehicle data recorders from 2005 gave a memory cost at $0.002/Kb (200 ¢/Mb).[43] This estimate is more than 15 years old and likely overestimates current EDR memory cost. Nonetheless, if we use this conservative estimate, the cost of additional memory needed for 20 seconds of pre-crash data collected at 10 Hz would be $.003 [$.002/Kb x (2.26–0.93) Kb] per vehicle.

TABLE 3—PRE-CRASH ELEMENT MEMORY USAGE

Configuration	Pre-crash elements		Required EDR memory (Kb)			
	Duration	Frequency (Hz)	Table I	Table II	Total	Increase factor
Current Regulation	5	2	0.072	0.858	0.930	
Duration Increase	20	2	0.162	1.019	1.140	1.23
Duration and Frequency Increase	20	10	0.642	1.819	2.260	2.43

According to the EDR Technology Study, the typical microprocessor used in vehicle applications for the ACM had 32Kb or 64Kb of flash data. The baseline EDR Table I and II data elements only represent about 1.45 percent of a 64 Kb microprocessor's memory and 2.9 percent of a 32 Kb microprocessor's memory. Increasing the duration to 20 seconds and frequency to 10 Hz would utilize 3.5 percent [2.26/64] of a 64 Kb microprocessor's memory and 7.06 percent [2.26/32] of a 32 Kb microprocessor's memory.

Given how slight the proposed increase in memory would be, the agency believes that memory changes needed to accommodate the added EDR data storage can be incorporated into the existing or planned memory design in vehicles.[44] NHTSA believes that in most cases the amount of additional memory necessary to comply with the proposed requirements would be less than the unused memory on a vehicle's ACM chip. In such cases, there should be zero increase in memory cost. The rare exception to this would be a situation where an ACM is at its full memory usage (*i.e.,* due to the collection of optional data elements) that does not have a few percent of memory to spare. In this situation, it is possible that there could be an additional cost to move to

[37] DOT HS 812 929, Pg. 23.

[38] See Table 20 in DOT HS 812 929.

[39] See Table 21 in DOT HS 812 929.

[40] There are 3 data elements in Table I and 4 in Table II that are frequency based. We assume 1 Byte of memory for each data sample (11 Bytes for each data element). This results in 33 and 44 Bytes of frequency-based data in Tables I and II, respectively.

[41] The frequency-based pre-crash data are assumed to increase from 11 to 41 Bytes per data element, based on a factor of 4 increase in duration.

[42] The frequency-based pre-crash data are assumed to increase from 11 to 201 Bytes per data element, based on a factor of 4 increase in duration and a factor of 5 increase in recording frequency.

[43] Kreeb, R.M. and B.T. Nicosia (2005). ''Vehicle Data Recorders,'' (FMCSA–PSV–06–001). Federal Motor Carrier Safety Administration, Washington, DC.

[44] Specifically, more memory and faster processors are critical to the performance of advanced driver assistance systems (ADAS), highly automated driving functions, and other electronic subsystems (such infotainment, navigation, communication) in vehicles.

a larger chip.[45] Vehicle manufacturers could alternatively reduce the number of optional Table II data elements being recorded, until such time that the ACM chip is being enlarged for other reasons. We seek comment on whether current EDRs will need to increase their memory capacity or change the memory implementation strategy (*i.e.,* short term memory buffer verse long-term storage) to meet the new requirements. We also seek comment on our cost estimates and whether our assumptions are accurate. Are there other costs (*e.g.,* redesign for a larger unit, additional capacity for Random-Access Memory (RAM), etc.),[46] or other factors we need to consider?

Finally, we do not anticipate there being any additional processor speed or backup power needs associated with the proposed greater recording duration and frequency increase. As found in the EDR Technologies Study, more than a decade ago at least one vehicle manufacturer was recording 20 seconds of data at 5 Hz. Since that time, manufacturers may have improved the processing speed of their ACM in order to handle additional crash deployable components, such as ejection mitigation curtains. Thus, the proposed changes would not be expected to burden the speed of the processor. Nonetheless, we seek comment on the potential impact on the ACM processor and associated cost.

E. Lead Time

We are proposing an effective date of the first September 1st one year from the publication of the final rule. For example, if the final rule is published on October 1, 2022, the effective date is September 1, 2024. The agency estimates that 99.5 percent of model year 2021 passenger cars and other vehicles with a GVWR of 3,855 kg or less have part 563-compliant EDRs. As discussed in the cost section, the agency believes that increasing the required pre-crash data recording time will not require any additional hardware or substantial redesign of the EDR or the vehicle and will likely only require minimal software changes. With that in mind, the agency believes a year of lead time is reasonable. Comments are requested on this proposed lead time.

III. Rulemaking Analyses and Notices

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

We have considered the potential impact of this proposed rule under Executive Order 12866, Executive Order 13563, and DOT Order 2100.6A. This NPRM is nonsignificant under E.O. 12866 and was not reviewed by the Office of Management and Budget. It is also not considered ''of special note to the Department'' under DOT Order 2100.6A, *Rulemaking and Guidance Procedures.*

As discussed in this NPRM, the additional pre-crash data that would be collected by EDRs under the proposed rule would be valuable for the advancement of vehicle safety by enhancing and facilitating crash investigations, the evaluation of safety countermeasures, advanced restraint and safety countermeasure research and development, and certain safety defect investigations. Improvements in vehicle safety could occur indirectly from the collection of these data.

We estimate that about that 99.5 percent of model year 2021 passenger cars and other vehicles with a GVWR of 3,855 kg or less are already equipped with part 563-compliant EDRs. As discussed in the above section on the cost impacts of this NPRM, the agency believes that no additional hardware would be required by the proposed amendment and that the compliance costs would be negligible, and we are seeking comment on the costs of the proposed rule.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of proposed rulemaking or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)(1)). No regulatory flexibility analysis is required if the head of an agency certifies the proposed or final rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a proposed or final rule will not have a significant economic impact on a substantial number of small entities.

This action proposes minor amendments to 49 CFR part 563, Event Data Recorders (EDRs) to extend the recording period for pre-crash elements in voluntarily installed EDRs from 5 seconds of pre-crash data at a frequency of 2 Hz to 20 seconds of pre-crash data at a frequency of 10 Hz. The proposed rule applies to vehicle manufacturers who produce light vehicles with a GVWR not greater than 3,855 kg (8,500 pounds) and voluntarily install EDRs in their vehicles. It also applies to final-stage manufacturers and alterers. NHTSA analyzed current small manufacturers in detail in the accompanying Preliminary Regulatory Evaluation (PRE) [47] and found that none of the entities listed in the analysis would be impacted by this proposal. If adopted, the proposal would directly affect 20 single stage motor vehicle manufacturers.[48] None of these are qualified as small business. However, NHTSA analyzed current small manufacturers, multistage manufacturers, and alterers that currently have part 563 compliant EDRs and found that 13 motor vehicle manufacturers affected by this proposal would qualify as small businesses. While these 13 motor vehicle manufacturers qualify as small businesses, none of them would be significantly affected by this rulemaking for several reasons. First, vehicles that contain EDRs are already required to comply with part 563. This proposed rule would not require hardware changes, but would require adjusting the recording time and sampling rate for up to seven pre-crash data elements. The agency believes current or planned systems are capable of accommodating these changes. Additionally, NHTSA believes the market for the vehicle products of the 13 small vehicle manufacturers is highly inelastic, meaning that purchasers of their products are enticed by the desire to

[45] In this situation, there could be an additional cost to move to a larger chip. According to the EDR Technologies Study reported that the cost of flash memory (the type that could be used to permanently store an EDR image) was 0.00072 $/megabyte (Mb) in 2013, with the projection of a drop to 0.0004 $/Mb by 2017.

[46] An internet search for automotive grade microprocessor chips with 64 Kb and 128 Kb flash memory capacity indicate that they also had 4 Kb of available Static Random-Access Memory (SRAM) integrated with the chip. SRAM is a popular choice for volatile storage because of its speed, reliability, low-power consumption and low cost (*e.g.,* ideal for applications involving continuous data transfer, buffering, data logging, audio, video and other math- and data-intensive functions). *https://www.microchip.com/wwwproducts/en/AT90CAN64.*

[47] The PRE is available in the same docket as this proposal.

[48] BMW, Fiat/Chrysler (Ferrari and Maserati), Ford, Geely (Volvo), General Motors, Honda (Acura), Hyundai, Kia, Lotus, Mazda, Mercedes, Mitsubishi, Nissan (Infiniti), Porsche, Subaru, Suzuki, Tata (Jaguar and Land Rover), Tesla, Toyota (Lexus), and Volkswagen/Audi.

have a highly customized vehicle. Generally, under this circumstance, if any price increase, the price of competitor's models will also need to be raised by a similar amount, since all light vehicles must comply with the standards. Therefore, any reasonable price increase will not have any effect on sales of these vehicles. Thus, I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Additional details related to the basis of this finding can be found in the PRE for this rulemaking proposal.

Executive Order 13132

NHTSA has examined today's proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concludes that no additional consultation with states, local governments or their representatives is mandated beyond the rulemaking process. This NPRM proposes minor technical amendments to an already existing regulation.[49] When 49 CFR part 563 was promulgated in 2006, NHTSA explained its view that any state laws or regulations that would require or prohibit the types of EDRs addressed by part 563, or that would affect their design or operations, would create a conflict and therefore be preempted. As a result, regarding this NPRM, NHTSA does not believe there are current state laws or regulations for EDRs that conflict with part 563 or with the overall minor change to capture time proposed by this document. Further, the amendments proposed by this NPRM are directed by the FAST Act, which directs NHTSA to conduct a study to determine the amount of time EDRs should capture and record data to provide sufficient information for crash investigators, and conduct a rulemaking based on this study to establish the appropriate recording period in part 563. NHTSA conducted an EDR Duration Study and submitted a Report to Congress summarizing the results of this study in September 2018. This NPRM initiates the rulemaking mandated by the FAST Act. To the extent there are state laws with different capture times than that proposed by this NPRM, Congress made the determination in the FAST Act that the capture time required by part 563 should be extended. NHTSA is issuing this NPRM in accordance with that statutory mandate. NHTSA requests stakeholder input on this issue.

[49] The 2006 final rule promulgating 49 CFR part 563 discussed preemption at length. 71 FR 50907, 51029 (Aug. 28, 2006).

Executive Order 12988 (Civil Justice Reform)

When promulgating a regulation, Executive Order 12988 specifically requires that the agency must make every reasonable effort to ensure that the regulation, as appropriate: (1) Specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this proposed rule is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

Executive Order 13609 (Promoting International Regulatory Cooperation)

Executive Order 13609, ''Promoting International Regulatory Cooperation,'' promotes international regulatory cooperation to meet shared challenges involving health, safety, labor, security, environmental, and other issues and to reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

The agency is currently participating in the negotiation and development of technical standards for Event Data Recorders in the United Nations Economic Commission for Europe (UNECE) World Forum for Harmonization of Vehicle Regulations (WP.29). As a signatory member, NHTSA is obligated to initiate rulemaking to incorporate safety requirements and options specified in Global Technical Regulations (GTRs) if the U.S. votes in the affirmative to establish the GTR. No GTR for EDRs has been developed at this time. NHTSA has analyzed this proposed rule under the policies and agency responsibilities of Executive Order 13609, and has determined this proposal would have no effect on international regulatory cooperation.

National Environmental Policy Act

NHTSA has analyzed this NPRM for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid Office of Management and Budget (OMB) control number. This NPRM proposes requirements that relate to an information collection that is subject to the PRA, but the proposed requirements are not expected to increase the burden associated with the information collection. NHTSA is currently in the process of seeking approval for OMB for the information collection. In compliance with the requirements of the PRA, NHTSA published a notice in the **Federal Register** on August 26, 2021 (86 FR 47719), seeking public comment and providing a 60-day comment period. NHTSA has now followed up with a second notice, published a notice on March 17, 2022 (87 FR 15302), announcing that the agency is submitting the information collection request to OMB for approval.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as SAE International (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. The NTTAA requires agencies to use voluntary consensus standards in lieu of government-unique standards except where inconsistent with law or otherwise impractical.

There are several consensus standards related to EDRs, most notably those standards published by SAE (J1698—

Event Data Recorder) and Institute of Electrical and Electronics Engineers (IEEE) (Standard 1616, IEEE Standard for Motor Vehicle Event Data Recorder). NHTSA carefully considered the consensus standards applicable to EDR data elements in establishing part 563. Consensus standards for recording time/intervals, data sample rates, data retrieval, data reliability, data range, accuracy and precision, and EDR crash survivability were evaluated by NHTSA and adopted when appropriate. The FAST Act directed NHTSA to conduct a study to determine the amount of time EDRs should capture and record pre-crash data to provide sufficient information for crash investigators, and to conduct a rulemaking based on this study to establish the appropriate recording period in NHTSA's EDR regulation. NHTSA conducted the EDR Duration Study and submitted a Report to Congress summarizing the results of this study in September 2018. This particular rulemaking exceeds the pre-crash data recording durations of the SAE and IEEE standards (*i.e.,* SAE and IEEE recommend recording 8 seconds of pre-crash data) based upon the new information obtained from the EDR Duration Study. The results of the study on EDR recording duration suggest that the recommended recording duration by these standards would not capture the initiation of crash avoidance maneuvers. NHTSA declines to adopt the voluntary consensus standards for the pre-crash recording because such a decision would be inconsistent with the best available information to the agency and conflict with the outcome of a study required by the FAST Act.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal 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 more than $100 million annually (adjusted for inflation with base year of 1995). Adjusting this amount by the implicit gross domestic product price deflator for the year 2020 results in $158 million (113.625/71.868 = 1.581). Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

This NPRM would not result in expenditures by State, local, or tribal governments, in the aggregate, or by the private sector in excess of $158 million (in 2020 dollars) annually. As a result, the requirements of Section 202 of the Act do not apply.

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

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks,'' (62 FR 19885, April 23, 1997) applies to any proposed or final rule that: (1) Is determined to be ''economically significant,'' as defined in E.O. 12866, and (2) concerns an environmental health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If a rule meets both criteria, the agency must evaluate the environmental health or safety effects of the rule on children and explain why the rule is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This rulemaking is not subject to the Executive order because it is not economically significant as defined in E.O. 12866.

Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rulemaking that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This rulemaking is not subject to E.O. 13211.

Privacy

The E-Government Act of 2002, Public Law 107–347, sec. 208, 116 Stat. 2899, 2921 (Dec. 17, 2002), requires Federal agencies to conduct a Privacy Impact Assessment when they develop or procure new information technology involving the collection, maintenance, or dissemination of information in identifiable form or they make substantial changes to existing information technology that manages information in identifiable form. A PIA is an analysis of how information in identifiable form is collected, stored, protected, shared, and managed. The purpose of a PIA is to demonstrate that system owners and developers have incorporated privacy protections throughout the entire life cycle of a system.

The Agency submitted a Privacy Threshold Analysis analyzing this rulemaking to the DOT, Office of the Secretary's Privacy Office (DOT Privacy Office). The DOT Privacy Office has tentatively determined that this rulemaking does not create privacy risk because no new or substantially changed technology would collect, maintain, or disseminate information in an identifiable form because of this proposed rule. Even so, the Agency requests comment on this determination.

Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

Proposed Regulatory Text

List of Subjects in 49 CFR Part 563

Motor vehicle safety, Motor vehicles, Reporting and record keeping requirements.

In consideration of the forgoing, NHTSA is proposing to amend 49 CFR part 563 as follows:

PART 563—EVENT DATA RECORDERS

■ 1. Revise the authority citation for part 563 to read as follows:

Authority: 49 U.S.C. 322, 30101, 30111, 30115, 30117, 30166, 30168; delegation of authority at 49 CFR 1.95.

■ 2. Revise § 563.3 to read as follows:

§ 563.3 Application.

This part applies to the following vehicles manufactured on or after [the first September 1st one year after publication of final rule], if they are equipped with an event data recorder: passenger cars, multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (GVWR) of 3,855 kg (8,500 pounds) or less and an unloaded vehicle weight of 2,495 kg (5,500 pounds) or less, except for walk-in van-type trucks or vehicles designed to be sold exclusively to the U.S. Postal Service. This part also applies to manufacturers of those vehicles. However, vehicles manufactured before September 1, 2013, that are manufactured in two or more stages or that are altered (within the meaning of 49 CFR 567.7) after having been previously certified to the Federal motor vehicle safety standards (FMVSS) in accordance with part 567 of this chapter need not meet the requirements of this part.

■ 3. In § 563.7, revise Table I in paragraph (a) and Table II in paragraph (b) to read as follows:

§ 563.7 Data elements.

(a) * * *

TABLE I—DATA ELEMENTS REQUIRED FOR ALL VEHICLES EQUIPPED WITH AN EDR

Data element	Recording interval/time [1] (relative to time zero)	Data sample rate (samples per second)
Delta-V, longitudinal	0 to 250 ms or 0 to End of Event Time plus 30 ms, whichever is shorter.	100
Maximum delta-V, longitudinal	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter.	N/A
Time, maximum delta-V	0–300 ms or 0 to End of Event Time plus 30 ms, whichever is shorter.	N/A
Speed, vehicle indicated	−20.0 to 0 sec	10
Engine throttle, % full (or accelerator pedal, % full)	−20.0 to 0 sec	10
Service brake, on/off	−20.0 to 0 sec	10
Ignition cycle, crash	−1.0 sec	N/A
Ignition cycle, download	At time of download [3]	N/A
Safety belt status, driver	−1.0 sec	N/A
Frontal air bag warning lamp, on/off [2]	−1.0 sec	N/A
Frontal air bag deployment, time to deploy, in the case of a single stage air bag, or time to first stage deployment, in the case of a multi-stage air bag, driver.	Event	N/A
Frontal air bag deployment, time to deploy, in the case of a single stage air bag, or time to first stage deployment, in the case of a multi-stage air bag, right front passenger.	Event	N/A
Multi-event, number of event	Event	N/A
Time from event 1 to 2	As needed	N/A
Complete file recorded (yes, no)	Following other data	N/A

[1] Pre-crash data and crash data are asynchronous. The sample time accuracy requirement for pre-crash time is −0.1 to 1.0 sec (e.g., T = −1 would need to occur between −1.1 and 0 seconds).

[2] The frontal air bag warning lamp is the readiness indicator specified in S4.5.2 of FMVSS No. 208, and may also illuminate to indicate a malfunction in another part of the deployable restraint system.

[3] The ignition cycle at the time of download is not required to be recorded at the time of the crash, but shall be reported during the download process.

(b) * * *

TABLE II—DATA ELEMENTS REQUIRED FOR VEHICLES UNDER SPECIFIED MINIMUM CONDITIONS

Data element name	Condition for requirement	Recording interval/time [1] (relative to time zero)	Data sample rate (per second)
Lateral acceleration	If recorded [2]	N/A	N/A
Longitudinal acceleration	If recorded	N/A	N/A
Normal acceleration	If recorded	N/A	N/A
Delta-V, lateral	If recorded	0–250 ms, or 0 to End of Event Time plus 30 ms, whichever is shorter.	100
Maximum delta-V, lateral	If recorded	0–300 ms, or 0 to End of Event Time plus 30 ms, whichever is shorter.	N/A
Time, maximum delta-V, lateral	If recorded	0–300 ms, or 0 to End of Event Time plus 30 ms, whichever is shorter.	N/A
Time, maximum delta-V, resultant	If recorded	0–300 ms, or 0 to End of Event Time plus 30 ms, whichever is shorter.	N/A

TABLE II—DATA ELEMENTS REQUIRED FOR VEHICLES UNDER SPECIFIED MINIMUM CONDITIONS—Continued

Data element name	Condition for requirement	Recording interval/time [1] (relative to time zero)	Data sample rate (per second)
Engine RPM	If recorded	−20.0 to 0 sec	10
Vehicle roll angle	If recorded	−1.0 up to 5.0 sec [3]	10
ABS activity (engaged, non-engaged)	If recorded	−20.0 to 0 sec	10
Stability control (on, off, engaged)	If recorded	−20.0 to 0 sec	10
Steering input	If recorded	−20.0 to 0 sec	10
Safety belt status, right front passenger (buckled, not buckled).	If recorded	−1.0 sec	N/A
Frontal air bag suppression switch status, right front passenger (on, off, or auto).	If recorded	−1.0 sec	N/A
Frontal air bag deployment, time to nth stage, driver [4].	If equipped with a driver's frontal air bag with a multi-stage inflator.	Event	N/A
Frontal air bag deployment, time to nth stage, right front passenger [4].	If equipped with a right front passenger's frontal air bag with a multi-stage inflator.	Event	N/A
Frontal air bag deployment, nth stage disposal, driver, Y/N (whether the nth stage deployment was for occupant restraint or propellant disposal purposes).	If recorded	Event	N/A
Frontal air bag deployment, nth stage disposal, right front passenger, Y/N (whether the nth stage deployment was for occupant restraint or propellant disposal purposes).	If recorded	Event	N/A
Side air bag deployment, time to deploy, driver	If recorded	Event	N/A
Side air bag deployment, time to deploy, right front passenger.	If recorded	Event	N/A
Side curtain/tube air bag deployment, time to deploy, driver side.	If recorded	Event	N/A
Side curtain/tube air bag deployment, time to deploy, right side.	If recorded	Event	N/A
Pretensioner deployment, time to fire, driver	If recorded	Event	N/A
Pretensioner deployment, time to fire, right front passenger.	If recorded	Event	N/A
Seat track position switch, foremost, status, driver	If recorded	−1.0 sec	N/A
Seat track position switch, foremost, right front passenger.	If recorded	−1.0 sec	N/A
Occupant size classification, driver	If recorded	−1.0 sec	N/A
Occupant size classification, right front passenger	If recorded	−1.0 sec	N/A
Occupant position classification, driver	If recorded	−1.0 sec	N/A
Occupant position classification, right front passenger.	If recorded	−1.0 sec	N/A

[1] Pre-crash data and crash data are asynchronous. The sample time accuracy requirement for pre-crash time is −0.1 to 1.0 sec (e.g., T = −1 would need to occur between −1.1 and 0 seconds).
[2] "If recorded" means if the data are recorded in non-volatile memory for the purpose of subsequent downloading.
[3] "Vehicle roll angle" may be recorded in any time duration −1.0 to 5.0 seconds is suggested.
[4] List this element n − 1 times, once for each stage of a multi-stage air bag system.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.8.

Steven S. Cliff,

Administrator.

[FR Doc. 2022–12860 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 87, No. 119
Wednesday, June 22, 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; 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; 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 22, 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 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 person are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Office of the Chief Financial Officer

Title: Information Collection Request; Representations Regarding Felony Conviction and Tax Delinquent Status for Corporate Applicants.

OMB Control Number: 0505–0025.

Summary of Collection: The Department of Agriculture (USDA) must comply with the restrictions set forth in Division E, Title VII §§ 744,745 of the Consolidated Appropriations Act, 2022, (Pub. L. 117–103, as amended and/or subsequently enacted), hereinafter Public Law 117–103. The restrictions apply to transactions with corporations that (1) have any ''unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability and/or (2) were ''convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction. The restrictions may not apply if a Federal agency considers suspension or debarment of the corporation and determines that such action is not necessary to protect the interests of the Government.

Need and Use of the Information: To comply with the appropriations restrictions, the information collection requires corporate applicants for USDA programs to represent accurately whether they have or do not have qualifying tax delinquencies or felony convictions which would prevent USDA from entering into a proposed business transaction with the corporate applicant. For nonprocurement programs and transactions, these representations will be submitted using the AD–3030—''Representations Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants'' This form will normally be included as part of the application package.

This information assists the agencies and staff offices with identifying corporations with unpaid Federal tax liability and felony convictions status prior to entering into nonprocurement transactions for numerous Departmental programs. Failure to collect this information may cause inappropriate use of funds and violation of the Anti-Deficiency Act.

Descripton of Respondents: Corporate applicants for USDA nonprocurement programs, including grants, cooperative agreements, loans, loan guarantees, some memoranda of understanding/agreement, and nonprocurement contracts.

Number of Respondents: 75,580.

Frequency of Responses: Reporting: Other: Corporations—each time they apply to participate in a multitude of USDA nonprocurement programs.

Total Burden Hours: 37,790.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–13304 Filed 6–21–22; 8:45 am]

BILLING CODE 3410–KS–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS–2022–0024]

Notice of Availability of a Pest Risk Analysis for the Importation of Fresh Baby Kiwi Fruit From France Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability.

SUMMARY: We are advising the public that we have prepared a pest risk analysis that evaluates the risks associated with importation of fresh baby kiwi fruit from France into the continental United States. Based on the analysis, we have determined that the application of one or more designated phytosanitary measures will be sufficient to mitigate the risks of introducing or disseminating plant pests or noxious weeds via the importation of fresh baby kiwi fruit from France. We are making the pest risk analysis available to the public for review and comment.

DATES: We will consider all comments that we receive on or before August 22, 2022.

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

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Enter APHIS–2022–0024 in the Search field. Select

the Documents tab, then select the Comment button in the list of documents.

• *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2022–0024, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *www.regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Marc Phillips, Senior Regulatory Policy Specialist, PPQ, APHIS, USDA, 4700 River Road Unit 133, Riverdale, MD 20737; (301) 851–2114; *marc.phillips@usda.gov.*

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart L–Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–12, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into or disseminated within the United States.

Section 319.56–4 contains a performance-based process for approving the importation of fruits and vegetables that, based on the findings of a pest risk analysis, can be safely imported subject to one or more of the five designated phytosanitary measures listed in paragraph (b) of that section.

APHIS received a request from the national plant protection organization of France to allow the importation of fresh baby kiwi fruit (*Actinidia arguta*) from France into the continental United States. As part of our evaluation of France's request, we have prepared a pest risk assessment (PRA) to identify the pests of quarantine significance that could follow the pathway of the importation of fresh baby kiwi fruit into the continental United States from France. Based on the PRA, a risk management document (RMD) was prepared to identify phytosanitary measures that could be applied to the fresh baby kiwi fruit to mitigate the pest risk.

Therefore, in accordance with § 319.56–4(c), we are announcing the availability of our PRA and RMD for public review and comment. Those documents, as well as a description of the economic considerations associated with the importation of fresh baby kiwi fruit from France, may be viewed on the *Regulations.gov* website or in our reading room (see **ADDRESSES** above for a link to *Regulations.gov* and information on the location and hours of the reading room). You may request paper copies of the PRA and RMD by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the subject of the analysis you wish to review when requesting copies.

After reviewing any comments we receive, we will announce our decision regarding the import status of fresh baby kiwi fruit from France in a subsequent notice. If the overall conclusions of our analysis and the Administrator's determination of risk remain unchanged following our consideration of the comments, then we will authorize the importation of fresh baby kiwi fruit from France into the continental United States subject to the requirements specified in the RMD.

Authority: 7 U.S.C. 1633, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 15th day of June 2022.

Anthony Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2022–13317 Filed 6–21–22; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

National Institute of Food and Agriculture

Solicitation of Veterinary Shortage Situation Nominations for the Veterinary Medicine Loan Repayment Program

AGENCY: National Institute of Food and Agriculture, USDA.

ACTION: Notice and solicitation for nominations.

SUMMARY: The National Institute of Food and Agriculture (NIFA) is soliciting nominations of veterinary service shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP) for fiscal years (FY) 2023–2025, as authorized under the National Veterinary Medical Services Act (NVMSA). This notice initiates the nomination period for FY 2023 and prescribes the procedures and criteria to be used by eligible nominating officials (State, Insular Area, DC and Federal Lands) to nominate veterinary shortage situations for fiscal years 2023–2025. Each year all eligible nominating officials may submit nominations, up to the maximum indicated for each entity in this notice. NIFA is conducting this solicitation of veterinary shortage situation nominations under an approved information collection (OMB Control Number 0524–0050).

DATES: Shortage situation nominations must be submitted between the first Monday in October and the second Monday in November in each relevant fiscal year.

Fiscal year	First day to submit shortage nominations	Last day to submit shortage nominations
2023	October 3, 2022	November 14, 2022.
2024	October 2, 2023	November 13, 2023.
2025	October 7, 2024	November 12, 2024.

ADDRESSES: Submissions must be made by downloading the Veterinarian Shortage Situation nomination form provided in the VMLRP Shortage Situations section of the NIFA website at *https://nifa.usda.gov/grants/programs/veterinary-medicine-loan-repayment-program*, completing the fillable PDF electronically, and submitting it via email to *vmlrp.applications@usda.gov*.

FOR FURTHER INFORMATION CONTACT: VMLRP Program Coordinator; National Institute of Food and Agriculture; U.S. Department of Agriculture; 805 Pennsylvania Avenue, Kansas City, MO 64105; Email: *vmlrp.applications@usda.gov*.

SUPPLEMENTARY INFORMATION:

Background and Purpose: Food supply veterinary medicine embraces a broad array of veterinary professional activities, specialties, and responsibilities, and is defined as all

aspects of veterinary medicine's involvement in food supply systems, from traditional agricultural production to consumption. A series of studies and reports [1] [2] [3] [4] [5] [6] [7] have drawn attention to maldistributions in the veterinary workforce leaving some communities, especially rural areas, with insufficient access to food supply veterinary services.

Two programs, born out of this concern, aim to mitigate the maldistribution of the veterinary workforce: the Veterinary Medicine Loan Repayment Program (VMLRP) and Veterinary Services Grant Program (VSGP), both administered by USDA–NIFA. VMLRP addresses increasing veterinary school debt by offering veterinary school debt repayments in exchange for service in shortage situations, while VSGP addresses other factors contributing to the maldistribution of veterinarians serving the agricultural sector. Specifically, the VSGP promotes availability and access to (1) specialized education and training which will enable veterinarians and veterinary technicians to provide services in designated veterinarian shortage situations, and (2) practice-enhancing equipment and personnel resources to enable veterinary practices to expand or improve access to veterinary services.

Paperwork Reduction Act: In accordance with the Office of Management and Budget (OMB) regulations (5 CFR part 1320) that implement the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection and recordkeeping requirements imposed by the implementation of these guidelines have been approved by OMB Control Number 0524–0050.

Table of Contents in Guidelines for Veterinary Shortage Situation Nominations

Guidelines for Veterinary Shortage Situation Nominations

I. Preface and Authority

In December 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations in return for repayment of qualified educational loans. In FY 2010, NIFA announced the first funding opportunity for the VMLRP.

Section 7104 of the 2014 Farm Bill (Pub. L. 113–79) added section 1415B to NARETPA, as amended, (7 U.S.C. 3151b) to establish the Veterinary Services Grant Program (VSGP). This amendment authorizes the Secretary of Agriculture to make competitive grants to qualified entities and veterinary practices that carry out programs in veterinarian shortage situations and for the purpose of developing, implementing, and sustaining veterinary services. Funding for the VSGP was first appropriated in FY 2016 through the Consolidated Appropriations Act, 2016 (Pub. L. 114–113).

Pursuant to the requirements enacted in the NVMSA of 2003 (as amended), and the implementing regulation for this Act, Part 3431 Subpart A of the VMLRP Final Rule [75 FR 20239–20248], NIFA hereby implements guidelines for eligible nominating officials to nominate veterinary shortage situations for the FY 2023–2025 program cycle.

II. Nomination of Veterinary Shortage Situations

A. General

1. Eligible Shortage Situations: Section 1415A of NARETPA, as amended and revised by Section 7105 of the Food, Conservation and Energy Act, directs determination of veterinarian shortage situations for the VMLRP to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

While the NVMSA (as amended) specifies priority be given to food animal medicine shortage situations, and that consideration also be given to specialty areas such as public health, epidemiology and food safety, the Act does not identify any areas of veterinary practice as ineligible. Accordingly, all nominated veterinary shortage situations will be considered eligible for submission.

A subset of the shortages designated for VMLRP applicants is also available to satisfy requirements, as applicable, for VSGP applicants applying to the Rural Practice Enhancement component of the program. In addition, a shortage situation under the VSGP must also be designated rural as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

Nominations describing either public or private practice veterinary shortage situations are eligible for submission.

2. Authorized Respondents and Use of Consultation: The only authorized respondent on behalf of each State is the chief State Animal Health Official (SAHO), as duly authorized by the Governor or the Governor's designee in each State. The only authorized respondent on behalf of the Federal Government is the Chief Federal Animal Health Officer (Deputy Administrator of Veterinary Services, the Animal and Plant Health Inspection Service or designee), as duly authorized by the Secretary of Agriculture. The eligible nominating official must submit nominations using the instructions provided in section A.4, FY 2023–2025 Shortage Situation Nomination Process. NIFA strongly encourages the nominating officials to involve leading health animal experts in the State in the

[1] Government Accountability Office, Veterinary Workforce: Actions Are Needed to Ensure Sufficient Capacity for Protecting Public and Animal Health, GAO–09–178: Feb 18, 2009.

[2] National Academies of Science, Workforce Needs in Veterinary Medicine, 2013.

[3] Andrus DM, Gwinner KP, Prince, JB. Food Supply Veterinary Medicine Coalition Report: Estimating FSM Demand and Maintaining the Availability of Veterinarians in Food Supply Related Disciplines in the United States and Canada, 2016. *https://www.avma.org/KB/Resources/Reference/Pages/Food-Supply-Veterinary-Medicine-Coalition-Report.aspx.*

[4] Andrus DM, Gwinner KP, Prince, JB. Future demand, probable shortages and strategies for creating a better future in food supply veterinary medicine. 2006, JAVMA 229(1):57–69.

[5] Andrus DM, Gwinner KP, Prince, JB. Attracting students to careers in food supply veterinary medicine. 2006, JAVMA 228(1):1693–1704.

[6] Andrus DM, Gwinner KP, Prince, JB. Job satisfaction, changes in occupational area and commitment to a career in food supply veterinary medicine. 2006, JAVMA 228(12):1884–1893.

[7] CAST, Impact of Recruitment and Retention of Food Animal Veterinarians on the U.S. Food Supply, Issue Papers—IP67: April 2020. *https://www.cast-science.org/wp-content/uploads/2020/03/CAST_IP67_Vet-Students.pdf.*

identification and prioritization of shortage situation nominations.

3. State Allocation of Nominations: NIFA will accept the number of nominations equivalent to the maximum number of designated shortage areas for each State. For historical background and more information on the rationale for capping nominations and State allocation method, visit *https://nifa.usda.gov/vmlrp-nomination-and-designation-veterinary-shortage-situations.*

The maximum number of nominations (and potential designations) is based on data from the 2017 Agricultural Census conducted by the USDA National Agricultural Statistics Service (NASS). Awards from previous years have no bearing on a State's maximum number of allowable shortage nomination submissions or designations in any given year, or number of nominations or designations allowed for subsequent years. NIFA reserves the right in the future to proportionally adjust the maximum number of designated shortage situations per State to ensure a balance between available funds and the requirement to ensure that priority is given to mitigating veterinary shortages corresponding to situations of greatest need. Nomination Allocation tables for FY 2023–2025 are available under the VMLRP Shortage Situations section of the VMLRP website at *https://nifa.usda.gov/resource/vmlrp-shortage-allocations.*

Table I lists the maximum nomination allocations by State. Table II lists ''Special Consideration Areas'' which include any State or Insular Area not reporting data to NASS, reporting less than $1,000,000 in annual Livestock and Livestock Products Total Sales ($), and/or possessing less than 500,000 acres. One nomination is allocated to any State or Insular Area classified as a Special Consideration Area.

Table III shows the values and quartile ranks of States for two variables broadly correlated with demand for food supply veterinary services: ''Livestock and Livestock Products Total Sales ($)'' (LPTS) and ''Land Area (acres)'' (LA). The maximum number of NIFA-designated shortage situations per State is based on the sum of quartile rankings for LPTS and LA for each State and can be found in Table IV.

While Federal Lands are widely dispersed within States and Insular Areas across the country, they constitute a composite total land area over twice the size of Alaska. If the 200-mile limit for U.S. coastal waters and associated fishery areas are included, Federal Land total acreage would exceed 1 billion. Both State and Federal Animal Health officials have responsibilities for matters relating to terrestrial and aquatic food animal health on Federal Lands. Interaction between wildlife and domestic livestock, such as sheep and cattle, is particularly common in the plains States where significant portions of Federal lands are leased for grazing. The USDA Food Safety and Inspection Service (USDA–FSIS) ensures food safety in processing plants via Federal veterinarians' inspection of meat, poultry, Siluriformes and eggs. These Federal veterinarians ensure food is safe for human consumption and properly packaged and labeled. Therefore, both SAHOs and the Chief Federal Animal Health Officer (Deputy Administrator of Veterinary Services, the Animal and Plant Health Inspection Service or designee) may submit nominations to address shortage situations on or related to Federal Lands, or the USDA–FSIS. Nominations related to Federal Lands or USDA–FSIS submitted by SAHOs will count towards the maximum number of nominations for that individual state.

NIFA emphasizes that the shortage nomination allocation is set to broadly balance the number of designated shortage situations across States prior to the nomination and award phases of the VMLRP and VSGP. Awards will be made based strictly on the peer review panel's assessment according to each program's review criteria; thus no State, Insular Area or Federal designation will be given a preference for placement of awardees. Additionally, each designated shortage situation will be limited to one award per program.

4. FY 2023–2025 Shortage Situation Nomination Process: For the FY 2023–2025 program cycle, all eligible nominating officials submitting may: (1) request to retain designated status for any shortage situation successfully designated in the previous year and/or (2) submit new nominations. Any shortage from previous year not retained or submitted as a new nomination will not be considered a shortage situation in the next year. The total number of new nominations plus designated nominations retained (carried over) may not exceed the maximum number of nominations each eligible nominating official is permitted.

The following process is the mechanism for retaining a designated nomination: Each nominating official should review the map of VMLRP designated shortage situations for the previous year—FY 2022's map can be found here: (*https://nifa.usda.gov/vmlrp-map*) and download a PDF copy of the nomination form they wish to renew. If the nominating official wishes to retain (carry over) one or more designated nomination(s), the nominating official shall copy and paste the prior year information into the current year's nomination form and submit it to *vmlrp.applications@usda.gov.*

Both new and retained nominations must be submitted on the Veterinary Shortage Situation Nomination form provided in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-nomination-and-designation-veterinary-shortage-situations.*

Nominations retained (carried over) will be designated without review unless major changes in content are identified during administrative processing or the shortage has been retained for three years. Major changes in content or shortages already retained for three consecutive years will be treated as new submissions and undergo merit review.

If a state elects not to participate in the nomination process in a given year, the SAHO, or their designee, will notify the NIFA Program Office by email at *vmlrp.applications@usda.gov* prior to the deadline to submit shortage nominations each year the state elects not to participate.

5. Submission and Due Date: Submissions must be made by downloading the Veterinarian Shortage Situation nomination form provided in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-shortage-situations,* completing the fillable PDF form, and submitting it via email to: *vmlrp.applications@usda.gov.*

Both new and retained (carry-over) nominations must be submitted on or before the deadlines in the table below.

Fiscal year	First day to submit shortage nominations	Last day to submit shortage nominations
2023	October 3, 2022	November 14, 2022.
2024	October 2, 2023	November 13, 2023.
2025	October 7, 2024	November 12, 2024.

7. Period Covered: Each shortage situation is approved for one program year cycle only. However, any previously approved shortage situation not filled in a given program year may be resubmitted as a retained (carry-over) nomination. Retained (carry-over) shortage nominations (without any revisions) will be automatically approved for up to three years before requiring another merit review. By resubmitting a carry-over nomination, the nominating official is affirming that in his or her professional judgment the original case made for shortage status, and the original description of needs, remain current and accurate.

8. Definitions: For the purpose of implementing the solicitation for veterinary shortage situations, the definitions provided in 7 CFR part 3431 are applicable. Given the evolving nature of food supply veterinary medicine, the Secretary has determined that equines used in agricultural production, any vertebrates or invertebrates that are consumed by, or produce food consumed by, humans are to be included in the list of food animals.

B. Nomination Form

The VMLRP Shortage Nomination Form must be used to nominate veterinarian shortage situations. Once designated as a shortage situation, VMLRP applicants will use the information to select shortage situations they are willing and qualified to fill, and to guide the preparation of their applications. NIFA will use the information to assess contractual compliance of awardees. The form is available in the VMLRP Shortage Situations section at *https://nifa.usda.gov/vmlrp-nomination-and-designation-veterinary-shortage-situations.* See Part II A. 5. for submission information. Resources to complete each field can be found at *https://nifa.usda.gov/resource/vmlrp-veterinary-shortage-situation-nomination-guide* and *https://nifa.usda.gov/resource/vmlrp-shortage-nomination-form.*

C. NIFA Review of Shortage Situation Nominations

1. Review Panel Composition and Process: NIFA will convene a panel of food supply veterinary medicine experts from Federal and/or State agencies, industry, private mixed or large animal practice or an institution receiving Animal Health and Disease Research Program funds under section 1433 of NARETPA or an 1862 Land-Grant institution, to review the nominations and make recommendations to the National Program Leader. NIFA will review the panel's recommendations and designate the VMLRP shortage situations. The list of approved shortage situations will be made available on the VMLRP website at *www.nifa.usda.gov/vmlrp.*

2. Review Criteria: Criteria used by the shortage situation nomination review panel and NIFA for certifying a veterinary shortage situation will be consistent with the information requested in the shortage situations nomination form. NIFA understands the process for defining the risk landscape associated veterinary service shortages within a State may require consideration of many qualitative and quantitative factors. In addition, each shortage situation will be characterized by a different array of subjective and objective supportive information that must be developed into a cogent case identifying, characterizing, and justifying a given geographic or disciplinary area as deficient in certain types of veterinary capacity or service. To accommodate the uniqueness of each shortage situation, the nomination form provides opportunities to present a case using both supportive metrics and narrative explanations to define and explain the proposed need.

While NIFA anticipates some arguments made in support of a given shortage situation will be qualitative, respondents are encouraged to present verifiable quantitative and qualitative evidentiary information wherever possible. Absence of sufficient data to support a shortage such as animal and veterinarian census data for the proposed shortage area(s), or sufficient information regarding the characteristics of the shortage so that applicants may prepare successful applications and panelists are able to fully evaluate the fit of the applicant to the shortage area, may lead the panel to recommend revision of the shortage nomination to address these issues. If the revisions are not addressed, the shortage nominations will not be approved.

Done in Washington, DC, this day of May 24, 2022.

Dionne Toombs,

Acting Director, National Institute of Food and Agriculture, U.S. Department of Agriculture.

[FR Doc. 2022–13321 Filed 6–21–22; 8:45 am]

BILLING CODE 3410–22–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the California Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the California Advisory Committee (Committee) will hold a series of meetings via Webex video conference on the dates and times listed below for the purpose of debriefing and discussing testimony received in recent panels.

DATES: These meetings will be held on:

- Tuesday, July 19, 2022, from 2:30 p.m.–4:00 p.m. Pacific Time
- Thursday, August 18, 2022, from 2:30 p.m.–4:00 p.m. Pacific Time

Tuesday, July 19th WEBEX REGISTRATION LINK: *https://tinyurl.com/bdhcbyue*

Thursday, August 18th WEBEX REGISTRATION LINK: *https://tinyurl.com/2hmu595x*

FOR FURTHER INFORMATION CONTACT: Brooke Peery, Designated Federal Officer (DFO), at *bpeery@usccr.gov* or by phone at (202) 701–1376.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion. This meeting is available to the public through the public WebEx registration link listed above. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–877–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the Regional Programs Unit within 30 days following the meeting. Written comments may be emailed to Brooke

Peery at *bpeery@usccr.gov*. Persons who desire additional information may contact the Regional Programs Unit Office/Advisory Committee Management Unit at (202) 701–1376.

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available at: *https://www.facadatabase.gov/FACA/FACAPublicViewCommitteeDetails?id=a10t0000001gzkUAAQ.*

Please click on the ''Meeting Details'' and ''Documents'' links. Persons interested in the work of this Committee are also directed to the Commission's website, *http://www.usccr.gov,* or may contact the Regional Programs Unit office at the above email address.

Agenda

I. Welcome and Roll Call
II. Committee Discussion
III. Public Comment
IV. Adjournment

Dated: June 16, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–13330 Filed 6–21–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maryland Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of planning 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 (FACA), that a meeting of the Maryland Advisory Committee to the Commission will convene by Zoom virtual platform and conference call on Tuesday, July 26, 2022, at 1:00 p.m. ET, to discuss post-report promotional activity for the Committee's recent publication on water affordability in the state.

DATES: Tuesday, July 26, 2022, at 1:00 p.m. ET

Public Zoom Conference Link (video and audio): https://tinyurl.com/2p96ae77; password, if needed: USCCR–MD.

If Phone Only: 1–551–285 1373; Meeting ID: 161 607 6541#.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski at *mwojnaroski@usccr.gov.*

SUPPLEMENTARY INFORMATION: The meeting is available to the public through the web link above. If joining only via phone, callers can expect to incur charges for calls they initiate over wireless lines, and 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 1–800–877–8339 and providing the Service with conference details found through registering at the web link above. To request additional accommodations, please email *mwojnaroski@usccr.gov* at least 10 days prior to the meeting.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be emailed to Melissa Wojnaroski at *mwojnaroski@usccr.gov.* Persons who desire additional information may contact Melissa Wojnaroski at *mwojnaroski@usccr.gov.*

Records and documents discussed during the meeting will be available for public viewing as they become available at *www.facadatabase.gov.* Persons interested in the work of this advisory committee are advised to go to the Commission's website, *www.usccr.gov,* or to contact Evelyn Bohor at *ebohor@usccr.gov.*

Agenda: Tuesday, July 26, 2022, at 1:00 p.m. ET.

- Welcome and Rollcall
- Discussion: Water Affordability Post-Report Stage
- Open Comment
- Adjournment

Dated: June 16, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–13347 Filed 6–21–22; 8:45 am]

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DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Vehicle Inventory and Use Survey

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite 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. Public comments were previously requested via the **Federal Register** on April 15, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: U.S. Census Bureau, Commerce.

Title: Vehicle Inventory and Use Survey.

OMB Control Number: 0607–0892.

Form Number(s): TC–9501, TC–9502.

Type of Request: Regular submission, Request for a Revision of a Currently Approved Collection.

Number of Respondents: 150,000.

Average Hours per Response: 65 minutes.

Burden Hours: 162,500.

Needs and Uses: The 2021 VIUS collects data to measure the physical and operational characteristics of trucks from a sample of approximately 150,000 trucks. These trucks are selected from more than 190 million private and commercial trucks registered with motor vehicle departments in the 50 states and the District of Columbia. The Census Bureau is collecting the data for the sampled trucks from the registered truck owners.

The VIUS is the only comprehensive source of information on the physical and operational characteristics of the Nation's truck population. The VIUS provides unique, essential information for government, business, and academia. The U.S. Department of Transportation, State Departments of Transportation, and transportation consultants compliment VIUS microdata as extremely useful and flexible to meet constantly changing requests that cannot be met with predetermined tabular publications. The planned microdata file will enable them to cross-tabulate data to meet their needs.

This revision is being submitted to correct the legal citations related to the collection authority for the Vehicle Inventory and Use Survey (VIUS). We initially received clearance to add the corrected citation using the emergency clearance process, which was approved separately. The emergency clearance was necessary because we needed to implement the change immediately during data collection for the survey. This revision is to now add Title 13 U.S.C., Section 221 to the collection authority under the original clearance and to allow a full review at OMB.

Affected Public: Individuals or households; Business or other for-profit organizations.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: The VIUS will be collected under the authority of Title 13 U.S.C. 131 and 182, which authorize the collection, and Sections 221, 224 and 225, which make the collection mandatory for all respondents.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0607–0892.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–13305 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

[Docket Number 220519–0116]

Current Mandatory Business Surveys

AGENCY: Census Bureau, Department of Commerce.

ACTION: Notice of determination.

SUMMARY: The Bureau of the Census (Census Bureau) will conduct the following current mandatory business surveys in 2022: Annual Business Survey, Annual Capital Expenditures Survey, Annual Retail Trade Survey, Annual Survey of Manufactures, Annual Wholesale Trade Survey, Business and Professional Classification Report, Business Enterprise Research and Development Survey, Management and Organizational Practices Survey, Management and Organizational Practices Survey for Hospitals, Manufacturers' Unfilled Orders Survey, Report of Organization, Service Annual Survey, and the Vehicle Inventory and Use Survey. We have determined that data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other governmental sources.

ADDRESSES: The Census Bureau will make available the reporting instructions to the organizations included in the surveys. Additional copies are available upon written request to the Director, 4600 Silver Hill Road, U.S. Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Nick Orsini, Associate Director for Economic Programs, Telephone: 301–763–1858; Email: *Nick.Orsini@census.gov.*

SUPPLEMENTARY INFORMATION: The surveys described herein are authorized by Title 13, United States Code (U.S.C.), Section 182 and are necessary to furnish current data on the subjects covered by the major censuses. These surveys are made mandatory under the provisions of Sections 224 and 225 of Title 13, U.S.C. These surveys will provide continuing and timely national statistical data for the period between economic censuses. The data collected in the surveys will be within the general scope and nature of those inquiries covered in the economic census. The most recent economic census was conducted in 2018 for the reference year 2017. The next economic census will occur in 2023 for the reference year 2022.

Notice of specific reporting requirements for each survey, including who is to report, the information to be reported, the manner of reporting, and the time and place of filing reports, will be provided by mail or email only to those required to complete these surveys.

Annual Business Survey (ABS)

The ABS provides information on selected economic and demographic characteristics for businesses and business owners by sex, ethnicity, race, and veteran status. Further, the survey measures research and development for microbusinesses, new business topics such as innovation and technology, as well as other business characteristics. The ABS includes all nonfarm employer businesses filing Internal Revenue Service (IRS) tax forms as individual proprietorships, partnerships, or any other type of corporation, with receipts of $1,000 or more. The ABS is sponsored by the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) and conducted by the Census Bureau for five years (2018–2022).

More information regarding the ABS can be found in the Information Collection Request approved by the Office of Management and Budget on June 17, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202102-0607-002.*

Annual Capital Expenditures Survey (ACES)

The ACES collects annual data on the amount of business expenditures for new and used structures and equipment from a sample of non-farm, non-governmental companies, organizations, and associations. Both employer and nonemployer companies are included in the survey. The data are the sole source of investment in buildings and other structures, machinery, and equipment by all private nonfarm businesses in the United States, by the investing industry, and by kind of investment.

More information regarding the ACES can be found in the Information Collection Request approved by the Office of Management and Budget on February 11, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202012-0607-004.*

Annual Retail Trade Survey (ARTS)

The ARTS collects data on annual sales, sales tax, e-commerce sales, year-end inventories, total operating expenses, purchases, and accounts receivable from a sample of employer firms with establishments classified in retail trade as defined by the North American Industry Classification System (NAICS). These data serve as a benchmark for the more frequent estimates compiled from the Monthly Retail Trade Survey.

More information regarding the ARTS can be found in the Information Collection Request approved by the Office of Management and Budget on February 2, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202010-0607-001.*

Annual Survey of Manufactures (ASM)

The ASM collects annual industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey is conducted on a sample basis, and covers all manufacturing industries, including data on plants under construction but not yet in operation. The ASM data are used to benchmark and reconcile monthly data on manufacturing production and inventories.

More information regarding the ASM can be found in the Information Collection Request approved by the Office of Management and Budget on January 4, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202011-0607-003.*

Annual Wholesale Trade Survey (AWTS)

The AWTS collects data on annual sales, e-commerce sales, year-end inventories held both inside and outside of the United States, method of inventory valuation, total operating expenses, purchases, gross selling value, and commissions from a sample of employer firms with establishments classified in wholesale trade as defined by the NAICS. These data serve as a benchmark for the more frequent estimates compiled from the Monthly Wholesale Trade Survey.

More information regarding the AWTS can be found in the Information Collection Request approved by the Office of Management and Budget on December 10, 2020 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202009-0607-002.*

Business and Professional Classification Report

The Business and Professional Classification Report collects one-time data on a firm's type of business activity from a sample of businesses that were recently assigned Federal Employer Identification Numbers or recently added to the scope of the Census Bureau's current business surveys. The data are used to update the sampling frames for our current business surveys. Additionally, the business classification data will help ensure businesses are directed to complete the correct report in the economic census.

More information regarding the Business and Professional Classification Report can be found in the Information Collection Request approved by the Office of Management and Budget on September 15, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202105-0607-002.*

Business Enterprise Research and Development Survey (BERD)

The BERD collects annual data on spending for research and development activities by businesses. The BERD collects foreign as well as domestic spending information, more detailed information about the R&D workforce, and information regarding intellectual property from U.S. businesses. The Census Bureau collects and compiles this information in accordance with a joint project agreement between the National Science Foundation (NSF) and the Census Bureau. The NSF posts the joint project's information results on their website.

More information regarding the BERD can be found in the Information Collection Request approved by the Office of Management and Budget on December 15, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202108-0607-005.*

Management and Organizational Practices Survey (MOPS)

The MOPS will be conducted as a joint project by the Census Bureau, the University of Chicago Booth School of Business, Stanford School of Humanities and Sciences, and the Stanford Institute for Human-Centered Artificial Intelligence. The MOPS will collect information on management and organizational practices of manufacturing firms at the establishment level. Data obtained from the survey will allow the Census Bureau to estimate a firm's stock of management and organizational assets, specifically the use of establishment performance data, such as production targets in decision-making and the prevalence of decentralized decision rights. The results will provide information on investments in management and organizational practices thus providing a better understanding of the benefits from these investments when measured in terms of firm productivity or firm market value.

More information regarding the MOPS can be found in the Information Collection Request approved by the Office of Management and Budget on March 7, 2022 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202111-0607-002.*

Management and Organizational Practices Survey for Hospitals (MOPS–HP)

The MOPS–HP collects information on the use of structured management practices from Chief Nursing Officers (CNOs) at approximately 3,200 hospitals with the goal of producing four publicly-available indices that measure key characteristics of these structured management practices. The MOPS–HP collects data for reference years 2020 and 2019.

The MOPS–HP will provide a deeper understanding of the business processes which impact an increasingly important sector of the economy; total national health expenditures represented almost 18 percent of U.S. gross domestic product in 2017 (National Center for Health Statistics).

More information regarding the MOPS–HP can be found in the Information Collection Request approved by the Office of Management and Budget on June 25, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202102-0607-003.*

Manufacturers' Unfilled Orders Survey (M3UFO)

The M3UFO collects annual data on sales and unfilled orders in order to provide annual benchmarks for unfilled orders for the monthly Manufacturers' Shipments, Inventories, and Orders (M3) survey. The M3UFO data are also used to determine whether it is necessary to collect unfilled orders data for specific industries on a monthly basis, as some industries are not requested to provide unfilled orders data in the M3 Survey.

More information regarding the M3UFO can be found in the Information Collection Request approved by the Office of Management and Budget on September 23, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202104-0607-003.*

Report of Organization

The Report of Organization collects annual data on ownership or control by a domestic or foreign parent and ownership of foreign affiliates. This includes research and development, company activities such as employees from a professional employer organization, operational status, mid-March employment, first-quarter payroll, and annual payroll of establishments from a sample of multi-establishment enterprises in order to update and maintain a centralized, multipurpose Business Register.

More information regarding the Report of Organization can be found in the Information Collection Request approved by the Office of Management and Budget on December 30, 2020 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202007-0607-007.*

Service Annual Survey (SAS)

The SAS collects annual data on total revenue, select detailed revenue, total and detailed expenses, and e-commerce revenue for a sample of businesses in the service industries. These industries include Utilities; Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Professional, Scientific, and Technical Services; Administration and Support and Waste Management and Remediation Services; Educational Services; Health Care and Social

Assistance; Arts, Entertainment, and Recreation; Accommodation and Food Services; and Other Services as defined by the NAICS. These data serve as a benchmark for the more frequent estimates compiled from the Quarterly Services Survey.

More information regarding the SAS can be found in the Information Collection Request approved by the Office of Management and Budget on February 2, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202012-0607-002.*

Vehicle Inventory and Use Survey (VIUS)

The VIUS will collect data to measure the physical and operational characteristics of trucks from a sample of approximately 150,000 trucks. These trucks are selected from more than 190 million private and commercial trucks registered with motor vehicle departments in the 50 states and the District of Columbia. The VIUS is the only comprehensive source of information on the physical and operational characteristics of the Nation's truck population. The VIUS provides unique, essential information for government, business, and academia.

More information regarding the VIUS can be found in the Information Collection Request approved by the Office of Management and Budget on October 12, 2021 at the following link: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202108-0607-001.*

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, OMB approved the surveys described in this notice under the following OMB control numbers: ABS, 0607–1004; ACES, 0607–0782; ARTS, 0607–0013; ASM, 0607–0449; AWTS, 0607–0195; Business and Professional Classification Report, 0607–0189; BERD, 0607–0912; MOPS, 0607–0963; MOPS–HP, 0607–1016; M3UFO, 0607–0561; Report of Organization, 0607–0444; SAS, 0607–0422; and VIUS, 0607–0892.

Based upon the foregoing, I have directed that the current mandatory business surveys be conducted for the purpose of collecting these data.

Robert L. Santos, Director, Census Bureau, approved the publication of this Notice in the **Federal Register**.

Dated: June 14, 2022.

Mary Reuling Lenaiyasa,

Program Manager, Paperwork Reduction Act, Policy Coordination Office, Census Bureau.

[FR Doc. 2022–13313 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–05–2022]

Foreign-Trade Zone (FTZ) 99—Wilmington, Delaware; Authorization of Production Activity; AstraZeneca Pharmaceuticals, LP (Pharmaceutical Products), Newark, Delaware

On February 16, 2022, AstraZeneca Pharmaceuticals, LP submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 99D, in Newark, Delaware.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (87 FR 10771, February 25, 2022). On June 16, 2022, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: June 16, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–13290 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Belavia Belarusian Airlines, 14A Nemiga str., Minsk, Belarus, 220004; Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations, 15 CFR parts 730–774 (2021) (''EAR'' or ''the Regulations''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested the issuance of an Order temporarily denying, for a period of 180 days, the export privileges under the Regulations of Belavia Belarusian Airlines (''Belavia''). OEE's request and related information indicates that Belavia is headquartered in Minsk, Belarus and owned by the State of Belarus.

I. Legal Standard

Pursuant to Section 766.24, BIS may issue an order temporarily denying a respondent's export privileges upon a showing that the order is necessary in the public interest to prevent an ''imminent violation'' of the Regulations, or any order, license or authorization issued thereunder. 15 CFR 766.24(b)(1) and 766.24(d). ''A violation may be 'imminent' either in time or degree of likelihood.'' 15 CFR 766.24(b)(3). BIS may show ''either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations.'' *Id.* As to the likelihood of future violations, BIS may show that the violation under investigation or charge ''is significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' *Id.* A ''lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.'' *Id.*

II. OEE's Request for a Temporary Denial Order (''TDO'')

The U.S. Commerce Department, through BIS, responded to the Russian Federation's (''Russia's'') further invasion of Ukraine by implementing a sweeping series of stringent export controls that severely restrict Russia's access to technologies and other items that it needs to sustain its aggressive military capabilities. Between February and June 2022, BIS has published a series of amendments to the EAR that

[1] On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which includes the Export Control Reform Act of 2018, 50 U.S.C. 4801–4852 (''ECRA''). While Section 1766 of ECRA repeals the provisions of the Export Administration Act, 50 U.S.C. App. § 2401 *et seq.* (''EAA''), (except for three sections which are inapplicable here), Section 1768 of ECRA provides, in pertinent part, that all orders, rules, regulations, and other forms of administrative action that were made or issued under the EAA, including as continued in effect pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* (''IEEPA''), and were in effect as of ECRA's date of enactment (August 13, 2018), shall continue in effect according to their terms until modified, superseded, set aside, or revoked through action undertaken pursuant to the authority provided under ECRA. Moreover, Section 1761(a)(5) of ECRA authorizes the issuance of temporary denial orders. 50 U.S.C. 4820(a)(5).

increasingly tightened export controls on Russia and Belarus in response to Russia's further invasion of Ukraine, as substantially enabled by Belarus. These controls primarily target Russia and Belarus's defense, aerospace, and maritime sectors and are intended to cut off their access to vital technological inputs, atrophy key sectors of their industrial base, and undercut Russia's strategic ambitions to exert influence on the world stage.

Effective February 24, 2022, BIS imposed expansive controls on aviation-related (*e.g.,* Commerce Control List (''CCL'') Categories 7 and 9) items to Russia, including a license requirement for the export, reexport or transfer (in-country) to Russia of any aircraft or aircraft parts specified in Export Control Classification Number (''ECCN'') 9A991 (Section 746.8(a)(1) of the EAR).[2] BIS will generally review any export or reexport license applications for such items under a policy of denial. *See* Section 746.8(b) of the EAR. Effective March 2, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Russia or a national of Russia from being eligible for license exception Aircraft, Vessels, and Spacecraft (''AVS'') (Section 740.15 of the EAR), and as part of the same rule, imposed a license requirement for the export, re-export, or transfer (in-country) of all items controlled under CCL Categories 3 through 9 to Belarus.[3] On April 8, 2022, BIS excluded any aircraft registered in, owned, or controlled by, or under charter or lease by Belarus or a national of Belarus from eligibility to use license exception AVS for travel to Russia or Belarus.[4] Accordingly, any U.S.-origin aircraft or foreign-origin aircraft that includes more than 25% controlled U.S.-origin content, and that is registered in, owned, or controlled by, or under charter or lease by Belarus or a national of Belarus, is subject to a license requirement before it can travel to Russia or Belarus.

OEE's request is based upon facts indicating that Belavia engaged in recent conduct prohibited by the Regulations by operating aircraft subject to the EAR and classified under ECCN 9A991 on flights into Russia and Belarus after April 8, 2022, without the required BIS authorization.

Specifically, OEE's investigation, including publicly available flight tracking information, indicates that after April 8, 2022, Belavia operated multiple U.S.-origin aircraft subject to the EAR, including, but not limited to, those identified below, on flights into and out of Minsk, Belarus from/to Moscow, Russia; St. Petersburg, Russia; Antalya, Turkey; Istanbul, Turkey; Tbilisi, Georgia; Batumi, Georgia; Sharjah, United Arab Emirates; and Sharm El-Sheikh, Egypt. Pursuant to Section 746.8 of the EAR, all of these flights would have required export or reexport licenses from BIS. As a Belarusian airline, Belavia flights would not be eligible to use license exception AVS for travel to Russia or Belarus. No BIS authorizations were either sought or obtained by Belavia for these exports or reexports to Belarus and/or Russia. The information about those flights includes the following:

Tail No.	Serial No.	Aircraft type	Departure/arrival cities	Dates
EW–456PA	61422	737–8ZM (B738)	Minsk, BY/St. Petersburg, RU	May 13, 2022.
EW–456PA	61422	737–8ZM (B738)	St. Petersburg, RU/Minsk, BY	May 13, 2022.
EW–456PA	61422	737–8ZM (B738)	Antalya, TR/Minsk, BY	May 15, 2022.
EW–456PA	61422	737–8ZM (B738)	Istanbul, TR/Minsk, BY	May 16, 2022.
EW–456PA	61422	737–8ZM (B738)	Antalya, TR/Minsk, BY	June 6, 2022.
EW–456PA	61422	737–8ZM (B738)	Tbilisi, GE/Minsk, BY	June 7, 2022.
EW–456PA	61422	737–8ZM (B738)	Antalya, TR/Minsk, BY	June 8, 2022.
EW–456PA	61422	737–8ZM (B738)	Istanbul, TR/Minsk, BY	June 14, 2022.
EW–457PA	61423	737–8ZM (B738)	Minsk, BY/Moscow, RU	May 10, 2022.
EW–457PA	61423	737–8ZM (B738)	Moscow, RU/Minsk, BY	May 10, 2022.
EW–457PA	61423	737–8ZM (B738)	Antalya, TR/Minsk, BY	May 11, 2022.
EW–457PA	61423	737–8ZM (B738)	Tbilisi, GE/Minsk, BY	May 12, 2022.
EW–457PA	61423	737–8ZM (B738)	Antalya, TR/Minsk, BY	June 6, 2022.
EW–457PA	61423	737–8ZM (B738)	Sharjah, AE/Minsk, BY	June 7, 2022.
EW–457PA	61423	737–8ZM (B738)	Batumi, GE/Minsk, BY	June 8, 2022.
EW–457PA	61423	737–8ZM (B738)	Tbilisi, GE/Minsk, BY	June 12, 2022.
EW–457PA	61423	737–8ZM (B738)	Antalya, TR/Minsk, BY	June 14, 2022.
EW–527PA	40877	737–82R (B738)	Antalya, TR/Minsk, BY	May 14, 2022.
EW–527PA	40877	737–82R (B738)	Istanbul, TR/Minsk, BY	May 15, 2022.
EW–527PA	40877	737–82R (B738)	Minsk, BY/Moscow, RU	May 16, 2022.
EW–527PA	40877	737–82R (B738)	Moscow, RU/Minsk, BY	May 16, 2022.
EW–527PA	40877	737–82R (B738)	Antalya, TR/Minsk, BY	June 6, 2022.
EW–527PA	40877	737–82R (B738)	Istanbul, TR/Minsk, BY	June 7, 2022.
EW–527PA	40877	737–82R (B738)	Tbilisi, GE/Minsk, BY	June 9, 2022.
EW–527PA	40877	737–82R (B738)	Batumi, GE/Minsk, BY	June 12, 2022.
EW–527PA	40877	737–82R (B738)	Sharjah, AE/Minsk, BY	June 14, 2022.
EW–544PA	35139	737–8K5 (B738)	Istanbul, TR/Minsk, BY	May 13, 2022.
EW–544PA	35139	737–8K5 (B738)	Batumi, GE/Minsk, BY	May 14, 2022.
EW–544PA	35139	737–8K5 (B738)	Antalya, TR/Minsk, BY	May 15, 2022.
EW–544PA	35139	737–8K5 (B738)	Antalya, TR/Minsk, BY	May 16, 2022.
EW–544PA	35139	737–8K5 (B738)	Sharm El-Sheikh, EG/Minsk, BY	June 4, 2022.
EW–544PA	35139	737–8K5 (B738)	Istanbul, TR/Minsk, BY	June 6, 2022.
EW–544PA	35139	737–8K5 (B738)	Antalya, TR/Minsk, BY	June 14, 2022.

[2] 87 FR 12226 (Mar. 3, 2022). Additionally, BIS published a final rule effective April 8, 2022, which imposed licensing requirements on items controlled on the CCL under Categories 0–2 that are destined for Russia or Belarus. Accordingly, now all CCL items require export, reexport, and transfer (in-country) licenses if destined for or within Russia or Belarus. 87 FR 22130 (Apr. 14, 2022).

[3] 87 FR 13048 (Mar. 8, 2022).

[4] 87 FR 22130 (Apr. 14, 2022).

Additionally, based on information publicly available on Belavia's website as of the date of the signing of this order, Belavia has ''resume[d] flights to Kaliningrad,'' a city in Russia.[5] Moreover, that same website advertises flights from Minsk, Belarus to Ekaterinburg and Kazan, Russia.[6] Based on this information, there are heightened concerns of future violations of the EAR, given that any subsequent actions taken with regard to any of the listed aircraft, or other Belavia aircraft illegally exported or reexported to Russia or Belarus after April 8, 2022, may violate the EAR. Such actions include, but are not limited to, refueling, maintenance, repair, or the provision of spare parts or services. *See* General Prohibition 10 of the EAR at 15 CFR 736.2(b)(10).[7]

III. Findings

Under the applicable standard set forth in Section 766.24 of the Regulations and my review of the entire record, I find that the evidence presented by BIS convincingly demonstrates that Belavia took actions in apparent violation of the Regulations by exporting or reexporting the aircraft cited above, among many others, on flights into Belarus and Russia after April 8, 2022, without the required BIS authorization. Moreover, the continued operation of these aircraft by Belavia and the company's ongoing need to acquire replacement parts and components, many of which are U.S.-origin, presents a high likelihood of imminent violations warranting imposition of a TDO. Additionally, I find that such apparent violations have been ''significant, deliberate, covert and/or likely to occur again, rather than technical or negligent[.]'' Therefore, issuance of a TDO is necessary in the public interest to prevent imminent violation of the Regulations and to give notice to companies and individuals in the United States and abroad that they should avoid dealing with Belavia, in connection with export and reexport transactions involving items subject to the Regulations and in connection with any other activity subject to the Regulations.

This Order is being issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation in accordance with Section 766.24 and 766.23(b) of the Regulations.

IV. Order

It is therefore ordered:

First, Belavia Belarusian Airlines, 14A Nemiga str., Minsk, Belarus, 220004, when acting for or on their behalf, any successors or assigns, agents, or employees may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR including, but not limited to:

A. Applying for, obtaining, or using any license (except directly related to safety of flight), license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations, or engaging in any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or from any other activity subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export, reexport, or transfer (in-country) to or on behalf of Belavia any item subject to the EAR except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by Belavia of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby Belavia acquires or attempts to acquire such ownership, possession or control except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from Belavia of any item subject to the EAR that has been exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations;

D. Obtain from Belavia in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by Belavia, or service any item, of whatever origin, that is owned, possessed or controlled by Belavia if such service involves the use of any item subject to the EAR that has been or will be exported from the United States except directly related to safety of flight and authorized by BIS pursuant to Section 764.3(a)(2) of the Regulations. For purposes of this paragraph, servicing means installation, maintenance, repair, modification, or testing.

Third, that, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to Belavia by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order.

In accordance with the provisions of Sections 766.24(e) of the EAR, Belavia may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. A renewal request may be opposed by Belavia as provided in Section 766.24(d), by filing a written submission with the Assistant Secretary of Commerce for Export

[5] *https://en.belavia.by/.*

[6] *Id.*

[7] Section 736.2(b)(10) of the EAR provides: General Prohibition Ten—Proceeding with transactions with knowledge that a violation has occurred or is about to occur (Knowledge Violation to Occur). You may not sell, transfer, export, reexport, finance, order, buy, remove, conceal, store, use, loan, dispose of, transport, forward, or otherwise service, in whole or in part, any item subject to the EAR and exported or to be exported with knowledge that a violation of the Export Administration Regulations, the Export Administration Act or any order, license, License Exception, or other authorization issued thereunder has occurred, is about to occur, or is intended to occur in connection with the item. Nor may you rely upon any license or License Exception after notice to you of the suspension or revocation of that license or exception. There are no License Exceptions to this General Prohibition Ten in part 740 of the EAR. (emphasis in original).

Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be provided to Belavia and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Dated: June 16, 2022.

Matthew S. Axelrod,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2022–13293 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC108]

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold a two-day in-person meeting of its Standing, Reef Fish, Socioeconomic, and Ecosystem Scientific and Statistical Committees (SSC).

DATES: The meeting will take place Thursday, July 7 and Friday, July 8, 2022, from 9 a.m. to 5 p.m., EDT daily.

ADDRESSES: If you are unable to attend in-person, the public may listen-in to the meeting via webinar. Registration information will be available on the Council's website by visiting *www.gulfcouncil.org* and clicking on the ''meeting tab''.

Council address: Gulf of Mexico Fishery Management Council, 4107 W. Spruce Street, Suite 200, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Rindone, Lead Fishery Biologist, Gulf of Mexico Fishery Management Council; *ryan.rindone@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Thursday, July 7, 2022; 9 a.m.–5 p.m., EDT

The meeting will begin with Introductions and Adoption of Agenda, Approval of Verbatim Minutes and Meeting Summary from the May 10–11, 2022, meeting, and review of Scope of Work. The Committees will select an SSC Representative for the August 22–25, 2022, Gulf Council Meeting. Following, Committees will receive review a presentation and report on the Alternate Model Run for SEDAR 72 Base Model using Florida's State Reef Fish Survey, including other background materials for SSC discussion.

The Committees will then review Discards Data for Gulf Gag Grouper, Red Grouper, Greater Amberjack, and Red Snapper, including a presentation and background materials. The Committees will then receive a presentation on a Decision-support Tool for Evaluating the Impacts of Short- and Long-term Management Decisions on the Gulf of Mexico Red Snapper Resource, including background material and discussion. Public comment will be heard at the end of the day.

Friday, July 8, 2022; 9 a.m.–5 p.m., EDT

The Committees will discuss the Council's Acceptable Biological Catch Control Rule Modifications. The Committees will then receive a presentation and discuss the Southeast Fisheries Science Center's Wenchman Data Evaluation, and will discuss Consideration of Stock-specific Catch Limits with testimony from industry.

Lastly, the Committees will receive public comment before addressing any items under Other Business.

—Meeting Adjourns

The meeting will be also be broadcast via webinar. You may register for the webinar by visiting *www.gulfcouncil.org* and clicking on the SSC meeting on the calendar.

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on *www.gulfcouncil.org* as they become available.

Although other non-emergency issues not on the agenda may come before the Scientific and Statistical Committees for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Scientific and Statistical Committee will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take-action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Kathy Pereira, (813) 348–1630, at least 5 days prior to the meeting date.

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

Dated: June 16, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–13327 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC113]

Endangered Species; File No. 21233

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

ACTION: Notice; receipt of application for a permit modification.

SUMMARY: Notice is hereby given that NMFS Southeast Fisheries Center (SEFSC), 75 Virginia Beach Drive, Miami, FL 33149 (Responsible Party: Mridula Srinivasan, Ph.D.), has requested a modification to scientific research Permit No. 21233–03.

DATES: Written, telefaxed, or email comments must be received on or before July 22, 2022.

ADDRESSES: The modification request and related documents are available for review by selecting ''Records Open for Public Comment'' from the Features box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 21233 mod 7 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 21233 mod 7 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Erin Markin, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject modification to Permit No. 21233–03, originally issued on August 7, 2018 (83 FR 47606), is requested

under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Permit No. 21233–03 authorizes the permit holder to study sea turtles in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea including international waters. Animals for study may be directly captured by hand, hoop net, pound net, seine, cast net, tangle net, or trawl or obtained for study from another legal source such as bycatch in a commercial fishery. Animals captured in pound nets may be exposed to a sound source. Researchers may examine, mark, image, collect morphometrics, collect a suite of biological samples, and attach transmitters to live sea turtles before release. A subset of these animals may also undergo hearing trials or laparoscopy and internal tissue sampling when transported and temporarily held in a facility before release. A small number of unintentional mortalities, and collection of these carcasses, for each species may result from capture activities. In addition, live animals may be harassed during vessel and aerial surveys for species counts and observation. The permit holder requests authorization to reallocate the annual take of 100 green (*Chelonia mydas*), 100 Kemp's ridley (*Lepidochelys kempii*), and 200 loggerhead (*Caretta caretta*) sea turtles from Table 1 to Table 2 of the permit so that takes to study animals that were legally captured under another authority instead may be used for the direct capture of these animals by trawl and attachment of satellite transmitters. Researchers will use the data to inform Deepwater Horizon restoration planning and assess the impacts and effectiveness of restoration activities in the northern Gulf of Mexico. The permit would remain valid until September 30, 2027.

Dated: June 16, 2022.

Julia M. Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2022–13331 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–22–P

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; Limits of Application of Take Prohibitions

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite 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. Public comments were previously requested via the **Federal Register** on January 26, 2022, during a 60-day comment period. This notice allows for an additional 30 days for public comments.

Agency: National Oceanic and Atmospheric Administration (NOAA), Commerce.

Title: Limits of Application of the Take Prohibitions.

OMB Control Number: 0648–0399.

Form Number(s): None.

Type of Request: Regular (Extension of an approved information collection).

Number of Respondents: 1,140.

Average Hours per Response: Limit 3—Fish Rescue, 4 hours. Limit 4: CA—FMEP Annual Reporting, 4 hours; CA—FMEP Development/Submission, 1,230 hours; ID—FMEP Development/Inseason Reporting/Submission of Annual Reports, 120 hours; OR—FMEP Development/Submission of Annual Reports, 120 hours; WA—FMEP Development/Submission of Annual Reports, 100 hours. Limit 4, 6 and 14—Puget Sound/Klamath Basins: Annual Reporting, 104 hours; Development of RMP, 624 hours; Submittal of RMP, 150 hours; Litigation Assistance, 416 hours. Limit 5: CA—HGMP Annual Reporting, 8 hours; CA—HGMP Development/Submission, 2,080 hours. Limit 5 and 6: ID—RMP/HGMP Development/Submission of Annual Reports, 18,000 hours; OR—RMP/HGMP Development/Submission of Annual Reports, 7,200 hours; WA—RMP/HGMP Development/Submission of Annual Reports, 7,200 hours. Limit 6—Fisheries—Columbia River Basin, 1,800 hours. Limit 7—State Research Programs: Applications, 1,000 hours; Modifications, 40 hours; Reports, 600 hours. Limit 10: OR—5-year plan submission, 160 hours; OR—Annual Reporting, 40 hours; CA—Annual Reporting, 4 hours. Limit 14—CA—Annual Reporting, 8 hours.

Total Annual Burden Hours: 167,872.

Needs and Uses: Section 4(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et. seq.) requires the National Marine Fisheries Service (NMFS) to adopt such regulations as it ''deems necessary and advisable to provide for the conservation of'' threatened species. Those regulations may include any or all of the prohibitions provided in section 9(a)(1) of the ESA, which specifically prohibits ''take'' of any endangered species (''take'' includes actions that harass, harm, pursue, kill, or capture). The first salmonid species listed by NMFS as threatened were protected by virtually blanket application of the section 9 take prohibitions. There are now 23 separate Distinct Population Segments (DPS) of west coast salmonids listed as threatened, covering a large percentage of the land base in California, Oregon, Washington and Idaho. NMFS is obligated to enact necessary and advisable protective regulations. NMFS makes section 9 prohibitions generally applicable to many of those threatened DPS, but also seeks to respond to requests from states and others to both provide more guidance on how to protect threatened salmonids and avoid take, and to limit the application of take prohibitions wherever warranted (see 70 FR 37160, June 28, 2005, 71 FR 834, January 5, 2006, and 73 FR 55451, September 25, 2008). The regulations describe programs or circumstances that contribute to the conservation of or are being conducted in a way that limits impacts on, listed salmonids. Because we have determined that such programs/circumstances adequately protect listed salmonids, the regulations do not apply the ''take'' prohibitions to them. Some of these limits on the take prohibitions entail voluntary submission of a plan to NMFS and/or annual or occasional reports by entities wishing to take advantage of these limits, or continue within them.

The currently approved application and reporting requirements apply to Pacific marine and anadromous fish species, as requirements regarding other species are being addressed in a separate information collection.

Affected Public: Federal government; State, local, or tribal government; business or other for-profit organizations.

Frequency: Annual.

Respondent's Obligation: Mandatory.

Legal Authority: Section 4(d) of the Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et seq.).

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view the Department of Commerce collections currently under review by OMB.

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 and entering either the title of the collection or the OMB Control Number 0648–0399.

Sheleen Dumas,

Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.

[FR Doc. 2022–13289 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC093]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Mid-Atlantic and New England Fishery Management Councils will hold a public meeting of their joint Northeast Trawl Advisory Panel (NTAP).

DATES: The meeting will be held on Wednesday, July 13, 2022, from 1 p.m. until 4 p.m. EDT. For agenda details, see **SUPPLEMENTARY INFORMATION.**

ADDRESSES: The meeting will be held via webinar. Webinar connection, agenda items, and any additional information will be available at *www.mafmc.org/council-events.*

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The Councils' Northeast Trawl Advisory Panel (NTAP) will review recent developments related to relevant fishery surveys and develop future priorities.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to Shelley Spedden, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: June 16, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–13326 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC080]

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of a Seminar Series presentation via webinar.

SUMMARY: The South Atlantic Fishery Management Council (Council) will host a presentation on potential uses of self-reported citizen science data via webinar July 12, 2022.

DATES: The webinar presentation will be held on Tuesday, July 12, 2022, from 1 p.m. until 2:30 p.m.

ADDRESSES:

Meeting address: The presentation will be provided via webinar. The webinar is open to members of the public. Information, including a link to webinar registration will be posted on the Council's website at: *https://safmc.net/safmc-seminar-series/* as it becomes available.

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 302–8439 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The Council will host a presentation from Angler's Atlas, a digital platform that has been collecting fisheries data from anglers since 2018 through its mobile application MyCatch. The webinar will focus on three important elements of a successful citizen science strategy: techniques that motivate anglers to report their catches; methods to evaluate the quality of the data collected; and ways self-reported citizen science data may address research and management issues. A question-and-answer session will follow the presentation. Members of the public will have the opportunity to participate in the discussion. The presentation is for informational purposes only and no management actions will be taken.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the Council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: June 16, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–13325 Filed 6–21–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Department of the Army

Programmatic Environmental Assessment of Multi-Domain Task Force Stationing

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army (Army) completed a programmatic environmental assessment (PEA) regarding the impacts of stationing a Multi-Domain Task Force (MDTF) at 13 existing Army garrisons and joint bases, and is encouraging community participation in this process. The Army is making the PEA and a draft finding of no significant impact (FONSI) available for public comment. The PEA determined the environmental and socioeconomic impacts that would result from the Proposed Action would be either less than significant or significant but mitigable at all of the considered locations. The draft FONSI concluded that an environmental impact statement (EIS) is not required. Unless other significant impacts are brought to the Army's attention during public review of the PEA, the Army will

finalize the PEA and FONSI and will not prepare an EIS.

DATES: Comments must be received by July 22, 2022 to be considered in the PEA process.

ADDRESSES: Please mail written comments to: U.S. Army Environmental Command, ATTN: MDTF Public Comments, 2455 Reynolds Road, Mail Stop 112, JBSA-Fort Sam Houston, TX 78234–7588. You can also email written comments to: *usarmy.jbsa.imcom-aec.mbx.nepa@army.mil*, with ''MDTF Public Comments'' in the subject line.

FOR FURTHER INFORMATION CONTACT: Ms. Cathy Kropp, U.S. Army Environmental Command Public Affairs Office, by phone at (210) 466–1590 or (210) 488–6061, or by email at *usarmy.jbsa.imcom-aec.mbx.public-mailbox@army.mil*.

SUPPLEMENTARY INFORMATION: The Army prepared this PEA in accordance with: the National Environmental Policy Act of 1969 (NEPA) (title 42, section 4321, U.S. Code); Council on Environmental Quality (CEQ) NEPA regulations (title 40, parts 1500 through 1508, Code of Federal Regulations (CFR)); and the Army regulation implementing NEPA, 32 CFR part 651.

The purpose of the Proposed Action is to support the Joint Force (*i.e.,* all U.S. military services)—plus our allies—in the rapid and continuous integration of all domains of warfare: land, sea, air, space, and cyberspace. The Army proposes to station MDTFs at Army garrisons and joint bases so the MDTFs can quickly deploy to any theater of operations where they are needed.

The PEA and the draft FONSI evaluated the following installations: Fort Bliss, Texas; Fort Bragg, North Carolina; Fort Campbell, Kentucky; Fort Carson, Colorado; Fort Drum, New York; Fort Hood, Texas; Fort Knox, Kentucky; Fort Riley, Kansas; Fort Stewart, Georgia; Joint Base Lewis-McChord (JBLM), Washington; Joint Base Elmendorf-Richardson, Alaska; U.S. Army Garrison (USAG)-Hawai'i (Schofield Barracks and Helemano Military Reservation); and Fort Wainwright, Alaska.

The PEA examined two MDTF alternatives: the full MDTF, which consists of approximately 3,000 soldiers; and the base MDTF, which consists of headquarters elements and approximately 400 soldiers. The PEA looks at only the base MDTF for Garrison (USAG)-Hawai'i.

The Army initiated temporary MDTF pilot projects at JBLM and at USAG-Hawai'i. The Army established a temporary, full MDTF configuration at JBLM and a temporary, base MDTF configuration at USAG-Hawai'i.

Although the Army developed MDTF personnel and facility requirements, MDTF weapon system training doctrine is under development and is therefore unavailable at this time. The PEA did not analyze any MDTF training activities. When the Army finalizes its MDTF weapon system training doctrine, the Army will compare these doctrinal requirements against other, existing, ongoing training requirements to determine if a specific installation must conduct additional environmental analysis before the installation receives an MDTF.

The PEA and the input received during the public comment period will provide decision-makers with the information necessary to evaluate the potential environmental and socioeconomic impacts associated with the Proposed Action.

The PEA analyzed the direct, indirect, and cumulative impacts of the two Proposed Action Alternatives and the No-Action Alternative on the following nine resource areas: air quality; biological resources; cultural resources; soils; land use; socioeconomics; traffic and transportation; infrastructure and utilities; and water resources. The PEA concluded the impacts at all assessed installations would be either less than significant or significant but mitigable. Impacts will be minimized through avoidance of sensitive resources and through implementation of environmental protection measures.

When planning how to execute an MDTF stationing decision, installations will complete a PEA checklist to determine what type of additional, site-specific NEPA analysis—if any—is required. If an installation determines the stationing of a particular MDTF will require additional NEPA analysis (*i.e.,* analysis ''tiered'' from the PEA), the installation is required to complete the appropriate NEPA analysis before making any irreversible or irretrievable commitments related to the stationing action.

Members of the general public, federally recognized Native American Tribes, Native Alaskan Entities, or Native Hawaiian Organizations, and federal, state, and local agencies are invited to submit written comments regarding the PEA and/or the draft FONSI. The PEA and the draft FONSI can be accessed on the U.S. Army Environmental Command NEPA Documents page at: *https://aec.army.mil/index.php?cID=352.* If you cannot access the documents online, please submit a request to: U.S. Army Environmental Command, ATTN: Public Affairs, 2455 Reynolds Road, Mail Stop 112, JBSA-Fort Sam Houston, TX 78234–7588. You can also email a request to: *usarmy.jbsa.imcom-aec.mbx.nepa@army.mil*.

James Satterwhite Jr.,

U.S. Army Federal Register Liaison Officer.

[FR Doc. 2022–13288 Filed 6–21–22; 8:45 am]

BILLING CODE 3711–02–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2022–0017; OMB Control Number 0704–0549]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Contractors Performing Private Security Functions Outside the United States

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through September 30, 2022. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by August 22, 2022.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0549, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0549 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Salcido, telephone 571–230–0492.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 225, Foreign Acquisition, and Defense Contractors Performing Private Security Functions Outside the United States; OMB Control Number 0704–0549.

Affected Public: Businesses entities.

Respondent's Obligation: Required to obtain or retain benefits.

Type of Request: Extension of a currently approved collection.

Reporting Frequency: On Occasion.

Number of Respondents: 12.

Responses per Respondent: 4.

Annual Responses: 48.

Average Burden per Response: 0.5 hours.

Annual Burden Hours: 24.

Needs and Uses: Geographic combatant commanders are required by statute to establish procedures and assign responsibilities for ensuring that contractors and contractor personnel report certain security incidents when performing private security functions in covered operational areas. The clause at DFARS 252.225–7039, Defense Contractors Performing Private Security Functions Outside the United States, requires contractors and subcontractors performing private security functions in designated operational areas outside the United States to comply with 32 CFR 159 and any orders, directives, and instructions contained in the contract on reporting the following types of incidents to the geographic combatant commander if and when they occur:

(a) A weapon is discharged by personnel performing private security functions.

(b) Personnel performing private security functions are attacked, killed, or injured.

(c) Persons are killed or injured or property is destroyed as a result of conduct by contractor personnel.

(d) A weapon is discharged against personnel performing private security functions or personnel performing such functions believe a weapon was so discharged.

(e) Active, non-lethal countermeasures (other than the discharge of a weapon) are employed by personnel performing private security functions in response to a perceived immediate threat.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2022–13353 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2022–0019; OMB Control Number 0704–0434]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement (DFARS); Radio Frequency Identification Advance Shipment Notices

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through September 30, 2022. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by August 22, 2022.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0434, using any of the following methods:

Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments.

Email: osd.dfars@mail.mil. Include OMB Control Number 0704–0434 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Ziegler, 703–901–3176.

SUPPLEMENTARY INFORMATION:

Title, Associated Form, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS); Radio Frequency Identification Advance Shipment Notices; OMB Control Number 0704–0434.

Affected Public: Businesses or other for-profit and not-for profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On Occasion.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 5,217.

Responses per Respondent: 3,782.

Annual Responses: 19,732,850.

Average Burden per Response: Approximately 1.16 seconds.

Annual Burden Hours: 6,358.

Needs and Uses: DoD uses advance shipment notices for the shipment of material containing Radio Frequency Identification (RFID) tag data. DoD receiving personnel use the advance shipment notice to associate the unique identification encoded on the RFID tag with the corresponding shipment. Use of the RFID technology permits DoD an automated and sophisticated end-to-end supply chain that has increased visibility of assets and permits delivery of supplies to the warfighter more quickly.

The clause at DFARS 252.211–7006, Passive Radio Frequency Identification, requires the contractor to ensure that the data on each passive RFID tag are unique and conform to the requirements that they are readable and affixed to the appropriate location on the specific level of packaging in accordance with MIL–STD–129 tag placement specifications. The contractor encodes an approved RFID tag using the appropriate instructions at the time of contract award. Regardless of the selected encoding scheme, the contractor is responsible for ensuring that each tag contains a globally unique identifier. The contractor electronically submits advance shipment notices with the RFID tag identification in advance of

the shipment in accordance with the procedures at *https://wawf.eb.mil/.*

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2022–13352 Filed 6–21–22; 8:45 am]

BILLING CODE5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2022–0018; OMB Control Number 0704–0441]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Quality Assurance

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; the accuracy of the 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 the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through September 30, 2022. DoD proposes that OMB extend its approval for use for three additional years beyond the current expiration date.

DATES: DoD will consider all comments received by August 22, 2022.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0441, using any of the following methods:

○ *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

○ *Email: osd.dfars@mail.mil.* Include OMB Control Number 0704–0441 in the subject line of the message.

Comments received generally will be posted without change to *https://www.regulations.gov,* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Salcido, telephone 571–230–0492.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 246, Quality Assurance, and related clauses at 252.246; OMB Control Number 0704–0441.

Needs and Uses: The information collections under OMB Control Number 0704–0441 pertain to all information that offerors or contractors must submit related to DFARS contract quality assurance programs.

Affected Public: Businesses or other for-profit and not-for- profit institutions.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency: On occasion.

Type of Request: Extension of a currently approved collection.

Number of Respondents: 34,842.

Annual Responses: 122,024.

Annual Burden Hours: 2,075,685 (includes 39,075 reporting hours and 2,036,610 recordkeeping hours).

a. 252.246–7003, Notification of Potential Safety Issues. Contracting officers require timely notification of potential safety defects so that (1) systems and equipment likely affected by the situation can be readily identified, and (2) appropriate engineering investigation and follow-on actions can be taken to establish and mitigate risk.

b. 252.246–7005, Notice of Warranty Tracking of Serialized Items. The information provided by offerors under this solicitation provision alerts contracting officers in those cases where the offeror is proposing to provide a warranty for an individual contract line item for which DoD has not specified a warranty in the solicitation. The warranty notice will permit the Government to recognize and utilize any warranty after contract award.

c. 252.246–7006, Warranty Tracking of Serialized Items. The information provided by contractors allows DoD to track warranties for item unique identification (IUID) required items in the IUID registry to obtain maximum utility of warranties provided on contracted items. The identification and enforcement of warranties is essential to the effectiveness and efficiency of DoD's material readiness. Providing visibility and accountability of warranty data associated with acquired goods, from the identification of the requirement to the expiration date of the warranted item, significantly enhances DoD's ability to take full advantage of warranties, resulting in—

(1) Reduced costs;

(2) Ability to recognize benefits included at no additional cost;

(3) Ability to compare performance against Government-specified warranties; and

(4) Identification of sufficient durations for warranties for specific goods.

d. 252.246–7008, Sources of Electronic Parts. The contracting officer uses the information to ensure that the contractor performs the traceability of parts, additional inspection, testing, and authentication required when an electronic part is not obtained from a trusted supplier. The Government may also use this information to more actively perform acceptance.

Jennifer D. Johnson,

Editor/Publisher, Defense Acquisition Regulations System.

[FR Doc. 2022–13355 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0077]

Proposed Collection; Comment Request

AGENCY: Defense Finance Accounting Service (DFAS), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Defense Finance and Accounting Service 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 22, 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 Ms. Angela Duncan at the Department of Defense, Washington Headquarters Services, ATTN: Executive Services Directorate, Directives Division, 4800 Mark Center Drive, Suite 03F09–09, Alexandria, VA 22350–3100 or call 571–372–7574.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Trustee Report; DD Form 2826; OMB Control Number 0730–0012.

Needs and Uses: This form is used to report on the administration of the funds received on behalf of a mentally incompetent member of the uniformed services pursuant to 37 U.S.C. 602–604. When a member of the uniformed services is declared mentally incompetent, the need arises to have a trustee appointed to act on their behalf with regard to military pay matters. Trustees will complete this form to report the administration of the funds received on behalf of the member. The requirement to complete this form helps alleviate the opportunity for fraud, waste and abuse of Government funds and member's benefits.

Affected Public: Individuals or households.

Annual Burden Hours: 200.

Number of Respondents: 200.

Responses per Respondent: 1.

Annual Responses: 200.

Average Burden per Response: 1 hour.

Frequency: On occasion.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13276 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0073]

Proposed Collection; Comment Request

AGENCY: The 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 22, 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: Department of Defense Authorization Statement for Overseas Medical Services for Employees and Family Members; DD Form 3182; OMB Control Number 0704–ASOM.

Needs and Uses: The information requested on DD Form 3182 is necessary to authorize the transfer of reimbursement rights from the health insurance provider to DoD, or to document an employee's debt acknowledgement and repayment agreement for services rendered and medical expenses covered by the department on behalf of the employee or the employee's dependents. The employing office will provide DD Form 3182 to employees when their travel orders are issued for foreign overseas assignments. Employees must initial where indicated and sign DD Form 3182 to receive advanced funding and medical services for covered medical expenses.

Affected Public: Individuals or households.

Annual Burden Hours: 2,265.05 hours.

Number of Respondents: 45,301.

Responses per Respondent: 1.

Annual Responses: 45,301.

Average Burden per Response: 3 minutes.

Frequency: On occasion.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13268 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–OS–0075]

Proposed Collection; Comment Request

AGENCY: Pentagon Force Protection Agency (PFPA), Department of Defense (DoD).

ACTION: 60-day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Pentagon Force Protection 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 22, 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 Pentagon Force Protection Agency, 9000 Defense Pentagon, Washington, DC 20301–900; Mark Ryan, or call (703) 695–0211.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Pentagon Force Protection Agency Recruitment, Medical, and Fitness Division Forms; PFPA Form 1400, PFPA Form 1407, PFPA Form 1408, PFPA Form 1409, PFPA Form 1410, PFPA Form 6040; OMB Control Number 0704–0588.

Needs and Uses: This information collection is essential to the Pentagon Force Protection Agency and is used to make a determination of fitness for federal employment in the field of law enforcement. To that end, criminal, background and medical information is collected on the applicants.

Affected Public: Individuals.

Annual Burden Hours: 520 hours.

Number of Respondents: 3,600.

Responses per Respondent: 1.

Annual Responses: 3,600.

Average Burden per Response: PFPA Form 1400: 5 minutes; PFPA Form 1407: 5 minutes; PFPA Form 1408: 5 minutes; PFPA Form 1409: 10 minutes; PFPA Form 1410: 10 minutes; PFPA Form 6040: 20 minutes.

Frequency: As required.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13266 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2022–HA–0076]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense 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 (DHA) 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 22, 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., Suite 5101, Falls Church, VA 22042–5101, ATTN: Melanie Richardson, or call 703–681–8494.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Agency Retail Pharmacy Program; OMB Control Number 0720–0032.

Needs and Uses: The information collection requirement is necessary to obtain and record refund amounts between the DoD and pharmaceutical manufacturers. The DoD quarterly provides pharmaceutical manufacturers with itemized utilization data on covered drugs dispensed to TRICARE beneficiaries through TRICARE retail network pharmacies. These manufacturers validate the refund amounts calculated from the difference in price between the Federal Ceiling Prices and the direct commercial contract sales price. Once the refund amounts are validated, the pharmaceutical manufacturers directly pay the DHA Government account.

Affected Public: Businesses or other for profit.

Annual Burden Hours: 9,600.

Number of Respondents: 300.

Responses per Respondent: 4.

Annual Responses: 1,200.

Average Burden per Response: 8 hours.

Frequency: Quarterly.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13271 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2022–OS–0074]

Proposed Collection; Comment Request

AGENCY: National Guard Bureau (NGB), Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the National Guard Bureau 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 22, 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 National Guard Bureau, ARNG–HRR–O, 111 South George Mason Dr., Arlington, VA 22204, ATTN: SFC Smiley, Javoris, or call 501–212–4954.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Education Verification for National Guard Enlistees; NGB Form 900, NGB Form 901; OMB Control Number 0704–0584.

Needs and Uses: The information collection is necessary to verify education status and projected graduation dates for students who agree to enlist in the Army National Guard. Information gathered by the NGB Form 900 is required to verify and determine the graduation dates for high school juniors who enlist in the National Guard. Information gathered by the NGB Form 901 is required to verify the enrollment and graduation dates for college students who enlist in the National Guard. The National Guard will use this information to schedule basic training dates to accommodate a student's educational obligations, thereby ensuring that the enlistee will complete his or her education in a timely manner.

Affected Public: Individuals or households.

Annual Burden Hours: 833.33.

Number of Respondents: 10,000.

Responses per Respondent: 1.

Annual Responses: 10,000.

Average Burden per Response: 5 minutes.

Frequency: On occasion.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13265 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2022–HQ–0020]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Navy Personnel Command 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 22, 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 Navy Personnel Command (PERS–13), 5720 Integrity Dr., Millington, TN 38011, ATTN: Mr. Al Gorski, or call 901–874–4559.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Consent to Release Personal Information; OPNAV Form 1770/1, OPNAV Form 1770/2, OPNAV Form 1770/3; OMB Control Number 0703–0076.

Needs and Uses: The information is collected from the next of kin (NOK) and other beneficiaries following the death of a Navy Sailor. Basic contact information is passed to members of Congress and the White House (when

consent is granted) for use in condolence activity. This and additional information collected is necessary to review, certify, and process payment of benefits awarded to designated NOK and other beneficiaries following the death. The form gathers data necessary to facilitate direct payment of benefits through the Defense Finance and Accounting Agency (DFAS), arrange travel to memorial and funeral services through the Defense Travel System (DTS), and to process travel claims submitted post-travel through DTS to DFAS. Data on the form is used solely for these functions.

Affected Public: Individuals or households.

Annual Burden Hours: 1,300.

Number of Respondents: 800.

Responses per Respondent: 2.5.

Annual Responses: 2,000.

Average Burden per Response: 39 minutes.

Frequency: As required.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13256 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2022–HQ–0019]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: 60-Day information collection notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the United States Marine Corps (USMC) 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 22, 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 Marine and Family Programs, Compliance (MFI), 3280 Russell Road, Quantico, VA 22134, ATTN: Mr. Theodore McCann, or call 703–784–1333.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: U.S. Marine Corps Dependency Statement Child Born Out of Wedlock Under Age 21; NAVMC Form 1750/13; OMB Control Number 0703–DEPE.

Needs and Uses: The information collected will be used to support the USMC Military Personnel Services DEERS/Dependency Determination Section (MFP–1). The information will be used by the Marine Corps to determine the member's entitlement to Basic Allowance for Housing and Travel and Transportation. Respondents are guardians of claimed dependents. The collection instrument is NAVMC 1750/13, ''USMC Dependency Statement Child Born Out of Wedlock Under Age 21.'' Respondents will enter their information on the PDF-fillable form and submit it to their Installation Personnel Admin Center (IPAC). Assistance with the completion of the collection instruments is available in person or over the telephone with IPAC. Once the respondent completes the form, they'll send it via email or physically turn it in depending on their IPAC's Standard Operating Procedures (SOPs). Cases are typically adjudicated by the IPAC personnel officer and returned to the respondent.

Affected Public: Individuals or households.

Annual Burden Hours: 25 hours.

Number of Respondents: 20.

Responses per Respondent: 1.

Annual Responses: 20.

Average Burden per Response: 75 minutes.

Frequency: On occasion.

Dated: June 15, 2022.

Aaron T. Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–13263 Filed 6–21–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM22–17–000]

American Gas Association, American Public Gas Association, Process Gas Consumers Group, Natural Gas Supply Association; Notice of Petition for Rulemaking

Take notice that, on June 2, 2022, American Gas Association, American Public Gas Association, Process Gas Consumers Group, and Natural Gas Supply Association (collectively, Petitioners), pursuant to Rule 207(a)(4) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(4), filed a petition requesting that the Commission conduct a rulemaking to adopt a rule precluding natural gas pipelines from the practice of aggregating bids on non-contiguous segments of capacity in determining the highest value bid for the purpose of allocating capacity.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on Petitioners.

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 Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

The Commission strongly encourages electronic filings of comments in lieu of paper using the ''eFile'' link at *http://www.ferc.gov*. 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.

Comments due: 5:00 p.m. Eastern time on July 18, 2022.

Dated: June 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13335 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–470–000]

Texas Eastern Transmission, LP; Notice of Application and Establishing Intervention Deadline

Take notice that on June 2, 2022 Texas Eastern Transmission, LP, (Texas Eastern) 5400 Westheimer Court, Houston, TX 77056–5310, filed an application under section 7(b) of the Natural Gas Act (NGA), and Part 157, Subpart A of the Commission's regulations requesting the authority to abandon a certain auxiliary pipeline segment located in Polk and San Jacinto Counties, Texas.

Specifically, Specifically, Texas Eastern is requesting approval to abandon in place an approximate 2.8-mile segment of 24-inch diameter auxiliary pipeline, designated as Line 11-Aux-1, between milepost (''MP'') 137.72 and MP 140.51 across Lake Livingston. The Project will eliminate the need for future operating and maintenance expenditures on a pipeline segment that is not needed to provide transportation services and has not been used in many years. Abandonment of this pipeline segment will not change the certificated capacity of Texas Eastern's system and will not result in the termination or reduction in service to existing Texas Eastern customers. The total estimated cost of abandonment is approximately $197,324.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding the proposed project should be directed to Emery Biro, Associate General Counsel, Texas Eastern Transmission LP, P.O. Box 1642, Houston, Texas 77251–1642; by phone at (713) 627–4704 or by email to *emery.biro@enbridge.com.*

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are two ways to become involved in the Commission's review of this project: you can file comments on the project, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on July 5, 2022.

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please submit your comments on or before July 5, 2022.

There are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number CP22–470–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You may file a paper copy of your comments by mailing them to the following address below.[2] Your written comments must reference the Project docket number (CP22–470–000). Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of comments (options 1

[1] 18 CFR 157.9.

[2] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[3] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is July 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.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP22–470–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.*; or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below.[6] Your motion to intervene must reference the Project docket number CP22–470–000. Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Motions to intervene must be served on the applicant either by mail or email at: Emery Biro, Associate General Counsel, Texas Eastern Transmission LP, P.O. Box 1642, Houston, Texas 77251–1642; by phone at (713) 627–4704 or by email to *emery.biro@enbridge.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. Service can be via email with a link to the document.

All timely, unopposed [7] motions to intervene are automatically granted by operation of Rule 214(c)(1).[8] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[9] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *http://www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on July 5, 2022.

Dated: June 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13281 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2116–000]

Blue Harvest Solar Park 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 Blue Harvest Solar Park 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

[3] 18 CFR 385.102(d).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

[6] Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

[7] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[8] 18 CFR 385.214(c)(1).

[9] 18 CFR 385.214(b)(3) and (d).

future issuances of securities and assumptions of liability, is July 5, 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 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13337 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–11–000]

Commission Information Collection Activities (FERC–538) Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission FERC–538 (Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service), which will be submitted to the Office of Management and Budget (OMB) for review. No Comments were received on the 60-day notice published on April 12, 2022.

DATES: Comments on the collection of information are due July 22, 2022.

ADDRESSES: Send written comments on FERC–538 to OMB through *www.reginfo.gov/public/do/PRAMain.* Attention: Federal Energy Regulatory Commission Desk Officer. Please identify the OMB Control Number (1902–0061) in the subject line of your comments. Comments should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.*

Please submit copies of your comments to the Commission. You may submit copies of your comments (identified by Docket No. IC22–11–000) by one of the following methods:

Electronic filing through *https://www.ferc.gov,* is preferred.

- Electronic Filing: Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.
- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery.

○ *Mail via U.S. Postal Service Only:* Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

○ *Hand (including courier) delivery:* Deliver to: Federal Energy Regulatory Commission, Secretary of the Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: OMB submissions must be formatted and filed in accordance with submission guidelines at *www.reginfo.gov/public/do/PRAMain.* Using the search function under the ''Currently Under Review'' field, select Federal Energy Regulatory Commission; click ''submit,'' and select ''comment'' to the right of the subject collection.

FERC submissions must be formatted and filed in accordance with submission guidelines at: *https://www.ferc.gov.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free).

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *https://www.ferc.gov/ferc-online/overview.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: Gas Pipeline Certificates: Section 7(a) Mandatory Initial Service.

OMB Control No.: 1902–0061.

Type of Request: Three-year extension of the FERC–538 information collection requirements with no changes to the current reporting requirements.

Abstract: The purpose of FERC–538 is to implement the information collections pursuant to Sections 7(a), 10(a) and 16 of Natural Gas Act (NGA),[1] and part 156 of the Commission Regulations.[2] These statutes and regulations upon application by a person or municipality authorized to engage in the local distribution of natural gas allows for the Commission to order a natural gas company to extend or improve its transportation facilities and sell natural gas to the municipality or person. Additionally, the natural gas company must for such purpose, extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company. The Commission uses the application data (in FERC–538) in order to be fully informed concerning the applicant, and the service the applicant is requesting.

[1] 15 U.S.C. 717f–w.

[2] 18 CFR 156.

Type of Respondents: Persons or municipalities authorized to engage in the local distribution of natural gas.

Estimate of Annual Burden:[3] The Commission estimates the annual reporting burden and cost for the information collection as:

FERC–538: GAS PIPELINE CERTIFICATES: SECTION 7(A) MANDATORY INITIAL SERVICE

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden hrs. & cost ($) per response[4]	Total annual burden hours & total annual cost ($)	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Gas Pipeline Certificates	1	1	1	240 hrs.; $20,880.	240 hrs.; $20,880.	$20,880

Comments: Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: June 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13279 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings in Existing Proceedings

Docket Numbers: RP22–980–000.

Applicants: Texas Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Remove Exp Agmts from Tariff eff 6–15–2022 to be effective 6/15/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5037.

Comment Date: 5 p.m. ET 6/27/22.

Docket Numbers: RP22–981–000.

Applicants: Gulf South Pipeline Company, LLC.

Description: § 4(d) Rate Filing: Remove Expired Agmts from Tariff eff 6–15–22 to be effective 6/15/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5038.

Comment Date: 5 p.m. ET 6/27/22.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf*. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: June 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13333 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–227–000]

Columbia Gas Transmission, LLC ; Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Coco B Wells Replacement Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the Coco B Wells Replacement Project involving construction and operation of facilities by Columbia Gas Transmission, LLC (Columbia) in Kanawha County, West Virginia. The Commission will use this environmental document in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the project. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. This gathering of public input is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the environmental document on the important environmental issues. Additional information about the Commission's NEPA process is

[3] ''Burden'' is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

[4] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $87.00/hour = Average cost/response. The figure is the 2021 FERC average hourly cost (for wages and benefits) of $87.00 (and an average annual cost of $180,703/year). Commission staff is using the FERC average salary plus benefits because we consider people completing the FERC–538 to be compensated at rates similar to FERC employees.

described below in the *NEPA Process and Environmental Document* section of this notice.

By this notice, the Commission requests public comments on the scope of issues to address in the environmental document. To ensure that your comments are timely and properly recorded, please submit your comments so that the Commission receives them in Washington, DC on or before 5:00 p.m. Eastern Time on July 14, 2022. Comments may be submitted in written form. Further details on how to submit comments are provided in the *Public Participation* section of this notice.

Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the environmental document. Commission staff will consider all written comments during the preparation of the environmental document.

If you submitted comments on this project to the Commission before the opening of this docket on April 26, 2022, you will need to file those comments in Docket No. CP22–227–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable easement agreement. You are not required to enter into an agreement. However, if the Commission approves the project, the Natural Gas Act conveys the right of eminent domain to the company. Therefore, if you and the company do not reach an easement agreement, the pipeline company could initiate condemnation proceedings in court. In such instances, compensation would be determined by a judge in accordance with state law. The Commission does not subsequently grant, exercise, or oversee the exercise of that eminent domain authority. The courts have exclusive authority to handle eminent domain cases; the Commission has no jurisdiction over these matters.

Columbia provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' which addresses typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. This fact sheet along with other landowner topics of interest are available for viewing on the FERC website (*www.ferc.gov*) under the Natural Gas Questions or Landowner Topics link.

Public Participation

There are three methods you can use to submit your comments to the Commission. Please carefully follow these instructions so that your comments are properly recorded. The Commission encourages electronic filing of comments and has staff available to assist you at (866) 208–3676 or *FercOnlineSupport@ferc.gov.*

(1) You can file your comments electronically using the eComment feature, which is located on the Commission's website (*www.ferc.gov*) under the link to FERC Online. Using eComment 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, which is located 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.'' You will be asked to select the type of filing you are making; a comment on a particular project is considered a ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the Commission. Be sure to reference the project docket number (CP22–227–000) 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, MD 20852.

Additionally, the Commission offers a free service called eSubscription which makes it easy to stay informed of all issuances and submittals regarding the dockets/projects to which you subscribe. These instant email notifications are the fastest way to receive notification and provide a link to the document files which can reduce the amount of time you spend researching proceedings. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Summary of the Proposed Project

Columbia proposes to construct and operate two new Injection and Withdrawal Wells (I/W) wells and related pipeline and appurtenances in a new well pad, and plug and abandon four I/W wells and related pipeline and appurtenances within the Coco B Storage Field in Kanawha County, West Virginia to maintain reliability and overall storage field performance. According to Columbia, its project is needed to protect the integrity of the Coco B storage field, as well as other of Columbia's certificated facilities and services.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 21.9 acres of land for the construction and abandonment of the I/W wells. Following construction, Columbia would maintain about 4.3 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

NEPA Process and the Environmental Document

Any environmental document issued by the Commission will discuss impacts that could occur as a result of the construction and operation of the proposed project under the relevant general resource areas:

- geology and soils;
- water resources and wetlands;
- vegetation and wildlife;
- threatened and endangered species;
- cultural resources;
- land use;
- socioeconomics and environmental justice;
- air quality and noise; and
- reliability and safety.

Commission staff will also evaluate reasonable alternatives to the proposed project or portions of the project and make recommendations on how to

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary.'' For instructions on connecting to eLibrary, refer to the last page of this notice. 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 TTY (202) 502–8659.

lessen or avoid impacts on the various resource areas. Your comments will help Commission staff identify and focus on the issues that might have an effect on the human environment and potentially eliminate others from further study and discussion in the environmental document.

Following this scoping period, Commission staff will determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or EIS will present Commission staff's independent analysis of the issues. If Commission staff prepares an EA, a *Notice of Schedule for the Preparation of an Environmental Assessment* will be issued. The EA may be issued for an allotted public comment period. The Commission would consider timely comments on the EA before making its decision regarding the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued, which will open up an additional comment period. Staff will then prepare a draft EIS which will be issued for public comment. Commission staff will consider all timely comments received during the comment period on the draft EIS and revise the document, as necessary, before issuing a final EIS. Any EA or draft and final EIS will be available in electronic format in the public record through eLibrary [2] and the Commission's natural gas environmental documents web page (*https://www.ferc.gov/industries-data/natural-gas/environment/environmental-documents*). If eSubscribed, you will receive instant email notification when the environmental document is issued.

With this notice, the Commission is asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate in the preparation of the environmental document.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the *Public Participation* section of this notice.

Consultation Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, the Commission is using this notice to initiate consultation with the applicable State Historic Preservation Office(s), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] The environmental document for this project will document findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project and includes a mailing address with their comments. Commission staff will update the environmental mailing list as the analysis proceeds to ensure that Commission notices related to this environmental review are sent to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If you need to make changes to your name/address, or if you would like to remove your name from the mailing list, please complete one of the following steps:

(1) Send an email to *GasProjectAddressChange@ferc.gov* stating your request. You must include the docket number CP22–227–000 in your request. If you are requesting a change to your address, please be sure to include your name and the correct address. If you are requesting to delete your address from the mailing list, please include your name and address as it appeared on this notice. This email address is unable to accept comments.

OR

(2) Return the attached ''Mailing List Update Form'' (appendix 2).

Additional 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 at *www.ferc.gov* using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

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.

Dated: June 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13282 Filed 6–21–22; 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 corporate filings:

Docket Numbers: EC22–55–000.

Applicants: Sierra Pacific Power Company, Nevada Power Company.

Description: Sierra Pacific Power Company and Nevada Power Company submits Supplement to Federal Power Act Section 203 Application.

Filed Date: 6/15/22.

Accession Number: 20220615–5010.

Comment Date: 5 p.m. ET 6/27/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–1860–001.

Applicants: Midcontinent Independent System Operator, Inc., Big Rivers Electric Corporation.

Description: Tariff Amendment: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.17(b): 2022–06–15_Amendment of BREC Attachment A to be effective 6/1/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5141.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2107–000.

[2] For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Section 1501.8.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Applicants: National Grid Renewables Development, LLC.

Description: Petition for Limited Waiver, etc. of National Grid Renewables Development, LLC.

Filed Date: 6/13/22.

Accession Number: 20220613–5173.

Comment Date: 5 p.m. ET 7/5/22.

Docket Numbers: ER22–2113–000.

Applicants: EDP Renewables North America LLC.

Description: EDP Renewables North America LLC Requests a One-Time, Limited Waiver of Tariff Provisions, with Expedited Consideration, Under.

Filed Date: 6/10/22.

Accession Number: 20220610–5252.

Comment Date: 5 p.m. ET 6/21/22.

Docket Numbers: ER22–2117–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2022–06–15_SA 3454 Entergy Arkansas-Flat Fork Solar 1st Rev GIA (J907 J1434) to be effective 6/2/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5029.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2118–000.

Applicants: Northern Indiana Public Service Company LLC.

Description: § 205(d) Rate Filing: Amendment to NIPSCO–AEP Indiana Dark Fiber Lease to be effective 3/21/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5116.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2119–000.

Applicants: Macquarie Energy LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 6/16/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5131.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2120–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 254 to be effective 6/16/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5136.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2121–000.

Applicants: Macquarie Energy Trading LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 6/16/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5140.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2122–000.

Applicants: NGP Blue Mountain I LLC.

Description: Compliance filing: Revised Market-Based Rate Tariff and New eTariff Baseline Filing to be effective 6/16/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5145.

Comment Date: 5 p.m. ET 7/6/22.

Docket Numbers: ER22–2123–000.

Applicants: Patua Acquisition Company, LLC.

Description: § 205(d) Rate Filing: Revised Market-Based Rate Tariff to be effective 6/16/2022.

Filed Date: 6/15/22.

Accession Number: 20220615–5149.

Comment Date: 5 p.m. ET 7/6/22.

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 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13334 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3133–033]

Brookfield White Pine Hydro, LLC, Errol Hydro Co., LLC; Notice of Intent to Prepare an Environmental Assessment

On July 30, 2021, Brookfield White Pine Hydro, LLC and Errol Hydro Co., LLC filed an application for a new major license for the 2.031-megawatt Errol Hydroelectric Project (Errol Project; FERC No. 3133). The Errol Project is located on the Androscoggin River and Umbagog Lake, near the Town of Errol, and Township of Cambridge, in Coos Wing County, New Hampshire and the Towns of Magalloway Plantation and Upton in Oxford County, Maine. The project occupies 3,285 acres of federal land in the Umbagog National Wildlife Refuge administered by the U.S. Fish and Wildlife Service.

In accordance with the Commission's regulations, on April 4, 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 on the REA Notice, staff does not anticipate that licensing the project would constitute a major federal action significantly affecting the quality of the human environment. Therefore, staff intends to prepare a draft and final Environmental Assessment (EA) on the application to relicense the Errol Project.

The EA will be issued and circulated for review by all interested parties. All comments filed on the EA will be analyzed by staff and considered in the Commission's 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
Commission issues draft EA.	December 2022
Comments on draft EA	January 2023
Commission issues final EA.	June 2023 [1]

Any questions regarding this notice may be directed to Kelly Wolcott at (202) 502–6480 or *kelly.wolcott@ferc.gov*.

Dated: June 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13336 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

[1] The Council on Environmental Quality's (CEQ) regulations under 40 CFR 1501.10(b)(1) require that EAs be completed within 1 year of the federal action agency's decision to prepare an EA. This notice establishes the Commission's intent to prepare a draft and final EA for the Errol Project. Therefore, in accordance with CEQ's regulations, the final EA must be issued within 1 year of the issuance date of this notice.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–473–000]

Southern Natural Gas Company, L.L.C.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on June 6, 2022, Southern Natural Gas Company, L.L.C. (SNG), 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, filed in the above referenced docket a prior notice pursuant to sections 157.205, 157.206, and 157.216 (b) of the Commission's regulations under the Natural Gas Act (NGA) and its blanket certificate issued in Docket No. CP82–406–000 requesting authorization to (1) permanently abandon nine injection and withdrawal (I/W) wells, including associated surface facilities, (2) abandon in place the pipeline laterals associated with seven of the I/W wells totaling 1.95 miles of 3-inch-diameter to 12-inch-diameter laterals, and (3) abandon by removal the pipeline laterals associated with two of the I/W wells totaling 300 feet of 3-inch-diameter to 8-inch-diameter laterals at its Muldon Gas Storage Field located in Monroe County, Mississippi. SNG states that the project will eliminate future safety concerns associated with the casing in the wellbores of these existing nine I/W wells and with the associated pipeline laterals, as well as reduce unnecessary costs associated with the repair and operation of SNG's Muldon Storage Field. SNG estimates the cost of its proposal is $2.2 million, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://ferc.gov*) using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID–19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this request should be directed to Tina Hardy, Director of Rates and Regulatory for Southern Natural Gas Company, L.L.C., 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209, by telephone at (205) 325–3668, or by email at *tina_hardy@kindermorgan.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 15, 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 15, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [4] and the regulations under the NGA [5] by the intervention deadline for the project, which is August 15, 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 15, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–473–000 in your submission. The Commission encourages electronic filing of submissions.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website

[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).

[4] 18 CFR 385.214.

[5] 18 CFR 157.10.

(*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing.''

The Commission's eFiling staff are available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

(2) You can file a paper copy of your submission. Your submission must reference the Project docket number CP22–473–000.

To mail via USPS, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To mail via any other courier, use the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *tina_hardy@kindermorgan.com,* or Tina Hardy, Director of Rates and Regulatory for Southern Natural Gas Company, L.L.C., 569 Brookwood Village, Suite 749, Birmingham, Alabama 35209. Any subsequent submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online.

Tracking The Proceeding

Throughout the proceeding, additional information about the project will be available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: June 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13280 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 5261–023]

Green Mountain Power Corporation; Notice of Waiver Period for Water Quality Certification Application

On June 6, 2022, Green Mountain Power Corporation submitted to the Federal Energy Regulatory Commission (Commission) a copy of its application for a Clean Water Act section 401(a)(1) water quality certification filed with Vermont Department of Environmental Conservation (Vermont DEC), in conjunction with the above captioned project. Pursuant to 40 CFR 121.6 and section [4.34(b)(5), 5.23(b), 153.4, or 157.22] of the Commission's regulations,[1] we hereby notify the Vermont DEC of the following:

Date of Receipt of the Certification Request: June 3, 2022.

Reasonable Period of Time To Act on the Certification Request: June 3, 2023.

If Vermont DEC fails or refuses to act on the water quality certification request on or before the above date, then the agency certifying authority is deemed waived pursuant to section 401(a)(1) of the Clean Water Act, 33 U.S.C. 1341(a)(1).

Dated: June 14, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–13283 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER22–2115–000]

Timber Road Solar Park 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 Timber Road Solar Park 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 July 5, 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.

[1] 18 CFR [4.34(b)(5)/5.23(b)/153.4/157.22].

Dated: June 15, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–13332 Filed 6–21–22; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2022–0446; FRL–9940–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is hereby given of a proposed consent decree in *WildEarth Guardians* v. *Regan,* No. 1:22–cv–174–RB–GBW (D.N.M.). On March 8, 2022, Plaintiff WildEarth Guardians filed a complaint in the United States District Court for the District of New Mexico alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform a non-discretionary duty in accordance with the Act to either promulgate a Federal Implementation Plan (FIP) or approve a State Implementation Plan (SIP) for New Mexico that meets CAA requirements for the 2015 ozone National Ambient Air Quality Standards (NAAQS). The proposed consent decree would establish a June 1, 2024, deadline for EPA to take specified actions.

DATES: Written comments on the proposed consent decree must be received by *July 22, 2022.*

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0446, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. 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 ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jeanhee Hong, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (415) 972–3921; email address *hong.jeanhee@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2022–0446) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by WildEarth Guardians seeking to compel the Administrator to promulgate a FIP for New Mexico to satisfy the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS. On October 1, 2015, EPA promulgated a final rule revising the ozone NAAQS. Effective January 6, 2020, EPA determined that New Mexico had ''not submitted [a] complete interstate transport [SIP] to meet the requirements of CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS[,]'' which established a 2-year deadline under CAA section 110(c)(1) for EPA to promulgate a FIP for New Mexico to satisfy these requirements unless, before EPA promulgates such FIP, the State submits and EPA approves a SIP that meets these requirements.[1]

Under the terms of the proposed consent decree, no later than June 1, 2024, EPA must sign a final rule or rules taking one or more of the following actions with respect to the State of New Mexico to meet the requirements of CAA section 110(a)(2)(D)(i)(I) regarding prohibiting significant contribution to nonattainment or interference with maintenance in other states for the 2015 ozone NAAQS: (a) promulgate a FIP; (b) approve a SIP; or (c) approve in part a SIP in conjunction with promulgating a partial FIP.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0446, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical

[1] 84 FR 66612, 66614 (December 5, 2019).

difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2022–13295 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2017–0466; FRL–9928–01–OCSPP]

Spirodiclofen; Rescinding Cancellation Order for Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In the **Federal Register** of November 19, 2021, EPA amended the effective date of the cancellation for the two spirodiclofen registrations, EPA Registration Nos. 10163–382 and 10163–383, as requested by the registrant (Gowan), for the two registrations from December 31, 2021, until June 30, 2022. This notice announces that EPA is rescinding the cancellation order based on the submission of outstanding data that facilitated the risk assessments and registration review decision for spirodiclofen, as well as the registrant's commitment to implement label changes that adequately address the Agency's risk concerns. The registrant has submitted an amended label for the sole end-use product (EPA Registration No. 10163–383) that reflects the risk mitigation proposed by the Agency.

DATES: This recission of the cancellation order for the two spirodiclofen registrations, EPA Registration Nos. 10163–382 and 10163–383 is effective June 22, 2022.

FOR FURTHER INFORMATION CONTACT: Veronica Dutch, Pesticide Re-evaluation Division (7508M), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–2352; email address: *dutch.veronica@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2017–0466, is available at *https://www.regulations.gov.* Additional information about the docket and visiting EPA for docket access, visit *https://www.epa.gov/dockets.*

II. What action is the Agency taking?

This notice is being issued to rescind the cancellation order for the two spirodiclofen registrations (EPA Registration Nos. 10163–382 and 10163–383). Bayer CropScience had requested the voluntary cancellation of these registrations in August 2017, as an alternative to developing data required by the registration review data call-in for spirodiclofen, GDCI–124871–1883. The notice of receipt of the request to cancel was published in the **Federal Register** on October 3, 2017 (82 FR 46052) (FRL–9966–85). The Agency solicited public comment on the notice and received no comments.

The history of subsequent related FRN actions is summarized in the table below.

TABLE—CANCELLATION ACTIONS FOR EPA REGISTRATION NOS. 10163–382 AND 10163–383

FR citation	Title	Effective date	Notes
FRL–9971–10, 80 FR 60985, 12/26/2017.	Product Cancellation Order for Certain Pesticide Registrations and Amendments to Terminate Uses.	6/30/2019	
FRL–9975–97, 83 FR 16076, 4/13/2018.	Product Cancellation Orders: Certain Pesticide Registrations and Amendments to Terminate Uses; Correction.	12/31/2020	This notice amended the previous order to correct an error in the effective date.
FRL–10017–47, 85 FR 83078, 12/21/2020.	Product Cancellation Order for Certain Pesticide Registrations.	12/31/2021	This notice extended the cancellation effective date for the two spirodiclofen registrations to allow time for generating the outstanding data from GDCI–124871–1883.
FRL–9272–01, 86 FR 64929, 11/19/2021.	Product Cancellation Order for Certain Pesticide; Amendment.	6/30/2022	This notice extended the cancellation effective date for the two spirodiclofen product registrations to allow time for developing the spirodiclofen registration review risk assessments.
FRL–9928–01 6/22/2022 ...	Spirodiclofen; Rescinding Cancellation Order for Certain Pesticide Registrations.	6/22/2022	This notice rescinds the cancellation order for the two spirodiclofen product registrations.

A history of subsequent related actions is summarized here. The Agency issued the spirodiclofen registration review generic data call-in (GDCI–124871–1883) on May 11, 2016. Bayer CropScience requested the voluntary cancellation of spirodiclofen as an alternative to developing the required data. The two spirodiclofen registrations were transferred from Bayer CropScience to Gowan Company effective March 18, 2021, and Gowan requested that the cancellation order be amended to facilitate the submission of outstanding data identified in the GDCI before the cancellations would become effective. Based on data submitted by both Bayer and Gowan to fulfill the requirements of the DCI, EPA subsequently completed draft ecological and human health risk assessments (DRAs) for the registration review of spirodiclofen. The DRAs were published for public comment on October 29, 2021 and identified potential risks of concern associated with the use of spirodiclofen. EPA subsequently extended the effective date of cancellation to allow time for developing the proposed interim registration review decision (PID) for spirodiclofen. On April 4, 2022, EPA issued a PID addressing the human health and ecological risks of concern identified in the spirodiclofen DRAs and proposing measures to mitigate those risks. Gowan subsequently submitted an amended end-use product label that is responsive to the risk mitigation measures proposed by EPA. The comment period on the PID closed on June 6, 2022. The Agency intends to issue an Interim Decision (ID) for spirodiclofen after considering comments received on the PID. Because the cancellation order for the spirodiclofen product registrations was set to take effect on June 30, 2022, and because Gowan has acted in good faith to address the Agency's risk concerns and Gowan has submitted an amended label for the sole end-use product (EPA Registration No. 10163–383) that reflects the risk mitigation proposed by the Agency, EPA is now rescinding the cancellation order. The ID will account for any comments received on the PID as well as the amended label submitted by Gowan.

The cancellation order for EPA Registration Nos. 10163–382 and 10163–383 is hereby rescinded.

Authority: 7 U.S.C. 136 *et seq.*

Dated: June 15, 2022.

Mary Elissa Reaves,

Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.

[FR Doc. 2022–13340 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OGC–2022–0510; FRL–9949–01–OGC]

Proposed Consent Decree, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed consent decree; request for public comment.

SUMMARY: In accordance with the Clean Air Act, as amended (CAA or the Act), notice is given of a proposed consent decree in *Our Children's Earth Foundation* v. *Regan,* No. 3:22–cv–00695–WHA (N.D. CA). On February 2, 2022, Plaintiff Our Children's Earth Foundation filed a complaint in the United States District Court for the Northern District of California alleging that the Environmental Protection Agency (EPA or the Agency) failed to perform certain non-discretionary duties in accordance with the Act to take action on several Nevada SIP submittals by the required deadlines. The proposed consent decree would establish deadlines for EPA to take specified actions.

DATES: Written comments on the proposed consent decree must be received by July 22, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0510, online at *https://www.regulations.gov* (EPA's preferred method). Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID number for this action. 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 ''Additional Information about Commenting on the Proposed Consent Decree'' heading under the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Emily Seidman, Air and Radiation Law Office, Office of General Counsel, U.S. Environmental Protection Agency; telephone (202) 564–0906; email address *seidman.emily@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining a Copy of the Proposed Consent Decree

The official public docket for this action (identified by Docket ID No. EPA–HQ–OGC–2022–0510) contains a copy of the proposed consent decree. The official public docket is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, EPA West, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The EPA Docket Center 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 OEI Docket is (202) 566–1752.

The electronic version of the public docket for this action contains a copy of the proposed consent decree and is available through *https://www.regulations.gov.* You may use *https://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the official public docket, and access those documents in the public docket that are available electronically. Once in the system, key in the appropriate docket identification number then select ''search.''

II. Additional Information About the Proposed Consent Decree

The proposed consent decree would resolve a lawsuit filed by Our Children's Earth Foundation seeking to compel the Agency to approve, disapprove, or conditionally approve, in whole or in part, several Nevada SIP submittals by the required deadlines. Specifically, the proposed consent decree would require that the appropriate EPA official or officials sign a notice or notices of final rule for publication in the **Federal Register** to approve, disapprove, conditionally approve, or approve in part and conditionally approve in part: by February 28, 2023, the Nevada Infrastructure SIP for 2012 p.m. 2.5 submittal and the PM Revised Air Quality Standards and Definitions submittal; and by April 1, 2023, seven submittals revising the Clark County Air Quality Regulations portion of the Nevada SIP and the non-transport provisions of the Nevada 2015 Ozone i-SIP submittal.

On April 21, 2022 and May 19, 2022, final rules were published in the **Federal Register** approving in full, eight Nevada submittals revising the Clark County Air Quality Regulations portion

of the SIP, and Plaintiff's claims are therefore moot as to those submittals.

In accordance with section 113(g) of the CAA, for a period of thirty (30) days following the date of publication of this document, the Agency will accept written comments relating to the proposed consent decree. EPA or the Department of Justice may withdraw or withhold consent to the proposed consent decree if the comments disclose facts or considerations that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

III. Additional Information About Commenting on the Proposed Consent Decree

Submit your comments, identified by Docket ID No. EPA–HQ–OGC–2022–0510, via *https://www.regulations.gov.* Once submitted, comments cannot be edited or removed from this docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* For additional information about submitting information identified as CBI, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

If you submit an electronic comment, EPA recommends that you include your name, mailing address, and an email address or other contact information in the body of your comment. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. Any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Use of the *https://www.regulations.gov* website to submit comments to EPA electronically is EPA's preferred method for receiving comments. The electronic public docket system is an ''anonymous access'' system, which means EPA will not know your identity, email address, or other contact information unless you provide it in the body of your comment.

Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

Gautam Srinivasan,

Associate General Counsel.

[FR Doc. 2022–13294 Filed 6–21–22; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1227; FR ID 92295]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act 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 22, 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: 3060–1227.

Title: Sections 80.233, Technical requirements for Automatic Identification System Search and Rescue Transmitter (AIS–SART) equipment, 80.1061 Special requirements for 406.0–406.1 MHz EPIRB stations, 95.2987 Additional PLB and MSLD certification requirements

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 80 respondents; 80 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third party disclosure requirement and on-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in 47 U.S.C. 154, 303 unless otherwise noted.

Total Annual Burden: 80 hours.

Total Annual Cost: No cost.

Needs and Uses: The information collections contained in these rule sections require manufacturers of certain emergency radio beacons to include supplemental information with their equipment certification application which are due to the information collection requirements. Manufacturers of Automatic Identification System Search and Rescue Transmitters (AIS–SARTS), 406 MHz Emergency Position Indicating RadioBeacons (EPIRBs), and Maritime Survivor Locating Device (MSLDs) must provide a copy of letter from the U.S.

Coast Guard stating their device satisfies technical requirements specified in the IEC 61097–17 technical standard for AIS–SARTs, or Radio Technical Commission for Maritime Services (RTCM) Standard 11000 for 406 MHz EPIRBs, or RTCM Standard 11901 for MSLDs. They must also provide a copy or the technical test data, and the instruction manual(s). For 406 MHz PLBs manufacturers must include documentation from COSPAS/SARSAT recognized test facility that the PLB satisfies the technical requirements specified in COSPAS–SARSAT Standard C/S T.001 and COSPAS–SARSAT Standard C/S T.007 standards and documentation from an independent test facility stating that the PLB complies RTCM Standard 11010.2. The information is used by Telecommunications Certification Bodies (TCBs) to determine if the devices meets the necessary international technical standards and insure compliance with applicable rules. If this information were not available, operation of marine safety equipment could be hindered threatening the ability of rescue personnel to locate vessels in distress.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–13303 Filed 6–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[PS Docket No. 22–217; DA–22–592; FR ID 91708]

Communications Assistance for Law Enforcement Act, Electronic Filing of System Security and Integrity Policies and Procedures Documents

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Public Safety and Homeland Security Bureau of the Federal Communications Commission (the FCC or Commission), seeks comment on the forthcoming launch of the Communications Assistance for Law Enforcement Act (CALEA) electronic filing system (CEFS) for certain required filings for telecommunications providers and the proposal to make electronic filing mandatory six months after CEFS becomes active.

DATES: Submit comments on or before July 22, 2022, and reply comments are due on or before August 8, 2022.

ADDRESSES: You may submit comments, identified by PS Docket No. 22–217, by any of the following methods:

- *Federal Communications Commission's Website: https://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Rosemary Cabral, Attorney Advisor, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at (202) 418–0662 or *Rosemary.Cabral@fcc.gov;* or Chris Fedeli, Attorney Advisor, Public Safety and Homeland Security Bureau at 202–418–1514 or *Christopher.Fedeli@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's June 1, 2022, Public Notice, PS Docket No. 22–217, DA 22–592 announcing the upcoming launch of the Communications Assistance for Law Enforcement Act (CALEA) electronic filing system (CEFS) for required filings for telecommunications providers.

The full text of this document is available at *https://www.fcc.gov/document/calea-electronic-filing-system.*

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 45 L Street NE, Washington, DC 20554.
- Effective March 19, 2020, and until further notice, the Commission no longer accepts any hand or messenger delivered filings. This is a temporary measure taken to help protect the health and safety of individuals, and to mitigate the transmission of COVID–19. See FCC Announces Closure of FCC Headquarters Open Window and Change in Hand-Delivery Policy, Public Notice, DA 20–304 (March 19, 2020). *https://www.fcc.gov/document/fcc-closes-headquarters-open-window-and-changes-hand-delivery-policy.*

People With Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

The proceeding this Public Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules, 47 CFR 1.1200 *et seq.* Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and

arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

Synopsis

In this document, the Federal Communications Commission (the FCC or Commission), Public Safety and Homeland Security Bureau, announces its plan to make electronic filing available for CALEA System Security and Integrity Policies and Procedures documents (SSI Plans), which must be filed by all covered providers, and must be updated whenever there is a change in those SSI Plans or following a merger or divestiture. SSI Plans are confidential filings that have been traditionally filed by paper with the Commission. In the Public Notice, the Commission describes the planned CALEA Electronic Filing System (CEFS), and provides details about how confidential SSI Plan filing via CEFS will work. We ask members of the public for comment about the CEFS, and we specifically ask for comment on our proposal to make electronic filing mandatory of SSI Plans instead of paper filing, and the timing of this requirement starting six months after CEFS is made available for voluntary filing. Commenters suggesting proposed alternatives should explain the basis for their proposals.

Initial Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concerns'' under the Small Business Act. A ''small business concern'' is one that: (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). Accordingly, the Public Safety and Homeland Security Bureau (Bureau) has prepared this Initial Regulatory Flexibility Certification (IRFC) certifying that the rules and policies proposed in the Public Notice will not have a significant economic impact on a substantial number of small entities.

In 1994, Congress enacted the Communications Assistance for Law Enforcement (CALEA), Public Law 103–414, 108 Stat. 4279 to define the statutory obligations of telecommunications carriers to assist law enforcement in executing electronic surveillance pursuant to court order or other lawful authorization. Congress amended the Communications Act of 1934 to add Sections 229(b) and (c) to facilitate compliance and FCC oversight of the requirements of CALEA. CALEA is intended to preserve the ability of law enforcement agencies to conduct electronic surveillance while protecting the privacy of information outside the scope of the investigation. CALEA requires that telecommunications carriers and manufacturers of telecommunications equipment design their equipment, facilities, and services to ensure that they have the necessary surveillance capabilities to comply with legal requests for information. Communications services and facilities utilizing Circuit Mode equipment, packet mode equipment, facilities-based broadband internet access providers and providers of interconnected Voice over internet Protocol (VoIP) service are all subject to CALEA. These compliance requirements include wireless services, routing and soft switched services, and internet-based telecommunications present in applications used by telecommunications devices.

Telecommunications carriers must file and maintain up-to-date System Security and Integrity (SSI) plans with the Commission, as those plans are described in 47 CFR 1.20005. This information includes a description of how the service provider complies with CALEA, and carrier contact information. Such information is not disclosed to the public. This information collection has been approved by the Office of Management and Budget, control number 3060–0809.

In this Public Notice, we propose to modernize the Commission's procedures governing the filing of CALEA SSI plans that telecommunications carriers must follow to submit their plans for Commission review. Presently, CALEA SSI plans are filed in paper. We propose to require telecommunications carriers to submit CALEA SSI plans electronically in the CALEA Electronic Filing System (CEFS). We also propose that mandatory filing begin six months after the Bureau announces the availability of CEFS for voluntary filing. We believe these proposals will provide telecommunications carriers certainty and streamline the process for filing CALEA SSI plans.

The entities subject to the proposed electronic filing requirement are new telecommunications carriers and telecommunications carriers that must update their SSI plans, and consequently, the streamlined filing process we propose in the Public Notice are specific to those entities and their obligations under CALEA. Moreover, the electronic filing process does not impose increased reporting burdens on telecommunications carriers, including small businesses; nor do we expect the electronic filing process to result in increased costs for such businesses. The new electronic database will reduce paperwork and the time burden on small entities. The CEFS presents a public-facing web form containing data entry fields for collection of key portions of the required data that will help ensure filers supply necessary information in their SSI Plans. The use of the web form and electronic filing will reduce the time burden imposed on small entities when deficient paper SSI plans must be returned to filers for correction. The automated CEFS for SSI Plan submission replaces a cumbersome and space-consuming paper process, streamlines the review process using a web-based checklist system, and enhances recordkeeping and retrieval capabilities for small entities.

Consequently, there will not be a significant economic impact on a substantial number of small entities. Therefore, we certify that the proposed requirements in the Public Notice will not have a significant economic impact

on a substantial number of small entities. The Public Notice and this initial certification will be sent to the Chief Counsel for Advocacy of the SBA and will be published in the **Federal Register**.

Federal Communications Commission.

David L. Furth,

Deputy Chief.

[FR Doc. 2022–13264 Filed 6–21–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)).

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington, DC 20551–0001, not later than July 18, 2022.

A. Federal Reserve Bank of Minneapolis (Chris P. Wangen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291; or by email to *MA@mpls.frb.org:* 1. *215 Holding Co., Minneapolis, Minnesota;* to acquire Liberty Financial Services, Inc., and thereby indirectly acquire Liberty National Bank, both of Sioux City, Iowa.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–13174 Filed 6–21–22; 8:45 am]

BILLING CODE P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Notice of Board Meeting

DATES: June 28, 2022 at 10 a.m.

ADDRESSES: Telephonic. Dial-in (listen only) information: Number: 1–202–599–1426, Code: 584 412 888#; or via web: *https://teams.microsoft.com/l/meetup-join/19%3ameeting_NzFkODU3NDgtZmVlZC00MTc4LWI3YTYtNGU4MDUxNjAwMGVh%40thread.v2/0?context=%7b%22Tid%22%3a%223f6323b7-e3fd-4f35-b43d-1a7afae5910d%22%2c%22Oid%22%3a%227c8d802c-5559-41ed-9868-8bfad5d44af9%22%7d.*

FOR FURTHER INFORMATION CONTACT: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

SUPPLEMENTARY INFORMATION:

Board Meeting Agenda

Open Session

1. Approval of the May 24, 2022 Board Meeting Minutes
2. Converge Update
3. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Report
   (c) Legislative Report
4. Quarterly Report
   (d) Vendor Risk Management Report
5. 2021 Federal Employee Viewpoint Survey (FEVS) Update

Authority: 5 U.S.C. 552b(e)(1).

Dated: June 15, 2022.

Dharmesh Vashee,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2022–13253 Filed 6–21–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10418]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 22, 2022.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number: Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William N. Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10418 Medical Loss Ratio Annual Reports, MLR Notices, and Recordkeeping Requirements

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title:* Medical Loss Ratio Annual Reports, MLR Notices, and Recordkeeping Requirements; *Use:* Under Section 2718 of the Affordable Care Act and implementing regulation at 45 CFR part 158, a health insurance issuer (issuer) offering group or individual health insurance coverage must submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing and regulatory fees, the amount of earned premium, and beginning with the 2014 reporting year, the amounts related to the transitional reinsurance and risk adjustment programs established under sections 1341 and 1343, respectively, of the Affordable Care Act. An issuer must provide an annual rebate if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). Each issuer is required to submit annually MLR data, including information about any rebates it must provide, on a form prescribed by CMS, for each State in which the issuer conducts business. Each issuer is also required to provide a rebate notice to each policyholder that is owed a rebate and each subscriber of policyholders that are owed a rebate for any given MLR reporting year. Additionally, each issuer is required to maintain for a period of seven years all documents, records and other evidence that support the data included in each issuer's annual report to the Secretary. Based upon CMS' experience in the MLR data collection and evaluation process, CMS is updating its annual burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices. The 2021 MLR Reporting Form and Instructions reflect changes for the 2020 reporting year and beyond. For 2021, it is expected that issuers will submit fewer reports and on average, send fewer notices and rebate checks in the mail to policyholders and subscribers, which will reduce burden on issuers. *Form Number:* CMS–10418 (OMB Control Number: 0938–1164); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 484; *Number of Responses:* 1,771; *Total Annual Hours:* 226,052. (For policy questions regarding this collection contact Jiyun Lim at 301–492–4172.)

Dated: June 15, 2022.

William N. Parham III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–13275 Filed 6–21–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–2552–10 and CMS–10416]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 22, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' website address at website address at: *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.*

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To

comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement with change of a previously approved collection; *Title of Information Collection:* Hospital and Health Health Care Complex Cost Report; *Use:* CMS requires the Form CMS–2552–10 to determine a hospital's reasonable cost incurred in furnishing medical services to Medicare beneficiaries and calculate the hospital reimbursement. Hospitals paid under a prospective payment system (PPS) may receive reimbursement in addition to the PPS for hospital-specific adjustments such as Medicare reimbursable bad debts, disproportionate share, uncompensated care, direct and indirect medical education costs, and organ acquisition costs. CMS uses the Form CMS–2552–10 for rate setting; payment refinement activities, including developing a hospital market basket; and Medicare Trust Fund projections; and to support program operations. Additionally, the Medicare Payment Advisory Commission (MedPAC) uses the hospital cost report data to calculate Medicare margins (a measure of the relationship between Medicare's payments and providers' Medicare costs) and analyze data to formulate Medicare Program recommendations to Congress.

This submission seeks to reinstate the information collection request. The changes in burden and cost for the Form CMS–2552–10 are a result of the following three factors.

- The number of respondents decreased by 13 (from 6,088 in 2018 to 6,075 in 2022), which is the net result of new hospitals certified to participate in the Medicare program and existing hospitals terminated from the Medicare program;
- The hourly rates and associated administrative/overhead costs increased based on data from the BLS 2021 Occupation Outlook Handbook (for categories 43–3031, bookkeeping, accounting and auditing clerks, and 13–2011, accounting and audit professionals) that resulted in an increased cost per provider from $31,411.36 in 2018 to $34,367.18 in 2022; and,
- The per-respondent burden increased by 1 hour (from 673 hours in 2018 to 674 hours in 2022), the result of adding the Worksheet S–10, Part II, for hospitals to report the hospital uncompensated and indigent care data for the hospital CCN, and adding the Worksheet D–6, Parts I, II, and III, for hospitals to report the acquisition cost of allogeneic hematopoietic stem cells for transplant.

Form Number: CMS–2552–10 (OMB control number: 0938–0050); *Frequency:* Occasionally; *Affected Public:* Private Sector; Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 6,075; *Total Annual Responses:* 6,075; *Total Annual Hours:* 4,094,550. (For policy questions regarding this collection contact Gail Duncan at 410–786–7278.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Blueprint for Approval of State-based Exchange; *Use:* The Patient Protection and Affordable Care Act (ACA) and its implementing regulations provide states with flexibility in the design and operation of Exchanges to ensure states are implementing Exchanges that best meet the needs of their consumers. States can choose to establish and operate a State-based Exchange (SBE) or a State-based Exchange on the Federal Platform (SBE–FP). To ensure a state can operate a successful and compliant SBE or SBE–FP, it is critical that states provide CMS with a complete and thorough Exchange Blueprint Application, Declaration of Intent Letter, and attest to demonstrate operational readiness. The information collected from states will be used by CMS, IRS, SSA and reviewed by other Federal agencies to determine if a state can implement a complete and fully operational Exchange. *Form Number:* CMS–10416 (OMB control number: 0938–1172); *Frequency:* Annually; *Affected Public:* State, Local, or Tribal governments; *Number of Respondents:* 4; *Total Annual Responses:* 21; *Total Annual Hours:* 126. (For policy questions regarding this collection contact Shilpa Gogna at 301–492–4257.)

Dated: June 15, 2022.

William N. Parham III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2022–13278 Filed 6–21–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; NIGMS Review of Centers of Biomedical Research Excellence (COBRE) Phase 1 Applications.

Date: July 13–14, 2022.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Nina Sidorova, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3An.22, Bethesda, MD 20892–6200, 301–594–3663, *sidorova@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 15, 2022.

Miguelina Perez,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13302 Filed 6–21–22; 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 RFA Panel: Advancing Communication about Future HIV Vaccine Use.

Date: July 20, 2022.

Time: 10:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lauren Fordyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, Bethesda, MD 20892, (301) 435–6998, *fordycelm@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: HIV/AIDS Related Behavioral Research.

Date: July 20, 2022.

Time: 4:00 p.m. to 8:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Lauren Fordyce, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, Bethesda, MD 20892, (301) 435–6998, *fordycelm@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Speech, Language and Communication.

Date: July 21, 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: Sara Louise Hargrave, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, (301) 443–7193, *hargravesl@mail.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vascular and Hematology.

Date: July 21, 2022.

Time: 2:00 p.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: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@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 16, 2022.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–13329 Filed 6–21–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Meeting of the Substance Abuse and Mental Health Services Administration, Center for Mental Health Services National Advisory Council

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given of the meeting on August 18, 2022 of the Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Mental Health Services National Advisory Council (CMHS NAC). The meeting will include consideration of the minutes from the March 29, 2022, SAMHSA, CMHS NAC meeting; updates from the CMHS Director; updates from the Office of the Assistant Secretary, and council discussions.

DATES: Thursday, August 18, 2022, 10:00 a.m. to 4:00 p.m., EDT, (OPEN).

ADDRESSES: The meeting is open to the public and can be accessed virtually only by accessing: *https://www.zoomgov.com/j/1608093739?pwd=M01ubE1nVENzZzZHT3drc0dUYWVLUT09* or by dialing 669–254–5252, webinar ID: 160 809 3739, passcode: 730918. Agenda with call-in information will be posted on the SAMHSA website prior to the meeting at: *https://www.samhsa.gov/about-us/advisory-councils/meetings.*

FOR FURTHER INFORMATION CONTACT: Pamela Foote, Designated Federal Officer, CMHS National Advisory Council, 5600 Fishers Lane, Room 14E57B, Rockville, Maryland 20857, Telephone: (240) 276–1279, Fax: (301) 480–8491, Email: *pamela.foote@samhsa.hhs.gov*.

SUPPLEMENTARY INFORMATION: The CMHS NAC is required to meet at least twice per fiscal year.

To attend virtually, submit written or brief oral comments, or request special accommodation for persons with disabilities, contact Pamela Foote. Individuals can also register on-line at: *https://snacregister.samhsa.gov/.*

The public comment section will be scheduled at the conclusion of the meeting. Individuals interested in submitting a comment, must notify Pamela Foote on or before August 2, 2022 via email to: *Pamela.Foote@samhsa.hhs.gov.*

Up to three minutes will be allotted for each approved public comment as time permits. Written comments received in advance of the meeting will be considered for inclusion in the official Record of the Meeting.

Meeting information and a roster of Council members may be obtained by accessing the SAMHSA website at: *http://www.samhsa.gov/about-us/advisory-councils/cmhs-national-advisory-council* or by contacting the CMHS NAC Designated Federal Officer; Pamela Foote.

Council Name: Substance Abuse and Mental Health Services Administration Center for Mental Health Services National Advisory Council.

Dated: June 14, 2022.

Carlos Castillo,

Committee Management Officer, SAMHSA.

[FR Doc. 2022–13180 Filed 6–21–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0393]

National Maritime Security Advisory Committee; July 2022 Virtual Meeting

AGENCY: U.S. Coast Guard, Department of Homeland Security.

ACTION: Notice of Federal Advisory Committee virtual meeting.

SUMMARY: The National Maritime Security Advisory Committee (Committee) will conduct a virtual meeting, to review and discuss matters relating to national maritime security. Specifically, the Coast Guard intends to present and issue a task focused on improving and enhancing the sharing of information related to cybersecurity risks that may cause a transportation security incident. This virtual meeting will be open to the public.

DATES:

Meeting: The Committee will meet virtually on Tuesday, July 12, 2022 from 1 p.m. until 3 p.m. Eastern Daylight Time (EDT). This virtual meeting may close early if all business is finished.

Comments and supporting documentation: To ensure your

comments are received by Committee members before the virtual meeting, submit your written comments no later than July 8, 2022.

ADDRESSES: To join the virtual meeting or to request special accommodations, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. EDT on July 8, 2022, to obtain the needed information. The number of virtual lines are limited and will be available on a first-come, first-served basis.

The National Maritime Security Advisory Committee is committed to ensuring all participants have equal access regardless of disability status. If you require reasonable accommodation due to a disability to fully participate, please call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document as soon as possible.

Instructions: You are free to submit comments at any time, including orally at the meeting as time permits, but if you want Committee members to review your comment before the meeting, please submit your comments no later than July 8, 2022. We are particularly interested in comments on the issues in the ''Agenda'' section below. We encourage you to submit comments through Federal eRulemaking Portal at *https://regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* call or email the individual in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. You must include the docket number [USCG-2022–0393]. Comments received will be posted without alteration at *https://www.regulations.gov* including any personal information provided. You may wish to read the Privacy and Security Notice found via a link on the homepage of *https://www.regulations.gov.* For more about the privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). If you encounter technical difficulties with comment submission, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Docket Search: Documents mentioned in this notice as being available in the docket, and all public comments, will be in our online docket at *https://www.regulations.gov,* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign-up for email alerts, you will be notified when comments are posted.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan Owens, Alternate Designated Federal Officer of the National Maritime Security Advisory Committee, 2703 Martin Luther King Jr. Avenue SE, Washington, DC 20593, Stop 7581, Washington, DC 20593–7581; telephone 202–302–6565 or email *ryan.f.owens@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the *Federal Advisory Committee Act,* (5, U. S. C., Appendix). The Committee was established on December 4, 2018, by § 602 of the *Frank LoBiondo Coast Guard Authorization Act of 2018,* Public Law 115–282, 132 Stat. 4192, and is codified in 46 U.S.C. 70112. The Committee operates under the provisions of the *Federal Advisory Committee Act,* (5 U.S.C. Appendix), and 46 U.S.C. 15109. The National Maritime Security Advisory Committee provides advice, consults with, and makes recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security.

Agenda

(1) Call to Order.
(2) Introduction.
(3) Designated Federal Official Remarks.
(4) Roll call of Committee members and determination of quorum.
(5) Update of task. The NMSAC will present an update on their work to complete task T2021–01, Recommendations on Cybersecurity Information Sharing.
(6) Presentation of task. The Coast Guard will present NMSAC with a tasking concerning the Transportation Worker Identification Credential.
(7) Public comment period.
(8) Closing Remarks/plans for next meeting.
(9) Adjournment of meeting.

A copy of all pre-meeting documentation will be available at *https://homeport.uscg.mil/NMSAC* by July 8, 2022. Alternatively, you may contact Mr. Ryan Owens as noted in the **FOR FURTHER INFORMATION CONTACT** section above.

There will be a public comment period at the end of the meeting. Speakers are requested to limit their comments to 3 minutes. Please note that the public comment period may end before the period allotted, following the last call for comments. Contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section above to register as a speaker.

Dated: June 16, 2022.

Jason D. Neubauer,

Captain, U.S. Coast Guard, Acting Director of Inspections and Compliance.

[FR Doc. 2022–13341 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0155; OMB Control Number 1625–0122]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0122, Cargo Securing Manuals; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before July 22, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2022–0155]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management,

telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2022–0155], and must be received by July 22, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0122.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (87 FR 14024, March 11, 2022) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Cargo Securing Manuals.

OMB Control Number: 1625–0122.

Summary: The information is used by the Coast Guard to review/approve new or updated cargo securing manuals (CSM).

Need: 46 U.S.C. 2103 and 3306 authorizes the Coast Guard to establish these regulations. 33 CFR 97 prescribes the CSM regulations.

Forms: None.

Respondents: Owners, operators, and masters of certain cargo vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 226 hours to 280 hours a year, due to an increase in the estimated annual number CSM submissions.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: June 2, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–13343 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0154; OMB Control Number 1625–0117]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0117, Towing Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before July 22, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2022–0154]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.*

Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), ATTN: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, Stop 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995;

44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2022–0154], and must be received by July 22, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0117.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (87 FR 14025, March 11, 2022) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Towing Vessels.

OMB Control Number: 1625–0117.

Summary: The Coast Guard uses the information to document that towing vessels meet inspection requirements of 46 CFR Subchapter M. The information aids in the administration and enforcement of the towing vessel inspection program.

Need: Under the authority of 46 U.S.C. 3306, the Coast Guard prescribed regulations for the design, construction, alteration, repair and operation of towing vessels. The Coast Guard uses the information in this collection to ensure compliance with the requirements.

Forms: None.

Respondents: Owners and operators of towing vessels, and third party organizations.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has decreased from 151,219 hours to 127,729 hours a year, due to a decrease in the estimated annual number of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: June 1, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–13342 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2022–0152; OMB Control Number 1625–0099]

Collection of Information Under Review by Office of Management and Budget

AGENCY: Coast Guard, DHS.

ACTION: Thirty-day notice requesting comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 the U.S. Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), requesting an extension of its approval for the following collection of information: 1625–0099, Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels; without change. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: You may submit comments to the Coast Guard and OIRA on or before July 22, 2022.

ADDRESSES: Comments to the Coast Guard should be submitted using the Federal eRulemaking Portal at *https://www.regulations.gov.* Search for docket number [USCG–2022–0152]. Written comments and recommendations to OIRA for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

A copy of the ICR is available through the docket on the internet at *https://www.regulations.gov.* Additionally, copies are available from: Commandant (CG–6P), Attn: Paperwork Reduction Act Manager, U.S. Coast Guard, 2703 Martin Luther King Jr. Ave. SE, STOP 7710, Washington, DC 20593–7710.

FOR FURTHER INFORMATION CONTACT: A.L. Craig, Office of Privacy Management, telephone 202–475–3528, or fax 202–372–8405, for questions on these documents.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

This notice relies on the authority of the Paperwork Reduction Act of 1995; 44 U.S.C. 3501 *et seq.,* chapter 35, as amended. An ICR is an application to OIRA seeking the approval, extension, or renewal of a Coast Guard collection of information (Collection). The ICR contains information describing the Collection's purpose, the Collection's likely burden on the affected public, an explanation of the necessity of the Collection, and other important information describing the Collection. There is one ICR for each Collection.

The Coast Guard invites comments on whether this ICR should be granted based on the Collection being necessary for the proper performance of Departmental functions. In particular, the Coast Guard would appreciate comments addressing: (1) the practical utility of the Collection; (2) the accuracy of the estimated burden of the Collection; (3) ways to enhance the quality, utility, and clarity of information subject to the Collection; and (4) ways to minimize the burden of the Collection on respondents, including the use of automated collection techniques or other forms of information technology. These comments will help OIRA determine whether to approve the ICR referred to in this Notice.

We encourage you to respond to this request by submitting comments and related materials. Comments to Coast Guard or OIRA must contain the OMB Control Number of the ICR. They must also contain the docket number of this request, [USCG–2022–0152], and must be received by July 22, 2022.

Submitting Comments

We encourage you to submit comments through the Federal eRulemaking Portal at *https://www.regulations.gov.* If your material cannot be submitted using *https://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions. Documents mentioned in this notice, and all public comments, are in our online docket at *https://www.regulations.gov* and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted.

We accept anonymous comments. All comments to the Coast Guard will be posted without change to *https://www.regulations.gov* and will include any personal information you have provided. For more about privacy and submissions to the Coast Guard in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020). For more about privacy and submissions to OIRA in response to this document, see the *https://www.reginfo.gov,* comment-submission web page. OIRA posts its decisions on ICRs online at *https://www.reginfo.gov/public/do/PRAMain* after the comment period for each ICR. An OMB Notice of Action on each ICR will become available via a hyperlink in the OMB Control Number: 1625–0099.

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard published the 60-day notice (87 FR 14026, March 11, 2022) required by 44 U.S.C. 3506(c)(2). That notice elicited no comments. Accordingly, no changes have been made to the Collection.

Information Collection Request

Title: Requirements for the Use of Liquefied Petroleum Gas and Compressed Natural Gas as Cooking Fuel on Passenger Vessels.

OMB Control Number: 1625–0099.

Summary: The collection of information requires passenger vessels to post two placards that contain safety and operating instructions on the use of cooking appliances that use liquefied gas or compressed natural gas.

Need: 46 U.S.C. 3306(a)(5) and 4302 authorizes the Coast Guard to prescribe regulations for the use of vessel stores of a dangerous nature. These regulations are prescribed in both uninspected and inspected passenger vessel regulations.

Forms: None.

Respondents: Owners and operators of passenger vessels.

Frequency: On occasion.

Hour Burden Estimate: The estimated burden has increased from 6,758 hours to 7,232 hours a year, due to an increase in the estimated annual number of respondents.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. *et seq.,* chapter 35, as amended.

Dated: June 2, 2022.

Kathleen Claffie,

Chief, Office of Privacy Management, U.S. Coast Guard.

[FR Doc. 2022–13344 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002; Internal Agency Docket No. FEMA–B–2246]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice lists communities where the addition or modification of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or the regulatory floodway (hereinafter referred to as flood hazard determinations), as shown on the Flood Insurance Rate Maps (FIRMs), and where applicable, in the supporting Flood Insurance Study (FIS) reports, prepared by the Federal Emergency Management Agency (FEMA) for each community, is appropriate because of new scientific or technical data. The FIRM, and where applicable, portions of the FIS report, have been revised to reflect these flood hazard determinations through issuance of a Letter of Map Revision (LOMR), in accordance with Federal Regulations. The currently effective community number is shown in the table below and must be used for all new policies and renewals.

DATES: These flood hazard determinations will be finalized on the dates listed in the table below and revise the FIRM panels and FIS report in effect prior to this determination for the listed communities.

From the date of the second publication of notification of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Deputy Associate Administrator for Insurance and Mitigation reconsider the changes. The flood hazard determination information may be changed during the 90-day period.

ADDRESSES: The affected communities are listed in the table below. Revised flood hazard information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA

Map Service Center at *https://msc.fema.gov* for comparison.

Submit comments and/or appeals to the Chief Executive Officer of the community as listed in the table below.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The specific flood hazard determinations are not described for each community in this notice. However, the online location and local community map repository address where the flood hazard determination information is available for inspection is provided.

Any request for reconsideration of flood hazard determinations must be submitted to the Chief Executive Officer of the community as listed in the table below.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

The FIRM and FIS report are the basis of the floodplain management measures that the community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These flood hazard determinations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities. The flood hazard determinations are in accordance with 44 CFR 65.4.

The affected communities are listed in the following table. Flood hazard determination information for each community is available for inspection at both the online location and the respective community map repository address listed in the table below. Additionally, the current effective FIRM and FIS report for each community are accessible online through the FEMA Map Service Center at *https://msc.fema.gov* for comparison.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Arizona:						
Maricopa	City of Surprise (21–09–1794P).	The Honorable Skip Hall,Mayor, City of Surprise, 16000 North Civic Center Plaza, Surprise, AZ 85374.	Public Works Department, Engineering Development Services, 16000 North Civic Center Plaza, Surprise, AZ 85374.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 9, 2022	040053
Maricopa	Unincorporated Areas of Maricopa County (21–09–1794P).	The Honorable Bill Gates, Chair, Board of Supervisors Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 9, 2022	040037
Santa Cruz	Unincorporated Areas of Santa Cruz County (21–09–1881P).	The Honorable Manuel Ruiz, Chair, Board of Supervisors, Santa Cruz County, 2150 North Congress Street, Suite 119, Nogales, AZ 85621.	Santa Cruz County Flood Control District, Gabilondo-Zehentner Building, 275 Rio Rico Drive, Rio Rico, AZ 85648.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2022	040090
California:						
Los Angeles ...	Unincorporated Areas of Los Angeles County (21–09–0650P).	The Honorable Holly J. Mitchell, Chair, Board of Supervisors, Los Angeles County, 500 West Temple Street, Room 866, Los Angeles, CA 90012.	Los Angeles County Public Works Headquarters, Watershed Management Division, 900 South Fremont Avenue, Alhambra, CA 91803.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2022	065043
Riverside	City of Calimesa (21–09–0875P).	The Honorable William Davis,Mayor, City of Calimesa, 908 Park Avenue, Calimesa, CA 92320.	Planning Department, 908 Park Avenue, Calimesa, CA 92320.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 8, 2022	060740
Riverside	City of Desert Hot Springs (21–09–1924P).	The Honorable Scott Matas, Mayor, City of Desert Hot Springs, 11999 Palm Drive, Desert Hot Springs, CA 92240.	Planning Department, 65950 Pierson Boulevard, Desert Hot Springs, CA 92240.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2022	060251
Riverside	Unincorporated Areas of Riverside County (21–09–1924P).	The Honorable Jeff Hewitt, Chair, Board of Supervisors, Riverside County, 4080 Lemon Street,5th Floor, Riverside, CA 92501.	Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, CA 92501.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 23, 2022	060245

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Ventura	City of Oxnard (22–09–0194P).	The Honorable John C. Zaragoza, Mayor, City of Oxnard, 300 West 3rd Street, Oxnard, CA 93030.	Development Services Support Division, Service Center, 214 South C Street, Oxnard, CA 93030.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2022	060417
Ventura	Unincorporated Areas of Ventura County (22–09–0194P).	The Honorable Carmen Ramirez, Chair, Board of Supervisors, Ventura County, 800 South Victoria Avenue, Ventura, CA 93009.	Ventura County Public Works Agency, 800 South Victoria Avenue, Ventura, CA 93009.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 6, 2022	060413
Idaho: Ada	City of Boise (21–10–1267P).	The Honorable Lauren McLean, Mayor, City of Boise, P.O. Box 500, Boise, ID 83701.	City Hall, 150 North Capitol Boulevard, Boise, ID 83701.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 14, 2022	160002
Florida: St. Johns	Unincorporated Areas of St. Johns County Florida (21–04–5482P).	Chair Henry Dean, St. Johns County Board of County Commissioners, 500 San Sebastian View, St. Augustine, FL 32084.	St. Johns County Administration Building, 4020 Lewis Speedway, St. Augustine, FL 32084.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2022	125147
Idaho: Kootenai	Unincorporated Areas of Kootenai County (21–10–0970P).	Chair Chris Fillios, Commissioner District 2, Kootenai County, 451 Government Way, Coeur d'Alene, ID 83816.	Kootenai County Assessors Department, Kootenai County Court House, 451 Government Way, Coeur d'Alene, ID 83816.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 14, 2022	160076
Illinois: Will	Village of Plainfield (22–05–0786P).	The Honorable John F. Argoudelis,Village President, Village of Plainfield, 24401 West Lockport Street, Plainfield, IL 60544.	Village Hall, 24401 West Lockport Street, Plainfield, IL 60544.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 7, 2022	170771
Indiana: Tippecanoe.	Unincorporated Areas of Tippecanoe County (21–05–3329P).	Commissioner Tom Murtaugh, Member, Tippecanoe County Board of Commissioners, 20 North 3rd Street, 1st Floor,Lafayette, IN 47901.	Tippecanoe County Office, 20 North 3rd Street, Lafayette, IN 47901.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 13, 2022	180428
Kansas: Johnson	City of Mission (21–07–1200P).	Administrator Laura Smith, City of Mission, 6090 Woodson Road, Mission, KS 66202.	City Hall, 6090 Woodson Road,Mission, KS 66202.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 14, 2022	200170
Nevada: Douglas	Unincorporated Areas of Douglas County (21–09–1466P).	The Honorable Mark Gardner, Chair, Board of Commissioners, Douglas County, P.O. Box 218, Minden, NV 89423.	Douglas County, Community Development, 1594 Esmeralda Avenue, Minden, NV 89423.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 8, 2022	320008
Ohio: Lucas	City of Toledo (21–05–2785P).	The Honorable Wade Kapszukiewicz,Mayor, City of Toledo, 1 Government Center, 640 Jackson Street, Toledo, OH 43604.	Department of Inspection, 1 Government Center, Suite 1600, Toledo, OH 43604.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 29, 2022	395373
Oregon: Lane	Unincorporated Areas of Lane County (22–10–0105P).	Commissioner Joe Berney, Lane County Board of County Commissioners, 125 East 8th Avenue, Eugene, OR 97401.	Lane County, Customer Service Center, 3050 North Delta Highway, Eugene, OR 97408.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 26, 2022	415591
Texas: Travis	City of Austin (21–06–2164P).	The Honorable Steve Adler, Mayor, City of Austin, P.O. Box 1088, Austin, TX 78767.	Watershed Engineering Division, 505 Barton Springs Road, 12th Floor, Austin, TX 78704.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 22, 2022	480624
Washington:						
King	City of Issaquah (21–10–1197P).	The Honorable Mary Lou Pauly, Mayor, City of Issaquah, 130 East Sunset Way, Issaquah, WA 98027.	City Hall,1775 12th Avenue Northwest, Issaquah, WA 98027.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 26, 2022	530079
Pierce	City of Puyallup (21–10–0191P).	The Honorable Dean Johnson,Mayor, City of Puyallup, City Hall, 333 South Meridian, Puyallup, WA 98371.	City Hall,333 South Meridian, Puyallup, WA 98371.	*https://msc.fema.gov/portal/advanceSearch.*	Sep. 8, 2022	530144

State and county	Location and case No.	Chief executive officer of community	Community map repository	Online location of letter of map revision	Date of modification	Community No.
Wisconsin: Milwaukee.	City of Oak Creek (21–05–0691P).	The Honorable Daniel Bukiewicz, Mayor, City of Oak Creek, 8040 South 6th Street, Oak Creek, WI 53154.	City Hall, 8640 South Howell Avenue, Oak Creek, WI 53154.	*https://msc.fema.gov/portal/advanceSearch.*	Aug. 25, 2022	550279

[FR Doc. 2022–13259 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of September 29, 2022 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Liberty County, Georgia and Incorporated Areas Docket No.: FEMA–B–2137	
City of Flemington	City Hall, 156 Old Sunbury Road, Flemington, GA 31313.
City of Hinesville	City Hall, 115 East Martin Luther King, Jr. Drive, Hinesville, GA 31313.
Unincorporated Areas of Liberty County	Liberty County Courthouse Annex, 112 North Main Street, Room 1200, Hinesville, GA 31313.
LaPorte County, Indiana and Incorporated Areas Docket No.: FEMA–B–2025	
City of Michigan City	City Hall, Planning and Redevelopment Department, 100 East Michigan Boulevard, Michigan City, IN 46360.
Town of Long Beach	Long Beach Town Hall, 2400 Oriole Trail, Long Beach, IN 46360.
Town of Michiana Shores	Town Hall, 601 El Portal Drive, Michiana Shores, IN 46360.
Town of Pottawattamie Park	Town of Pottawattamie Park Office, 100 Jack Pine Drive, Pottawattamie Park, IN 46360.
Town of Trail Creek	Trail Creek Town Hall, 211 Rainbow Trail, Trail Creek, IN 46360.
Unincorporated Areas of LaPorte County	County Government Complex, LaPorte County Plan Commission, 809 State Street, Suite 503A, LaPorte, IN 46350.

Community	Community map repository address
Porter County, Indiana and Incorporated Areas Docket No.: FEMA–B–2019	
City of Portage	Portage—City Hall, 6070 Central Avenue, Portage, IN 46368.
Town of Beverly Shores	Administration Building, 500 South Broadway, Beverly Shores, IN 46301.
Town of Burns Harbor	Town Hall, 1240 North Boo Road, Burns Harbor, IN 46304.
Town of Dune Acres	Administrative Office, Building Department, 1 East Road, Dune Acres, IN 46304.
Town of Ogden Dunes	Ogden Dunes Town Hall, 115 Hillcrest Road, Ogden Dunes, IN 46368.
Town of Porter	Porter Town Hall, Building & Development Department, 303 Franklin Street, Porter, IN 46304.
Unincorporated Areas of Porter County	Porter County, 155 Indiana Avenue, Suite 311, Valparaiso, IN 46383.
Clayton County, Iowa and Incorporated Areas Docket No.: FEMA–B–2138	
City of Elkader	City Hall, 207 North Main Street, Elkader, IA 52043.
Unincorporated Areas of Clayton County	Clayton County Courthouse, 111 High Street Northeast, Elkader, IA 52043.
Dickinson County, Iowa and Incorporated Areas Docket No.: FEMA–B–2014 and B–2145	
City of Arnolds Park	City Hall, 156 North Highway 71, Arnolds Park, IA 51331.
City of Lake Park	City Hall, 217 North Market Street, Lake Park, IA 51347.
City of Milford	City Hall, 806 North Avenue, Suite 1, Milford, IA 51351.
City of Okoboji	City Hall, 1322 Highway 71 North, Okoboji, IA 51355.
City of Orleans	Dickinson County Courthouse, 1802 Hill Avenue, Suite 2101, Spirit Lake, IA 51360.
City of Spirit Lake	City Hall, 1803 Hill Avenue, Spirit Lake, IA 51360.
City of Wahpeton	Wahpeton City Hall, 1201 Dakota Drive, Milford, IA 51351.
City of West Okoboji	West Okoboji City Hall, 501 Terrace Park Boulevard, Milford, IA 51351.
Unincorporated Areas of Dickinson County	Dickinson County Courthouse, 1802 Hill Avenue, Suite 2101, Spirit Lake, IA 51360.
Nemaha County, Kansas and Incorporated Areas Docket No.: FEMA–B–2145	
City of Centralia	City Hall, 517 4th Street, Centralia, KS 66415.
City of Goff	Nemaha County Courthouse, 607 Nemaha Street, Seneca, KS 66538.
City of Oneida	Nemaha County Courthouse, 607 Nemaha Street, Seneca, KS 66538.
City of Sabetha	City Hall, 805 Main Street, Sabetha, KS 66534.
City of Seneca	City Hall, 531 Main Street, Seneca, KS 66538.
City of Wetmore	City Hall, 335 2nd Street, Wetmore, KS 66550.
Unincorporated Areas of Nemaha County	Nemaha County Courthouse, 607 Nemaha Street, Seneca, KS 66538.

[FR Doc. 2022–13260 Filed 6–21–22; 8:45 am]
BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2022–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below. The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP).

DATES: The date of October 27, 2022 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and

Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Mapping and Insurance eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Michael M. Grimm,

Assistant Administrator for Risk Management, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Hancock County, Iowa and Incorporated Areas Docket No.: FEMA–B–2145	
City of Forest City	City Hall, 305 North Clark Street, Forest City, IA 50436.
Unincorporated Areas of Hancock County	Hancock County Courthouse, 855 State Street, Garner, IA 50438.
Plymouth County, Iowa and Incorporated Areas Docket No.: FEMA–B–2135	
City of Akron	City Hall, 220 Reed Street, Akron, IA 51001.
City of Brunsville	City Hall, 310 Oak Street, Brunsville, IA 51008.
City of Hinton	City Hall, 205 West Main Street, Hinton, IA 51024.
City of Kingsley	City Hall, 222 Main Street, Kingsley, IA 51028.
City of Le Mars	City Hall, 40 Central Avenue Southeast, Le Mars, IA 51031.
City of Merrill	City Hall, 608 Main Street, Merrill, IA 51038.
City of Oyens	City Hall, 230 Main Street, Oyens, IA 51045.
City of Remsen	City Hall, 8 West 2nd Street, Remsen, IA 51050.
City of Struble	City Hall, 210 William Street, Struble, IA 51031.
City of Westfield	City Hall, 223 Union Street, Westfield, IA 51062.
Unincorporated Areas of Plymouth County	Plymouth County Annex Building, 214 3rd Avenue Southeast, Le Mars, IA 51031.
Lake of the Woods County, Minnesota and Incorporated Areas Docket No.: FEMA–B–2135	
City of Baudette	City Hall, 106 West Main Street, Baudette, MN 56623.
City of Williams	City Hall, 250 Main Street, Williams, MN 56686.
Red Lake Band of Chippewa Tribe	Red Lake Nation Government Center, 15484 Migizi Drive, Red Lake, MN 56671.
Unincorporated Areas of Lake of the Woods County	Lake of the Woods County Government Center, 206 8th Avenue Southeast, Baudette, MN 56623.
Montgomery County, Ohio and Incorporated Areas Docket No.: FEMA–B–2135	
City of Centerville	Municipal Government Center, 100 West Spring Valley Road, Centerville, OH 45458.
City of Dayton	Building Inspection Department, 371 West Second Street, Dayton, OH 45402.
City of Kettering	Kettering Government Center, 3600 Shroyer Road, Kettering, OH 45429.
Unincorporated Areas of Montgomery County	Montgomery County Administration Building, 451 West Third Street, Dayton, OH 45422.
Sumter County, South Carolina and Incorporated Areas Docket No.: FEMA–B–2069	
City of Sumter	Sumter City-County Planning Department, 12 West Liberty Street, Suite C, Sumter, SC 29150.
Town of Mayesville	Town Hall, 22 South Main Street, Mayesville, SC 29104.
Unincorporated Areas of Sumter County	Sumter City-County Planning Department, 12 West Liberty Street, Suite C, Sumter, SC 29150.

Community	Community map repository address
Williamsburg County, South Carolina and Incorporated Areas Docket No.: FEMA–B–2069	
Town of Kingstree	Town Hall, 401 North Longstreet Street, Kingstree, SC 29556.
Unincorporated Areas of Williamsburg County	Williamsburg County Public Service Administration Building, 201 West Main Street, Kingstree, SC 29556.

[FR Doc. 2022–13261 Filed 6–21–22; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–7050–N–28; OMB Control No.: 2501–0033]

30-Day Notice of Proposed Information Collection: Promise Zones Certification

AGENCY: Office of Policy Development and Research, Chief Data Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* July 22, 2022.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.* Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, REE, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; email her at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD has submitted to OMB a request for approval of the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on May 23, 2022, at 87 FR 31258.

A. Overview of Information Collection

Title of Information Collection: Promise Zones Certification.

OMB Approval Number: 2501–0033.

Type of Request: Revision of a currently approved collection.

Form Number: HUD Form 50153.

Description of the need for the information and proposed use: This collection is a revision of the Promise Zone Preference Point Certification Form (HUD Form 50153). The revisions to the form include the addition of a Paperwork Reduction Act burden statement; the addition of drop-down options to two of the information fields in the form, which will result in less typing for the applicant and fewer typos; the addition of HUD's agency name to the top of the form; and the addition of descriptions to interactive fields to ensure 508 compliance. The Promise Zone Certification Form is used by federal agencies to document that an application or proposal should receive preferences for certain competitive federal programs and technical assistance. The Certification Form should be submitted by organizations applying for federal assistance, in the specific manner described in notices, application materials and other documents, providing instructions on applying for the specific federal program from which the assistance is sought. The Certification Form should be signed by the primary contact of the Lead Organization of a designated Promise Zones community, an individual authorized to make commitments on behalf of and legally bind the Lead Organization. The Certification Form provides evidence to the federal agency administering the program that the entity or entities named in the Form are:

1. Engaged in activities, that in consultation with the Promise Zone lead organization further the purposes of the initiative; 2. Proposing activities that either directly reflect the goals of the Promise Zone or will result in the delivery of services that are consistent with the goals of Promise Zone; and 3. Committed to maintain an on-going relationship with the Promise Zone lead organization for the purposes of coordinating with other Promise Zone activities, reporting on milestones and outcomes, and collaborating with the lead organization and other Promise Zone organizations in securing additional resources and partnerships, as necessary.

HUD designated fourteen communities as urban Promise Zones between 2014 and 2016. Under the Promise Zones initiative, the federal government invests in and partners with high-poverty urban, rural, and tribal communities to create jobs, increase economic activity, improve educational opportunities, leverage private investment, and reduce violent crime. Additional information about the Promise Zones initiative can be found at *https://www.hud.gov/program_offices/field_policy_mgt/fieldpolicymgtpz,* and questions can be addressed to *promisezone@hud.gov.* The federal administrative duties pertaining to these designations shall be managed and executed by HUD for ten years from the designation dates pursuant to sections 2 and 3 of the HUD Act, 42 U.S.C. 3531–32, to assist the President in achieving maximum coordination of the various federal activities which have a major effect upon urban community, suburban, or metropolitan development; to develop and recommend the President policies for fostering orderly growth and development of the Nation's urban areas; and to exercise leadership, at the direction of the President, in coordinating federal activities affecting housing and urban development. To facilitate communication between local and federal partners, HUD proposes that Promise Zone Lead Organizations submit minimal reports and documents to support collaboration and problem solving between local and federal partners. These reports will also assist in communications and stakeholder engagement, both locally and nationally.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Certification of Consistency Form HUD—50153	14	6	84	0.1	8.4	$36.13	$303.50
Total							$303.50

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(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) If the information will be processed and used in a timely manner;

(3) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(4) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(5) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Data Officer.

[FR Doc. 2022–13301 Filed 6–21–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[FR–6289–N–03]

Notice of Intent To Establish a Tribal Intergovernmental Advisory Committee; Request for Comments on Committee Structure

AGENCY: Office of Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development (HUD).

ACTION: Notice.

SUMMARY: This notice announces HUD's intention to form the Department's first standing Tribal advisory committee. The committee will be called the 'Tribal Intergovernmental Advisory Committee' (TIAC). This notice also solicits comments and recommendations regarding the establishment and structure of the TIAC. The TIAC will be made up of a diverse group of duly elected Tribal leaders representing small, medium, and large federally recognized Tribes. The TIAC is intended to further communications between HUD and federally recognized Tribes on HUD programs, make recommendations to HUD regarding current program regulations, provide advice in the development of HUD's American Indian and Alaska Native (AIAN) housing priorities, and encourage peer learning and capacity building among Tribes and non-Tribal entities. Consistent with HUD's Tribal Government-to-Government Consultation Policy, this notice solicits input on the proposed structure of the TIAC.

DATES: *Comments on the proposed structure of the TIAC are due on or before:* August 22, 2022.

ADDRESSES: Interested persons are invited to submit comments on the structure of the TIAC. Comments may be submitted to HUD electronically. All submissions must refer to the above docket number and title.

Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov.* Electronic submission allows the maximum time to prepare and submit comments, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the *www.regulations.gov* website can be viewed by interested members of the public. Individuals should follow the instructions provided on that website to submit comments.

Note: To receive consideration, comments must be submitted electronically through *www.regulations.gov* and refer to the above docket number and title. Comments should not be submitted by mail.

No Facsimile Comments. Facsimile (FAX) comments will not be accepted.

Public Inspection of Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the submissions must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. Copies of all submissions are available for inspection and downloading at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street SW, Room 4108, Washington, DC 20410–5000, telephone (202) 402–7598 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

Consistent with Executive Order 13175,[1] HUD's Tribal Government-to-Government Consultation Policy recognizes the right of Indian tribes to self-governance and supports Tribal sovereignty and self-determination.[2] It provides that HUD will engage in regular and meaningful consultation and collaboration with Tribal officials in the development of Federal policies that have Tribal implications. Executive Order 13175 also requires Federal agencies to advance Tribal self-governance and ensure that the rights of sovereign Tribal governments are fully respected by conducting open and candid consultations.

[1] Executive Order 13175, 65 FR 67249 (November 9, 2000).

[2] Tribal Government-to-Government Consultation Policy, 81 FR 40893 (June 23, 2016).

In 2016, in furtherance of Executive Order 13175, HUD proposed the establishment of a TIAC. On June 23, 2016, HUD published a **Federal Register** Notice seeking comments on the structure of the proposed TIAC.[3] On December 21, 2016, HUD published a second **Federal Register** Notice announcing the establishment of the TIAC and requesting nominations from duly elected or appointed Tribal leaders to serve on the TIAC.[4] HUD received nominations from various Tribes but did not receive an adequate number of nominations to fully constitute the TIAC. Accordingly, HUD did not complete the establishment of the TIAC at that time.

On January 26, 2021, President Biden issued a Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.[5] The memorandum directed all Federal agencies to take actions to strength their Tribal consultation policies and practices and to further the purposes of Executive Order 13175.

To further enhance consultation and collaboration with Tribal governments, HUD is once again proposing to establish the TIAC. Several Federal agencies have established similar Tribal advisory committees. These advisory committees convene periodically during the year to exchange information with agency staff, notify Tribal leaders of activities or policies that could affect Tribes, and provide guidance on consultation. HUD has determined that a similar advisory committee would provide critical support to the Department as it formulates. The formation of the TIAC would also assist the Department in carrying out its responsibilities under the Presidential Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships.

Prior to HUD's establishment of the TIAC, this notice solicits input into the structure of the committee.

II. Proposed Structure of the TIAC

To assist commenters with their review and to help them provide feedback, HUD is providing the following as an example of how the TIAC may be structured. HUD is requesting comments on the following proposed structure of the TIAC and is open to any additional recommendation on how the TIAC may be constituted and how it should operate. Comments on the structure of the TIAC are due on or before: August 22, 2022.

A. Purpose and Role of the TIAC

The purposes of the TIAC are:

(1) To further facilitate intergovernmental communication between HUD and Tribal leaders of federally recognized Tribes on all HUD programs;

(2) To make recommendations to HUD regarding current program regulations that may require revision, as well as suggest rulemaking methods to develop such changes. The TIAC will not, however, negotiate any changes to regulations that are subject to negotiated rulemaking under Section 106 of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and will not serve in place of any future negotiated rulemaking committee established by HUD; and

(3) To advise in the development of HUD's AIAN housing priorities.

The role of the TIAC is to provide recommendations and input to HUD, and to provide a vehicle for regular, meaningful consultation and collaboration with Tribal officials. It will not replace other means of Tribal consultations, but, rather, will supplement them. HUD will maintain the responsibility to exercise program management, including the drafting of HUD notices, guidance documents, and regulations.

B. Charter and Protocols

The TIAC will develop its own ruling charter and protocols. HUD will provide staff for the TIAC to act as a liaison between TIAC and HUD officials, manage meeting logistics, and provide general support for TIAC activities.

C. Meetings and Participation

Subject to availability of Federal funding, the TIAC will meet periodically to discuss agency policies and activities with HUD, set shared priorities, and facilitate further consultation with Tribal leaders. Initially, meetings will likely be conducted virtually, but may be in person in the future, and will be conducted consistent with any COVID–19 safety protocols. HUD will pay for these meetings, including the member's cost to travel to these meetings. The TIAC may meet on a more frequent basis virtually, via conference calls, videoconferences, or through other forms of communication. Additional in-person meetings may be scheduled at HUD's discretion in the future. Participation at TIAC meetings will be limited to TIAC members or their alternates. Alternates must be designated in writing by the member's Tribal government to act on their behalf. TIAC members may bring one technical advisor to the meeting at their expense. The technical advisor can advise the member but cannot speak in the member's place. Meeting minutes will be available on the HUD website, and, depending on the circumstances, public and Tribal comments may be requested.

D. TIAC Membership

The TIAC will be comprised of HUD representatives and Tribal delegates from across the country, representing small, medium, and large tribes. The TIAC will be composed of HUD officials (including the Secretary or his or her designee, as well as the Assistant Secretaries for Office of Public and Indian Housing (PIH), Office of Policy, Development, and Research (PD&R), Office of Fair Housing and Equal Opportunity (FHEO), Office of Field Policy Management (FPM), Office of Housing (FHA), Government National Mortgage Association (Ginnie Mae), and Office of Community Planning and Development (CPD) or their designees) and up to fifteen Tribal delegates. Up to two Tribal delegates will represent each of the six HUD ONAP regions. Up to three remaining Tribal delegates will serve at-large. Only duly elected or appointed Tribal leaders may serve as TIAC delegates or alternates of the TIAC. The Secretary of HUD will appoint the HUD representatives of the TIAC. TIAC Tribal delegates will serve a term of two years. To ensure consistency between Tribal terms, delegates will have a staggered term of appointment. In order to establish a staggered term of appointment, half of the Tribal delegates appointed in the inaugural year of the TIAC will serve two years and the other half will serve three years. Tribal delegates must designate their preference to serve two or three years; however, HUD will make the final determination on which Tribal delegates will serve two or three years. Once these Tribal delegates complete these initial terms, future Tribal delegates will serve terms that last two years. Should a delegate's tenure as a Tribal leader come to an end during their appointment to the TIAC, the delegate's Tribe will nominate a replacement, if not the already nominated alternate.

E. Function

The establishment of the TIAC is intended to enhance government-to-

[3] Notice of Proposal To Establish a Tribal Intergovernmental Advisory Committee; Request for Comments on Committee Structure, 81 FR 40899 (June 23, 2016).

[4] Establishment of Tribal Intergovernmental Advisory Committee; Request for Nominations for Tribal Intergovernmental Membership, 81 FR 93700 (December 21, 2016).

[5] The memorandum was published in the **Federal Register** on January 29, 2021 (86 FR 7491).

government relationships, communications, and mutual cooperation between HUD and Tribes. It is not intended to, and will not, create any right to administrative or judicial review, or any other right or benefit or trust responsibility, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other persons.

Heidi J. Frechette,

Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing.

[FR Doc. 2022–13262 Filed 6–21–22; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–MB–2022–0077; FXMB12310900WH0–223–FF09M26000; OMB Control Number 1018–0023]

Agency Information Collection Activities; Migratory Bird Surveys

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 22, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference OMB Control No. 1018–0023 in the subject line of your comment):

- *Internet (preferred): http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–MB–2022–0077.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W); Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. 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: In accordance with the Paperwork Reduction Act (PRA; 44 U.S.C. 3501 *et seq.*) and its implementing regulations in the Code of Federal Regulations (CFR) at 5 CFR 1320, all information collections require approval under the PRA. 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.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The Migratory Bird Treaty Act (16 U.S.C. 703–711) and the Fish and Wildlife Act of 1956 (16 U.S.C. 742d) designate the Department of the Interior as the key agency responsible for (1) the wise management of migratory bird populations frequenting the United States, and (2) the setting of hunting regulations that allow appropriate harvests that are within the guidelines that will allow for those populations' well-being. These responsibilities dictate that we gather accurate data on various characteristics of migratory bird harvest. Based on information from harvest surveys, we can adjust hunting regulations as needed to optimize harvests at levels that provide a maximum of hunting recreation while keeping populations at desired levels.

Under 50 CFR 20.20, migratory bird hunters must register for the Migratory Bird Harvest Information Program (HIP) in each State in which they hunt each year. State natural resource agencies must send names and addresses of all migratory bird hunters to the Branch of Monitoring and Information Management, U.S. Fish and Wildlife Service Division of Migratory Bird Management, on an annual basis.

The Migratory Bird Hunter Survey is based on the Migratory Bird Harvest Information Program. We randomly select migratory bird hunters and ask them to report their harvests. The resulting estimates of harvest per hunter are combined with the complete list of migratory bird hunters to provide estimates of the total harvest for the species surveyed.

The Parts Collection Survey estimates the species, sex, and age composition of the harvest, and the geographic and temporal distribution of the harvest. Randomly selected successful hunters who responded to the Migratory Bird Hunter Survey the previous year, as well as a sample of hunters who were not surveyed the previous year, are asked to complete and return a letter if they are willing to participate in the Parts Collection Survey. We provide postage-paid envelopes to respondents before the hunting season and ask them to send in a wing or the tail feathers from each duck or goose that they harvest, or a wing from each mourning dove, woodcock, band-tailed pigeon, or rail that they harvest. We use the wings and tail feathers to identify the species, sex, and age of the harvested sample. We also ask respondents to report the date and location of harvest for each bird on the outside of the envelope. We combine the results of this survey with the harvest estimates obtained from the Migratory Bird Hunter Survey to provide species-specific national harvest estimates.

The combined results of these surveys enable us to evaluate the effects of season length, season dates, and bag limits on the harvest of each species, and thus help us determine appropriate hunting regulations.

The Sandhill Crane Harvest Survey is an annual questionnaire survey of people who obtained a sandhill crane hunting permit. At the end of the hunting season, we randomly select a sample of permit holders and ask them to report the date, location, and number of birds harvested for each of their sandhill crane hunts. Their responses provide estimates of the temporal and geographic distribution of the harvest as well as the average harvest per hunter, which, combined with the total number of permits issued, enables us to estimate the total harvest of sandhill cranes. Based on information from this survey, we adjust hunting regulations as needed.

In fall of 2019, we implemented a new, online platform for the Migratory Bird Hunter Survey. The platform is optimized for use on multiple devices (computer, tablet, or phone; Android or Apple OS). This online survey platform walks a participant through the process of entering their harvest for a single day and asks for one piece of information at a time, which reduces confusion and the likelihood that the hunter will provide incorrect information. The online system improves data quality and prevents errors (*e.g.,* reporting harvest of the wrong species, or in the wrong State). We will continue to conduct the full paper survey through 2022, in order to ensure that data collected through the online platform is sound, and to provide a side-by-side comparison of harvest estimates that can be used to calibrate the old survey to the new one. This is particularly important for maintaining a continuous time series of harvest estimates, despite changing methodology. In the fall of 2022, we will conduct the full survey using the online application but will provide a paper survey by mail to those hunters who request them.

Title of Collection: Migratory Bird Information Program and Migratory Bird Surveys, 50 CFR 20.20.

OMB Control Number: 1018–0023.

Form Number: FWS Forms 3–165, 3–165A through E, and 3–2056J through N.

Type of Review: Renewal without change of a currently approved collection.

Respondents/Affected Public: States and migratory game bird hunters.

Respondent's Obligation: Mandatory for HIP registration information; voluntary for participation in the surveys.

Frequency of Collection: Annually for States or on occasion for migratory bird hunters.

Total Estimated Annual Nonhour Burden Cost: None.

Collection type/form No.	Number of respondents	Average number of responses each	Number of annual responses *	Average time per response	Total annual burden hours *
Migratory Bird Harvest Information Program (State Governments)					
	49	16.5	809	157 hours	*127,013*
Migratory Bird Hunter Survey (Individuals)					
Form 3–2056J	31,900	1	31,900	5 minutes	2,658
Form 3–2056K	16,900	1	16,900	4 minutes	1,127
Form 3–2056L	8,500	1	8,500	4 minutes	567
Form 3–2056M	10,200	1	10,200	3 minutes	510
Subtotals:	*67,500*	.....	*67,500*	.....	*4,862*
Parts Collection Survey (Individuals)					
Form 3–165	4,870	22	107,140	5 minutes	8,928
Form 3–165A	1,000	5.5	5,500	5 minutes	458
Form 3–165B	3,600	1	3,600	1 minute	60
Form 3–165C	900	1	900	1 minute	15
Form 3–165D	1,134	1	1,134	1 minute	19
Form 3–165E	1,100	1.5	1,650	5 minutes	138
Subtotals:	12,604	.....	119,924	.....	9,619
Sandhill Crane Harvest Survey (Individuals)					
Form 3–2056N	4,300	1	4,300	3.5 minutes	*251*
Online Migratory Bird Harvest Survey (Individuals)					
None (Online Form)	25,500	1	25,500	4 minutes	*1,700*
Totals:	109,953	.....	218,033	.....	143,444

* Rounded.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2022–13300 Filed 6–21–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–NWRS–2022–0078; FF07RYKD00 223 FXRS12610700000; OMB Control Number 1018–0173]

Agency Information Collection Activities; In-Season Subsistence Salmon Fishery Catch and Effort Survey

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service (Service), are proposing to renew an existing information collection without change.

DATES: Interested persons are invited to submit comments on or before August 22, 2022.

ADDRESSES: Send your comments on the information collection request (ICR) by one of the following methods (please reference ''1018–0173'' in the subject line of your comments):

- *Internet (preferred): http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R7–NWRS–2022–0078.
- *Email: Info_Coll@fws.gov.*
- *U.S. mail:* Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: PRB (JAO/3W), Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Madonna L. Baucum, Service Information Collection Clearance Officer, by email at *Info_Coll@fws.gov,* or by telephone at (703) 358–2503. 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: In accordance with the Paperwork Reduction Act (PRA, 44 U.S.C. 3501 *et seq.*) and its implementing regulations at 5 CFR 1320, all information collections require approval under the PRA. 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.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

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 can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Abstract: The administration and uses of national wildlife refuges and wetland management districts are governed by the National Wildlife Refuge System Administration Act of 1966 (Administration Act; 16 U.S.C. 668dd–668ee), as amended by the National Wildlife Refuge System Improvement Act of 1997; the Refuge Recreation Act of 1962 (Recreation Act; 16 U.S.C. 460k–460k–4); and the Alaska National Interest Lands Conservation Act (ANILCA; 16 U.S.C. 3101 *et seq.*). ANILCA provides specific authorization and guidance for the administration and management of national wildlife refuges within the State of Alaska.

Renewal of OMB's approval authorizes the Yukon Delta National Wildlife Refuge (YDNWR) to participate in the design and implementation of subsistence fisher surveys operated by the Orutsararmiut Traditional Native Council and the Kuskokwim River Inter-Tribal Fisheries Commission (KRITFC). Participation in the surveys informs in-season fisheries management decision-making in the Kuskokwim River subsistence salmon fishery.

The information collected by the survey includes the times individuals left and returned from boat launches, several characteristics of their fishing gear, broad classification of where the fishing activity occurred, for how long they actively fished, and how many of each of three salmon species they harvested. When coupled with aerial boat counts performed by the YDNWR, these data can be used to obtain quantitative estimates of total fishing activity and salmon harvest occurring from short-duration subsistence harvest opportunities. The estimates are then used to inform the management strategy used jointly by the YDNWR and the KRITFC.

Title of Collection: In-Season Subsistence Salmon Fishery Catch and Effort Survey.

OMB Control Number: 1018–0173.

Form Number: None.

Type of Review: Renewal without change of an existing information collection.

Respondents/Affected Public: Subsistence fishers within the Yukon Delta National Wildlife Refuge.

Total Estimated Number of Annual Respondents: 1,014.

Total Estimated Number of Annual Responses: 1,014.

Estimated Completion Time per Response: 5 minutes.

Total Estimated Number of Annual Burden Hours: 85 hours.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion.

Total Estimated Annual Nonhour Burden Cost: None.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Madonna Baucum,

Information Collection Clearance Officer, U.S. Fish and Wildlife Service.

[FR Doc. 2022–13318 Filed 6–21–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX21ED00CPN00; OMB Control Number 1028–0119]

Agency Information Collection Activities; EROS Registration Service

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the U.S. Geological Survey (USGS) is proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before August 22, 2022.

ADDRESSES: Send your comments on this information collection request (ICR) by mail to U.S. Geological Survey, Information Collections Officer, 12201 Sunrise Valley Drive, MS 159, Reston, VA 20192; or by email to *gs-info_collections@usgs.gov.* Please reference OMB Control Number 1028–0119 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ryan Longhenry by email at *rlonghenry@usgs.gov,* or by telephone at (605) 594–6179. 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. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the PRA of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), all information collections require approval under the PRA. We may not conduct nor sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

As part of our continuing effort to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency 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 response.

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 personally identifiable information (PII) in your comment, you should be aware that your entire comment—including your PII—may be made publicly available at any time. While you can ask us in your comment to withhold your PII from public review, we cannot guarantee that we will be able to do so.

Abstract: The USGS proposes to collect general demographic information about public users who download products from USGS user interfaces. This information helps address Congressional, OMB and DOI inquiries regarding common data uses and affiliations, along with other questions used to justify maintaining the free distribution of USGS land remote-sensing data. The information collected in the database includes the names, affiliations, addresses, email addresses, and telephone numbers of individuals. The information is gathered to facilitate the reporting of demographic data for users of USGS applications. Demographic data are also used to make decisions on future functional requirements of the system.

The demographic information is stored on an internal encrypted database. In some cases, contact information is required in order to notify the customer about information regarding data availability. Email information is also utilized for two-factor authentication. The registration system does not derive new data and does not create new data through aggregation.

Personal information is not used as search criteria. Access to the information uses the least privileged access methodology (whereby access is limited to only the information absolutely necessary to perform a task). Authorized individuals with specifically granted access to the Privacy Act data can retrieve information only by account number or order number Personal data is encrypted while stored in the database. A contact ID is generated when an account is created.

Title of Collection: EROS Registration Service.

OMB Control Number: 1028–0119.

Form Number: None.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Federal Agencies, state, tribal, and non-government individuals who have requested USGS products from USGS distribution applications are covered in this system. The system has only one category for individuals.

Total Estimated Number of Annual Respondents: Approximately 335,000 respondents on an annual basis.

Total Estimated Number of Annual Responses: Approximately 335,000 responses on an annual basis.

Estimated Completion Time per Response: 2 minutes on average.

Total Estimated Number of Annual Burden Hours: 11,167.

Respondent's Obligation: Required to obtain a benefit.

Frequency of Collection: One time.

Total Estimated Annual Nonhour Burden Cost: There are no ''non-hour cost'' burdens associated with this collection of information.

An agency may not conduct or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq*).

Peter Doucette,

USGS EROS Center Director—Acting.

[FR Doc. 2022–13320 Filed 6–21–22; 8:45 am]

BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–DTS#–34112; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting electronic comments on the significance of properties nominated before June 11, 2022, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted electronically by July 7, 2022.

ADDRESSES: Comments are encouraged to be submitted electronically to *National_Register_Submissions@nps.gov* with the subject line ''Public Comment on property or proposed district name, (County) State.'' If you have no access to email you may send them via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C Street NW, MS 7228, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sherry A. Frear, Chief, National Register of Historic Places/National Historic Landmarks Program, 1849 C Street NW, MS 7228, Washington, DC 20240, *sherry_frear@nps.gov,* 202–913–3763.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before June 11, 2022. Pursuant to Section 60.13 of 36 CFR part 60, comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Nominations submitted by State or Tribal Historic Preservation Officers:

ARIZONA

Pima County

Jacobson House, 5645 North Campbell Ave., Tucson, SG100007931

COLORADO

Chaffee County

McFadden Brothers Ranch East Headquarters, 18101 Mountain View Dr., Buena Vista vicinity, SG100007932

DELAWARE

Sussex County

Milton Historic District (Boundary Increase), Roughly along DE 5, Milton, BC100007919

KANSAS

Barton County

Great Bend Central Business District, Roughly bounded by buildings fronting all sides of the courthouse square; 1100 and 1200 blks. of Kansas Ave., 1024, 1104–1222 Main St., 1200 and 1300 blks., 1409 Williams St., 2006–2111 Forest Ave., Great Bend, SG100007923

Ellis County

Chestnut Street Historic District (Boundary Increase II), Main, West 9th, West 10th, East and West 11th, East 12th Sts., Hays vicinity, BC100007927

Pratt County

Sawyer City Jail, Alley west of Main St., Sawyer, SG100007924

Wabaunsee County

Paxico Rural High School, (Public Schools of Kansas MPS), 112 Elm St., Paxico, MP100007925

MARYLAND

Anne Arundel County

Odenton Masonic Lodge No. 209, 1367 Odenton Rd., Odenton, SG100007940

MICHIGAN

Kent County

Heartside Historic District (Boundary Increase), Roughly Sheldon Blvd. SE, South Division Ave., Commerce Ave. SW, Ionia Ave. SW, Weston St. SE, Cherry St. SW, Williams St. SW, Bartlett St. SW, and Goodrich Street SW, all south of Fulton St. and north of Wealthy St., Grand Rapids, BC100007933

Mason County

East Ludington Avenue Historic District, 400–800 blks. East Ludington Ave., Ludington, SG100007920

Ontonagon County

Humphrey, Ernest J. and Edna, Farm, 878 South Cedar St., Ewen, SG100007921

Wayne County

Marygrove College, 8425 West McNichols Rd., Detroit, SG100007930

McGraw, Grace Ingersoll, House, 17315 East Jefferson Ave., Grosse Pointe, SG100007934

MONTANA

Glacier County

River View Dairy Barn, 1/2 mi. northwest of Cut Bank off Corrigeux Rd., Cut Bank vicinity, SG100007922

NEBRASKA

Clay County

Glenvil Fire Hall and Town Jail, Blk. 6, Lot 19 Winters Ave., Glenvil, SG100007937

Colfax County

Baumert & Bogner, 217 Center St., Howells, SG100007938

Lancaster County

Yates, Willard S. and Louise B., House, 2109 South 24th St., Lincoln, SG100007939

OHIO

Hamilton County

Formica Corporation-Crystal Arcade-Contemporary Arts Center Building, 120 East Fourth St., Cincinnati, SG100007941

TENNESSEE

Cannon County

Auburntown High School Gym, 150 Vantrease Ave., Auburntown, SG100007915

Hamilton County

Ridgedale Lodge, 2602 East Main St., Chattanooga, SG100007916

Lincoln County

Greer-Gill Farm, (Historic Family Farms in Middle Tennessee MPS), 352 Gingerbread Rd., Petersburg, MP100007917

Shelby County

Withers, Ernest C., House, 480 West Brooks Rd., Memphis, SG100007909

Parkview Hotel Apartments, (Residential Resources of Memphis MPS), 1914 Poplar Ave., Memphis, MP100007910

TEXAS

Fort Bend County

Holy Rosary Catholic Church, 1416 George St., Rosenberg, SG100007913

Harris County

St. Mark's Methodist Church, 600 Pecore St., Houston, SG100007914

Additional documentation has been received for the following resources:

DELAWARE

Sussex County

Milton Historic District (Additional Documentation), Roughly along DE 5, Milton, AD82002366

KANSAS

Ellis County

Chestnut Street Historic District (Additional Documentation), Main, West 9th, West 10th, West 11th, East 11th, East 12th Sts., Hays vicinity, AD06000621

NEBRASKA

Buffalo County

Kearney Woman's Club (Additional Documentation), 723 West 22nd St., Kearney, AD80002440

Authority: Section 60.13 of 36 CFR part 60.

Dated: June 15, 2022.

Sherry A. Frear,

Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2022–13286 Filed 6–21–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04084000, XXXR4081X1, RN.20350010.REG0000]

Colorado River Basin Salinity Control Advisory Council Notice of Public Meeting

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Bureau of Reclamation is publishing this notice to announce that a Federal Advisory Committee meeting of the Colorado River Basin Salinity Control Council (Council) will take place.

DATES: The Council will convene on Thursday, July 7, 2022, at 10:00 a.m. Mountain Daylight Savings Time and adjourn at approximately 12:00 Noon. A public comment period will be held during the meeting.

ADDRESSES: Due to restrictions put in place to address the COVID–19 pandemic the meeting will be held in a virtual environment. For information about accessing the meeting you must contact Mr. Aung K. Hla by telephone at (801) 524–3753; or via email at *ahla@usbr.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Aung K. Hla, telephone (801) 524–3753; email at *ahla@usbr.gov.*

SUPPLEMENTARY INFORMATION: The meeting of the Council is being held under the provisions of the Federal Advisory Committee Act of 1972. The Council was established by the Colorado River Basin Salinity Control Act of 1974 (Pub. L. 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act.

Purpose of the Meeting: The purpose of the meeting is to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity.

Agenda: Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Bureau of Reclamation, Bureau of Land Management, U.S. Fish and Wildlife Service, and United States Geological Survey of the Department of the Interior; the Natural Resources Conservation Service of the Department of Agriculture; and the Environmental Protection Agency will each present a progress report and a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities, the contents of the reports, and the Basin States Program created by Public Law 110–246, which amended the Act. A final agenda will be posted online at *https://www.usbr.gov/uc/progact/salinity/index.html* at least one week prior to the meeting.

Meeting Accessibility: The meeting is open to the public. Individuals wanting access to the virtual meeting should contact Mr. Aung K. Hla (see **FOR FURTHER INFORMATION CONTACT**) no later than July 1, 2022, to receive instructions.

Please make requests in advance for sign language interpreter services, assistive listening devices, or other reasonable accommodations. We ask that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice at least seven (7) business days prior to the meeting to give the Department of the Interior sufficient time to process your request. All reasonable accommodation requests are managed on a case-by-case basis.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

Public Comments: The Council chairman will provide time for oral comments from members of the public at the meeting. Individuals wanting to make an oral comment should contact Mr. Aung K. Hla (see **FOR FURTHER INFORMATION CONTACT**) to be placed on the public comment list. Members of the public may also file written statements with the Council before, during, or up to 30 days after the meeting either in person or by email. To allow full consideration of information by Council members at this meeting, written comments must be provided to Mr. Aung K. Hla (see **FOR FURTHER INFORMATION CONTACT**) by July 1, 2022.

Public Disclosure of Personal Information: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 2.

Wayne Pullan,

Regional Director, Upper Colorado Basin—Interior Region 7, Bureau of Reclamation.

[FR Doc. 2022–13354 Filed 6–21–22; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1082 (CAFC Remand)]

Certain Gas Spring Nailer Products and Components Thereof; Commission Decision To Grant Complainant's Motion To Terminate the Investigation on Remand; Rescission of Remedial Orders and Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''the Commission'') has determined to grant complainant's motion to terminate the investigation on remand and vacate the remedial orders issued in the underlying investigation. The investigation is terminated.

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2532. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* For help accessing EDIS, please email *EDIS3Help@usitc.gov.* General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* Hearing-impaired persons are advised

that information on this matter can be obtained by contacting the Commission's TDD terminal, telephone (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 20, 2017, based on a complaint filed on behalf of Kyocera Senco Brands Inc. (now known as Kyocera Senco Industrial Tools, Inc.) (''Kyocera'') of Cincinnati, Ohio. 82 FR 55118–19 (Nov. 20, 2017). The complaint, as amended and supplemented, alleged violations of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain gas spring nailer products and components thereof by reason of infringement of, *inter alia,* certain claims of U.S. Patent Nos. 8,267,296 (''the '296 patent''); 8,27,297 (''the '297 patent''); 8,387,718 (''the '718 patent''); 8,286,722 (''the '722 patent''); and 8,602,282 (''the '282 patent''). The complaint further alleged the existence of a domestic industry. The Commission's notice of investigation named as a respondent Hitachi Koki U.S.A., Ltd. (now known as Koki Holdings America Ltd.) (''Koki'') of Braselton, Georgia. The Office of Unfair Import Investigations did not participate in the investigation. Prior to the evidentiary hearing, the parties stipulated that the '718 patent was the only remaining patent at issue because no violation could be shown as to the '296, '297, '722, and '282 patents based on claim construction and an evidentiary ruling excluding Kyocera's expert testimony with respect to proving infringement under the doctrine of equivalents, but not literal infringement. *See* Initial Determination (Jun. 7, 2019) at 1–2, *unreviewed by* Comm'n Notice (Aug. 14, 2019) (''the August 14, 2019 Determination'').

On March 5, 2020, having found asserted claims 1, 10, and 16 of the '718 patent infringed and not invalid and the domestic industry requirement satisfied, the Commission issued its final determination finding a violation of section 337. 85 FR 14244–46 (Mar. 11, 2020). The Commission issued a limited exclusion order (''LEO'') directed against Koki's infringing products and a cease and desist order (''CDO'') directed against Koki. *Id.*

Both Kyocera and Koki timely appealed the August 14, 2019 Determination and the Commission's final determination, respectively, to the Federal Circuit. The separate appeals were subsequently consolidated. On January 21, 2022, the Court issued a decision vacating and remanding (for further proceedings consistent with the Court's opinion) the Commission's finding of a violation of section 337. *Kyocera Senco Indus. Tools Inc.* v. *ITC,* 22 F.4th 1369 (Fed. Cir. 2022). Specifically, the Federal Circuit: (1) ruled that Kyocera's expert testimony should have been excluded for both infringement under the doctrine of equivalents and literal infringement; (2) reversed the Commission's finding that the ''lifter member'' limitation was not means-plus-function; (3) held that the ''initiating a driving cycle'' limitation cannot be met by pressing the exit end of a safety contact element against a workpiece; and (4) affirmed the Commission on all other issues on appeal. The Court's mandate issued on March 14, 2022, returning jurisdiction to the Commission for the remanded issues.

On March 28, 2022, the Commission issued an Order requesting the parties to provide comments concerning what further proceedings are appropriate consistent with the Court's judgment, including whether the matter should be referred to the ALJ. See Comm'n Order (Mar. 28, 2022) at 2–3.

On April 7, 2022, Kyocera and Koki each submitted comments. In addition to its comments, on April 7, 2022, Kyocera filed a motion to terminate the remand proceeding due to withdrawal of its complaint. On April 14, 2022, Kyocera and Koki each submitted response comments. On the same date, Koki also submitted an opposition to Kyocera's motion to terminate.

The Commission has determined to terminate the investigation. Kyocera, the complainant, no longer seeks relief. Koki seeks further decision-making by the Commission in remand proceedings that, if Koki were to prevail, would amount to a declaratory judgment of noninfringement for Koki. The Commission, however, lacks the authority to proceed with declaratory (or any other) counterclaims.[1] 19 U.S.C. 1337(c); *see also, e.g., Solomon Techs., Inc.* v. *ITC,* 524 F.3d 1310, 1320 (Fed. Cir. 2008).

As part of this termination, the Commission rescinds the remedial orders in their entirety.

The Commission has also determined that it would be premature at this time for it to decide the effect, if any, of this termination on a future complaint that might be filed. Accordingly, the Commission need not and does not now decide what action it may take, or what conditions may apply, should Kyocera in the future file a complaint based on the same or similar alleged violations of section 337 by Koki. Nor does the Commission now decide whether and how, if a new investigation were instituted based on the same or similar allegations, the record from the instant investigation may be used in such future investigation.

The investigation is terminated.

The Commission vote for this determination took place on June 15, 2022.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in Part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.
Issued: June 15, 2022.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2022–13269 Filed 6–21–22; 8:45 am]

BILLING CODE 7020–02–P

[1] The Commission's rules of practice, 19 CFR 210.21(a), do not contemplate or specify procedures for a situation, as here, where the Commission's final determination is vacated on appeal and remanded for further proceedings. The Commission has the inherent authority under these circumstances to manage its docket and to terminate the investigation at Kyocera's request. *Certain Digital Satellite System (DSS) Receivers and Components Thereof,* Inv. No. 337–TA–392, Notice, 64 FR 27295 (May 19, 1999). The relief that Koki seeks, by opposing termination of the remanded investigation and pressing to continue forward, would result in a waste of public and private resources. Moreover, as set forth in the above text, continuing now would be in tension, if not outright conflict, with section 337(c).

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0081]

Agency Information Collection Activities; Proposed eCollection of eComments Requested; Appeals of Background Checks

AGENCY: Bureau of Alcohol, Tobacco, Firearms and Explosives, Department of Justice.

ACTION: 30-day notice.

SUMMARY: The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), Department of Justice (DOJ) will submit the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 days until July 22, 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.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and, if so, how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension Without Change of a Currently Approved Collection.

(2) *The Title of the Form/Collection:* Appeals of Background Checks.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:*

Form number: None.

Component: Bureau of Alcohol, Tobacco, Firearms and Explosives, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Individuals or households.

Other: Business or other for-profit.

Abstract: This information collection allows a responsible person or an employee authorized to possess explosive materials to appeal an adverse background check determination, by submitting appropriate documentation to the Bureau of Alcohol Tobacco Firearms and Explosives.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An estimated 500 respondents will respond to this collection once annually, and it will take each respondent approximately 2 hours to complete their responses.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 1,000 hours, which is equal to 500 (total respondents) * 1 (# of response per respondent) * 2 (# of hours or the time taken to prepare each response).

If additional information is required contact: Robert J. Houser, Assistant Director, Policy and Planning Staff, Office of the Chief Information Officer, United States Department of Justice, Justice Management Division, Two Constitution Square, 145 N Street NE, Mail Stop 3.E–206, Washington, DC 20530.

Dated: June 16, 2022.

Robert Houser,

Assistant Director, Policy and Planning Staff, U.S. Department of Justice.

[FR Doc. 2022–13351 Filed 6–21–22; 8:45 am]

BILLING CODE 4410–FY–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Alternative Reporting Methods for Apprenticeship and Training Plans and Top Hat Plans

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-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 22, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Regulations under section 29 CFR 2520.104–22 provide an exemption to the reporting and disclosure provision of Part 1 of Title I of ERISA for employee welfare benefit plans that provide exclusively apprenticeship and training benefits. Regulations under section 29 CFR 2520.14–23 provide an alternative method of compliance with the reporting and disclosure of Title I of ERISA for unfunded or insured plans established for a select group of management of highly compensated employees (*i.e.,* top hat plans). To satisfy the exemption and the alternative method of compliance respectively, plan administrators must satisfy the specified reporting and disclosure requirements. The 2019 final rule revised the procedures for filing apprenticeship and training plan notices and top hat plan statements with the Secretary of Labor to require electronic submission of these notices and statements. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 17, 2022 (87 FR 15267).

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–EBSA.

Title of Collection: Alternative Reporting Methods for Apprenticeship and Training Plans and Top Hat Plans.

OMB Control Number: 1210–0153.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 1,800.

Total Estimated Number of Responses: 1,800.

Total Estimated Annual Time Burden: 300 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: June 15, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–13350 Filed 6–21–22; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employee Benefits Security Administration (EBSA)-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 22, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) if the information will be processed and used in a timely manner; (3) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (4) ways to enhance the quality, utility and clarity of the information collection; and (5) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Mara Blumenthal by telephone at 202–693–8538, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Section 521 of ERISA provides that the Secretary of Labor may issue ex parte cease and desist orders when it appears to the Secretary that the alleged conduct of a multiple employer welfare arrangement (MEWA), as defined under section 3(40) of ERISA, is fraudulent, or creates an immediate danger to the public safety or welfare, or is causing or can be reasonably expected to cause significant, imminent, and irreparable public injury. Section 521(b) provides that a person that is adversely affected by the issuance of a cease and desist order may request an administrative hearing regarding the order. The Department has promulgated a final regulation that describes the procedures for when a person seeks an administrative hearing for review of such an order before an administrative law judge (ALJ). For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 17, 2022 (87 FR 15267).

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–EBSA.

Title of Collection: Multiple Employer Welfare Arrangement Administrative Law Judge Administrative Hearing Procedures.

OMB Control Number: 1210–0148.

Affected Public: Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 10.

Total Estimated Number of Responses: 10.

Total Estimated Annual Time Burden: 20 hours.

Total Estimated Annual Other Costs Burden: $686,900.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: June 15, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–13349 Filed 6–21–22; 8:45 am]

BILLING CODE 4510–29–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95108; File No. SR-Phlx–2022–23]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Options 7, Section 4, Multiply Listed Options Fees

June 15, 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 31, 2022, Nasdaq PHLX LLC (''Phlx'' or ''Exchange'') 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 the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Phlx's Pricing Schedule at Options 7, Section 4, ''Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY).''

While the changes proposed herein are effective upon filing, the Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

has designated that the amendments be operative on June 1, 2022.

The text of the proposed rule change is available on the Exchange's website at *https://listingcenter.nasdaq.com/rulebook/phlx/rules,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend its Pricing Schedule at Options 7, Section 4, ''Multiply Listed Options Fees (Includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed) (Excludes SPY).'' Specifically, Phlx proposes to increase the maximum Qualified Contingent Cross (''QCC'') rebate that will be paid by the Exchange in a given month. The Exchange believes that increasing the maximum QCC Rebate to be paid by the Exchange in a given month will incentivize market participants to transact a greater amount of QCC Orders on Phlx.

Today, the Exchange assesses a $.20 per contract QCC Transaction Fee for a Lead Market Maker,[3] Market Maker,[4] Firm [5] and Broker-Dealer.[6] Customers [7] and Professionals [8] are not assessed a QCC Transaction Fee. QCC Transaction Fees apply to electronic QCC Orders [9] and Floor QCC Orders.[10] Rebates are paid on all qualifying executed electronic QCC Orders and Floor QCC Orders based on the following six tier rebate schedule:[11]

Tier	Threshold	Rebate per contract
Tier 1	0 to 99,999 contracts in a month.	$0.00
Tier 2	100,000 to 299,999 contracts in a month.	0.05
Tier 3	300,000 to 499,999 contracts in a month.	0.07
Tier 4	500,000 to 699,999 contracts in a month.	0.08
Tier 5	700,000 to 999,999 contracts in a month.	0.09
Tier 6	Over 1,000,000 contracts in a month.	0.11

The Exchange does not pay a QCC Rebate where the transaction is either: (i) Customer-to-Customer; (ii) Customer-to-Professional; (iii) Professional-to-Professional; or (iv) a dividend, merger, short stock interest or reversal or conversion strategy execution (as defined in Options 7, Section 4). The Exchange will continue to pay rebates on QCC Orders as described above.

Today, the maximum QCC Rebate to be paid in a given month may not exceed $550,000. The Exchange proposes to increase the maximum QCC Rebate that will be paid in a given month from $550,000 per month to $750,000 per month. The continued elevated options volume is the primary reason for this amendment.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[12] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, 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.'' [14]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [15] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[16] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [17]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of

[3] The term ''Lead Market Maker'' applies to transactions for the account of a Lead Market Maker (as defined in Options 2, Section 12(a)). A Lead Market Maker is an Exchange member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a). An options Lead Market Maker includes a Remote Lead Market Maker which is defined as an options Lead Market Maker in one or more classes that does not have a physical presence on an Exchange floor and is approved by the Exchange pursuant to Options 2, Section 11. *See* Options 7, Section 1(c). The term ''Floor Lead Market Maker'' is a member who is registered as an options Lead Market Maker pursuant to Options 2, Section 12(a) and has a physical presence on the Exchange's trading floor. *See* Options 8, Section 2(a)(3).

[4] The term ''Market Maker'' is defined in Options 1, Section 1(b)(28) as a member of the Exchange who is registered as an options Market Maker pursuant to Options 2, Section 12(a). A Market Maker includes SQTs and RSQTs as well as Floor Market Makers. *See* Options 7, Section 1(c). The term ''Floor Market Maker'' is a Market Maker who is neither an SQT or an RSQT. A Floor Market Maker may provide a quote in open outcry. *See* Options 8, Section 2(a)(4).

[5] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation. *See* Options 7, Section 1(c).

[6] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category. *See* Options 7, Section 1(c).

[7] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation (''OCC'') which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Options 1, Section 1(b)(45)). *See* Options 7, Section 1(c).

[8] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Options 1, Section 1(b)(45) means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Options 7, Section 1(c).

[9] Electronic QCC Orders are described in Options 3, Section 12.

[10] Floor QCC Orders are described in Options 8, Section 30(e).

[11] Volume resulting from all executed electronic QCC Orders and Floor QCC Orders, including Customer-to-Customer, Customer-to-Professional, and Professional-to-Professional transactions and excluding dividend, merger, short stock interest or reversal or conversion strategy executions, is aggregated in determining the applicable volume tier.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4) and (5).

[14] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[15] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[16] *See NetCoalition,* at 534–535.

[17] *Id.* at 537.

where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [18] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that it is reasonable to increase the maximum QCC Rebate the Exchange would pay a market participant in a given month from $550,000 to $750,000 because it will incentivize market participants to transact a greater amount of QCC Orders on Phlx in order to obtain the maximum QCC Rebate offered by the Exchange. Additionally, the Exchange believes the elevated maximum QCC Rebate is in line with increased options volumes.

The Exchange believes that it is equitable and not unfairly discriminatory to increase the maximum QCC Rebate the Exchange would pay a market participant in a given month from $550,000 to $750,000 because all qualifying market participants are eligible to transact QCC Orders, either electronically or on the Trading Floor, and would, therefore, be eligible to receive up to the maximum amount of QCC Rebate, provided they transacted the qualifying number of QCC Orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Inter-Market Competition

The proposal does not impose an undue burden on inter-market competition. The Exchange believes its proposal remains competitive with other options markets and will offer market participants with another choice of where to transact options. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

Intra-Market Competition

The proposed amendments do not impose an undue burden on intra-market competition. The Exchange believes that increasing the maximum QCC Rebate the Exchange would pay a market participant in a given month from $550,000 to $750,000 does not impose an undue burden on competition because all qualifying market participants are eligible to transact QCC Orders, either electronically or on the Trading Floor, and would, therefore, be eligible to receive up to the maximum amount of QCC Rebate, provided they transacted the qualifying number of QCC Orders.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[19]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2022–23 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–Phlx–2022–23. 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–Phlx–2022–23 and should be submitted on or before July 13, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

J. Matthew DeLesDernier,

Assistant Secretary.

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[18] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[19] 15 U.S.C. 78s(b)(3)(A)(ii).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95106; File No. SR–NYSEAMER–2022–24]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Change To Amend Certain Transaction Fees and Credits in the NYSE American Equities Price List and Fee Schedule

June 15, 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 June 1, 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain transaction fees and credits in the NYSE American Equities Price List and Fee Schedule (''Price List'') pertaining to its Standard Rates and Retail Order Rates for transactions in securities at or above $1, as well as its transaction fees and credits and monthly credits applicable to Electronic Designated Market Makers (''eDMM'') in assigned securities. The Exchange proposes to implement the fee changes effective June 1, 2022. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, 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 Exchange proposes to amend certain transaction fees and credits in its Price List pertaining to its Standard Rates and Retail Order Rates for transactions in securities at or above $1, as well as its transaction fees and credits and monthly credits applicable to Electronic Designated Market Makers (''eDMM'') in assigned securities.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing and liquidity-removing orders by offering further incentives for ETP Holders to send additional adding and removing liquidity to the Exchange.

The Exchange proposes to implement the fee changes effective June 1, 2022.

Competitive Environment

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.'' [4]

While Regulation NMS has enhanced competition, it has also fostered a ''fragmented'' market structure where trading in a single stock can occur across multiple trading centers. When multiple trading centers compete for order flow in the same stock, the Commission has recognized that ''such competition can lead to the fragmentation of order flow in that stock.'' [5] Indeed, cash equity trading is currently dispersed across 16 exchanges,[6] numerous alternative trading systems,[7] and broker-dealer internalizers and wholesalers, all competing for order flow. Based on publicly-available information, no single exchange currently has more than 17% market share.[8] Therefore, no exchange possesses significant pricing power in the execution of cash equity order flow. More specifically, the Exchange currently has less than 1% market share of executed volume of cash equities trading.[9]

The Exchange believes that the ever-shifting market share among the exchanges from month to month demonstrates that market participants can move order flow, or discontinue or reduce use of certain categories of products. While it is not possible to know a firm's reason for shifting order flow, the Exchange believes that one such reason is because of fee changes at any of the registered exchanges or non-exchange venues to which the firm routes order flow. Accordingly, competitive forces compel the Exchange to use exchange transaction fees and credits because market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

Proposed Rule Change

The Exchange proposes the following changes to its Price List.

Proposed Increase to Tier 2 Fee for Orders Removing Liquidity

Regarding its Standard Rates in securities at or above $1, the Exchange proposes to increase the fee for Tier 2 orders removing liquidity. The current Tier 2 pricing available to ETP Holders with Adding ADV of at least 700,000 shares includes a fee of $0.0027 per share for orders removing liquidity from the Exchange. The Exchange proposes to increase this fee to $0.0028 per share.

The Exchange proposes this change in part because it would be consistent with the applicable rate on other marketplaces. For instance, Nasdaq PSX charges a $0.0029 per share fee for removing liquidity for firms meeting certain requirements; otherwise, its fee for removing liquidity is $0.0030 per

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (File No. S7–10–04) (Final Rule) (''Regulation NMS'').

[5] *See* Securities Exchange Act Release No. 61358, 75 FR 3594, 3597 (January 21, 2010) (File No. S7–02–10) (Concept Release on Equity Market Structure).

[6] *See* Cboe U.S Equities Market Volume Summary, available at *https://markets.cboe.com/us/equities/market_share. See generally https://www.sec.gov/fast-answers/divisionsmarketregmrexchangesshtml.html.*

[7] *See* FINRA ATS Transparency Data, *available at https://otctransparency.finra.org/otctransparency/AtsIssueData.* A list of alternative trading systems registered with the Commission is *available at https://www.sec.gov/foia/docs/atslist.htm.*

[8] *See* Cboe Global Markets U.S. Equities Market Volume Summary, available at *http://markets.cboe.com/us/equities/market_share/.*

[9] *See id.*

share.[10] The Exchange's proposed fee increase to $0.0028 from $0.0027 for removing liquidity from the Exchange would still be competitive with respect to Nasdaq PSX.

As noted, the Exchange operates in a highly competitive environment. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holder's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would have an effect on the number of orders any ETP Holder will direct to the Exchange.

The Exchange does not propose any other changes to its Standard Rates in securities at or above $1.

Proposed Increase to Credit for Retail Orders That Add Liquidity

Regarding its Retail Order Rates in securities at or above $1, the Exchange proposes to increase the credit for orders that add liquidity to the Exchange to $0.0032 per share, from the current level of $0.0030 per share.

The Exchange proposes this change in part because it would be consistent with the applicable rate on other marketplaces. For instance, the base credit for retail orders adding liquidity on Cboe BZX and Cboe EDGX is $0.0032 per share.[11] The Exchange's affiliate NYSE Arca Equities similarly offers a credit of $0.0032 per share for retail orders adding liquidity.[12]

In addition, the proposed change is intended to encourage greater participation from ETP Holders and to promote additional liquidity in Retail Orders. The competition for retail order flow between exchanges and off-exchange venues is fierce, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable. The Exchange believes that the proposed increase credit for orders that add liquidity to the Exchange could lead to more ETP Holders choosing to route their Retail Orders to the Exchange for execution rather than to a competing exchange.

That said, the Exchange does not know how much Retail Order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holders sending more of their Retail Orders to the Exchange. The Exchange cannot predict with certainty how many ETP Holders would avail themselves of this opportunity, but additional Retail Orders would benefit all market participants because it would provide greater execution opportunities on the Exchange.

The proposed rule change is designed to be available to all ETP Holders on the Exchange and is intended to provide ETP Holders a greater incentive to direct more of their Retail Orders to the Exchange. As is the case currently, the Retail Order Rates would remain optional for ETP Holders.

The Exchange does not propose any other changes to its Retail Order Rates.

Proposed Modifications to Optional Monthly Credit per Security for eDMMs

Regarding the fees and credits applicable to eDMMs on transactions in assigned securities, the Exchange proposes to modify the eDMM optional monthly credit per security. Currently, the Exchange offers eDMMs an optional monthly credit per security (''Credit Per Security'') up to a maximum credit of $550 per month per assigned security, provided that eDMMs agree to a credit of $0.0030 per share for orders adding displayed liquidity instead of the otherwise-applicable credit of $0.0045 per share.

The Exchange proposes to modify both the available Credit Per Security levels as well as the credit to which eDMMs must agree to be eligible for the Credit Per Security. The Exchange proposes that for eDMMs agreeing to a $0.0020 credit per share for orders adding displayed liquidity, the Exchange would increase the available Credit Per Security to $350 (from $250) for an eDMM quoting at the National Best Bid or Offer (''NBBO'') for a minimum average of 40% of the time, and would increase the available Credit Per Security to $850 (from $550) for an eDMM quoting at the NBBO for a minimum average of 50% of the time.

The proposed changes respond to the current competitive environment where order flow providers have a choice of where to direct liquidity-providing orders by offering further incentives for eDMMs to increase quoting on, and send additional displayed liquidity to, the Exchange. The Exchange believes that providing Exchange eDMMs with the option to receive a lower per share transaction credit for increased quoting and adding displayed liquidity in exchange for new higher monthly rebates across all eDMM assigned securities would foster liquidity provision and stability in the marketplace and lessen eDMM reliance on transaction fees, to the benefit of the marketplace and all market participants.

The Exchange does not propose any other changes to its rates to eDMMs on transactions in assigned securities, including any changes to the rates applicable to eDMMs that do not elect to receive the optional Credit Per Security.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[13] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[14] 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, is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Proposed Fee Change Is Reasonable

As discussed above, the Exchange operates in a highly fragmented and competitive market. The Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [15]

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 to reduce use of certain categories of

[10] *See* Nasdaq PSX Pricing at *https://www.nasdaqtrader.com/Trader.aspx?id=PSX_Pricing.*

[11] *See* Cboe BZX Price List at *https://www.cboe.com/us/equities/membership/fee_schedule/bzx/* and Cboe EDGX Price List at *https://www.cboe.com/us/equities/membership/fee_schedule/edgx/.*

[12] *See* NYSE Arca Equities Price List at *https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf.*

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4) and (5).

[15] *See* Regulation NMS, *supra* note 4, 70 FR at 37499.

products, in response to fee changes. ETP Holders can choose from any one of the 16 currently operating registered exchanges, and numerous off-exchange venues, to route such order flow. Accordingly, competitive forces constrain exchange transaction fees that relate to orders on an exchange. Stated otherwise, changes to exchange transaction fees can have a direct effect on the ability of an exchange to compete for order flow.

Given this competitive environment, the proposal represents a reasonable attempt to attract additional order flow to the Exchange by adjusting the incentives for market participants, including eDMMs, to send additional displayed liquidity to the Exchange.

Proposed Increase to Tier 2 Fee for Orders Removing Liquidity

The Exchange believes that is proposal to increase its Tier 2 fee for orders removing liquidity from the Exchange is reasonable because it would be consistent with the applicable rate on other marketplaces. As noted above, Nasdaq PSX, one of the Exchange's competitors, charges a fee of $0.0029 per share fee for removing liquidity for firms meeting certain requirements; otherwise, its fee for removing liquidity is $0.0030 per share. The Exchange's proposed fee increase to $0.0028 from $0.0027 for removing liquidity from the Exchange would potentially increase revenue while still being an advantageous fee when compared to Nasdaq PSX.

As noted, the Exchange operates in a highly competitive environment. The Exchange does not know how much order flow ETP Holders choose to route to other exchanges or to off-exchange venues. Without having a view of ETP Holder's activity on other exchanges and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would have an effect on the number of orders any ETP Holder will direct to the Exchange. The Exchange nevertheless believes that the proposed fee increase is a reasonable attempt to increase revenue within the fierce competitive environment.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that the proposed increase to the credit for Retail Orders that add liquidity to the Exchange is reasonable.

The Exchange operates in a fiercely competitive environment, particularly with regard to retail orders. As noted above, several of the Exchange's competitors offer base credits for retail orders adding liquidity that are higher (*i.e.,* $0.0032 credit per share) than the Exchange's current credit ($0.0030 credit per share). The Exchange believes that this proposal to increase its credit for Retail Orders adding liquidity to the Exchange represents a reasonable attempt to attract additional Retail Orders to the Exchange, thereby increasing liquidity on the Exchange and improving the Exchange's market share relative to its competitors. In addition, the Exchange believes that attracting higher volumes of Retail Orders to be transacted on the Exchange by ETP Holders would benefit all market participants by offering greater price discovery and an increased opportunity to trade on the Exchange.

Without having a view of ETP Holders' activity on other markets and off-exchange venues, the Exchange has no way of knowing whether this proposed rule change would result in any ETP Holder sending more of their Retail Orders to the Exchange, nor can the Exchange predict with certainty how many ETP Holders would avail themselves of this opportunity. Additional Retail Orders on the Exchange would benefit all market participants because they would provide greater execution opportunities on the Exchange.

Proposed Modifications to Optional Monthly Credit per Security for eDMMs

The Exchange believes that the proposed modifications to eDMMs rates are reasonable. Providing eDMMs with the option to receive a lower per share transaction credit for adding displayed liquidity in exchange for higher monthly rebates per assigned liquidity, up to a maximum credit of $850 per month across all eDMM assigned securities, is reasonable because it would foster liquidity provision and stability in the marketplace and lessen eDMM reliance on transaction fees, to the benefit of the marketplace and all market participants. Moreover, the proposal is reasonable because it would balance the increased risks and heightened quoting and other obligations that eDMMs on the Exchange have and that other market participants do not. The Exchange also believes that increasing the maximum credit to $850 (from $550) per month for the Credit Per Security is reasonable and will provide a further incentive for eDMMs to quote and trade a greater number of securities on the Exchange and will generally allow the Exchange and eDMMs to better compete for order flow, and thus enhance competition.

The Proposed Change Is an Equitable Allocation of Fees and Credits

The Exchange believes its proposal equitably allocates its fees among its market participants by fostering liquidity provision and stability in the marketplace.

Proposed Increase to Tier 2 Fee for Orders Removing Liquidity

The Exchange believes that is proposal to increase its Tier 2 fee for orders removing liquidity from the Exchange equitably allocates fees and credits among market participants because all ETP Holders that participate on the Exchange may qualify for the proposed fee.

The proposed change also is equitable because it would be consistent with the applicable rates on other marketplaces. As noted above, Nasdaq PSX, one of the Exchange's competitors, charges a fee of $0.0029 per share fee for removing liquidity for firms meeting certain requirements; otherwise, its fee for removing liquidity is $0.0030 per share.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that its proposal to increase the credit available for Retail Orders that add liquidity to the exchange equitably allocates its fees among market participants because all ETP Holders that participate on the Exchange may qualify for the proposed credit if they elect to send their Retail Orders to the Exchange and properly designate them as Retail Orders.

The Exchange further believes that the proposed change is equitable because it is reasonably related to the value to the Exchange's market quality associated with higher volume in Retail Orders. The Exchange believes that increasing the credit available for orders designated as Retail Orders would attract additional order flow and liquidity to the Exchange, thereby contributing to price discovery on the Exchange and benefiting investors generally.

The Exchange believes that the proposed rule change is equitable because maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

Proposed Modifications to Optional Monthly Credit per Security for eDMMs

The Exchange believes that it is equitable to offer eDMMs the option to receive a lower per share transaction credit for adding displayed liquidity in exchange for monthly rebates per assigned security because it would balance the increased risks and heightened quoting and other obligations that eDMMs on the Exchange have and that other market participants do not have. As such, it is equitable to offer eDMMs the option to receive a flat per security credit based on the eDMM's quoting in that symbol, coupled with a lower transaction fee.

The proposed change is also equitable because it would apply equally to all eDMM firms, who would have the option to elect (or not elect) to participate on a monthly basis.

Moreover, the Exchange believes that the proposal is equitable because eDMMs would be required to meet the prescribed quoting requirements in order to qualify for the payments, as described above. All eDMMs would be eligible to elect to receive a Credit Per Security and could do so by notifying the Exchange and meeting the per symbol quoting requirement.

The Proposed Fee Change Is Not Unfairly Discriminatory

The Exchange believe that the proposed rule is not unfairly discriminatory, for the following reasons.

Proposed Increase to Tier 2 Fee for Orders Removing Liquidity

The Exchange believes that is proposal to increase its Tier 2 fee for orders removing liquidity from the Exchange does not permit unfair discrimination because the proposed fee would be applied to all similarly situated ETP Holders and other market participants, who would all be eligible for the same rates on an equal basis. Accordingly, no ETP Holder already operating on the Exchange would be disadvantaged by this allocation of fees and credits.

In addition, the Exchange notes that the submission of orders to the Exchange is optional for ETP Holders in that they could choose whether to submit orders to the Exchange and, if they do, they can choose the extent of their activity in this regard.

Proposed Increase to Credit for Retail Orders That Add Liquidity

The Exchange believes that its proposal to increase the credit for Retail Orders that add liquidity to the Exchange is not unfairly discriminatory because it would apply to all ETP Holders on an equal and non-discriminatory basis, and all similarly-situated ETP Holders would earn the same credits and pay the same fees for Retail Orders executed on the Exchange. In addition, the submission of Retail Orders is optional for ETP Holders in that they could choose whether to submit Retail Orders to the Exchange and, if they do, they can choose the extent of their activity in this regard.

The Exchange believes that the proposed change is not unfairly discriminatory because maintaining or increasing the proportion of Retail Orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency, and improving investor protection.

Proposed Modifications to Optional Monthly Credit per Security for eDMMs

The Exchange believes it is not unfairly discriminatory to offer eDMMs the option to receive a flat per security credit coupled with a lower transaction fee for orders that provide displayed liquidity in assigned securities as the proposed credits would be provided on an equal basis to all such participants. The proposed modified Credit Per Security levels would apply equally to all eDMM firms, who would have the option to elect (or not elect) to participate on a monthly basis. Further, the Exchange believes the proposed incremental credits would incentivize eDMMs that meet the proposed quoting requirements to send more orders to the Exchange to qualify for a higher Credit Per Security.

The proposal neither targets nor will it have a disparate impact on any particular category of market participant. The proposal does not permit unfair discrimination because the proposed thresholds would be applied to all similarly situated eDMMs, who would all be eligible for the same credit on an equal basis. Accordingly, no eDMM already operating on the Exchange would be disadvantaged by this allocation of fees.

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,[16] the Exchange believes that the proposed rule change would not 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 fee change would encourage the submission of additional liquidity to a public exchange, thereby promoting market depth, price discovery, and transparency and enhancing order execution opportunities for 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.'' [17]

Intramarket Competition. The Exchange believes the proposed change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is designed to attract additional orders to the Exchange. The Exchange believes that the proposed changes would incentivize market participants to direct their orders to the Exchange. Greater overall order flow, trading opportunities, and pricing transparency benefit all market participants on the Exchange by enhancing market quality and continuing to encourage ETP Holders to send orders, thereby contributing towards a robust and well-balanced market ecosystem.

Intermarket Competition. The Exchange operates in a highly competitive market in which market participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. As noted above, the Exchange currently has less than 1% market share of executed volume of equities trading. In such an environment, the Exchange must continually adjust its fees and credits to remain competitive with other exchanges and with off-exchange venues. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange does not believe its proposed fee change

[16] 15 U.S.C. 78f(b)(8).

[17] *See* Securities Exchange Act Release No. 51808, 70 FR 37495, 37498–99 (June 29, 2005) (S7–10–04) (Final Rule).

can impose any burden on intermarket competition.

The Exchange believes that the proposed change could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, 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) [18] of the Act and subparagraph (f)(2) of Rule 19b–4 [19] 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) [20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEAMER–2022–24 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–2022–24. 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–2022–24, and should be submitted on or before July 13, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13273 Filed 6–21–22; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95107; File No. SR–C2–2022–012]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend the Fees Schedule

June 15, 2022.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2022, Cboe C2 Exchange, Inc. (the ''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe C2 Exchange, Inc. (''C2'' or the ''Exchange'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposed rule change to amend the fees schedule. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule in connection with its discount program for Bulk BOE Logical Ports, effective June 1, 2022.

The Exchange first notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. More specifically, the Exchange is only one of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

16 options venues to which market participants may direct their order flow. Based on publicly available information, no single options exchange has more than approximately 16% of the market share and currently the Exchange represents approximately 4% of the market share.[3] Thus, in such a low-concentrated and highly competitive market, no single options exchange, including the Exchange, possesses significant pricing power in the execution of option order flow. 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 to reduce use of certain categories of products, in response to fee changes. Accordingly, competitive forces constrain the Exchange's transaction fees, and market participants can readily trade on competing venues if they deem pricing levels at those other venues to be more favorable.

The Exchange currently offers BOE Bulk Logical Ports (''BOE Bulk Ports''), which provide users with the ability to submit single and bulk order messages to enter, modify, or cancel orders designated as Post Only Orders with a Time-in-Force of Day or GTD with an expiration time on that trading day. Bulk BOE Ports are assessed $1,500 per port, per month for the first five Bulk BOE Ports and thereafter assessed $2,500 per port, per month for each additional Bulk BOE Port. Each Bulk BOE Port also incurs the logical port fee indicated in the table above when used to enter up to 30,000,000 orders per trading day per logical port as measured on average in a single month. Each incremental usage of up to 30,000,000 orders per day per Bulk BOE Port will incur an additional logical port fee of $2,500 per month (''incremental usage fees''). The Exchange also offers a discount program for Bulk BOE Ports which provides an opportunity for Market-Makers to obtain credits on their monthly Bulk BOE Port fees (excluding incremental usage fees).[4] Currently, under the Bulk BOE Ports discount program, Market-Makers will receive a 30% discount on its monthly Bulk BOE Port fees (excluding incremental usage fees) where a Market-Maker has (1) a Step-Up ADAV[5] equal to or greater than 0.025% of average OCV[6] from February 2021 and (2) a ''Make Rate'' equal to or greater than 85%.[7]

The Exchange proposes to amend the current criteria under the Bulk BOE Port discount program and add another tier of criteria the discount program. The proposed rule change amends the current criteria in prong one by slightly increasing the Step-Up ADAV over the average OCV from 0.025% to 0.03%, changing the base ''step-up'' month from February 2021 to June 2021, and increasing the percentage of ''Make Rate'' from 85% to 97%. The 30% discount remains the same. The proposed rule change also adopts a new tier of criteria under the Bulk BOE Port discount program, which provides that a Market-Maker will receive a 40% discount on its monthly Bulk BOE Logical Port fees, excluding incremental usage fees, where the Market-Maker (1) has a Step-Up ADAV equal to or greater than 0.05% of OCV from June 2021 and (2) has a ''Make Rate'' equal to or greater than 97%.

The proposed Bulk BOE Port discount program, currently and as amended, is designed to attract liquidity from traditional Market-Makers and encourage Market-Makers to grow their volume. The discount program mitigates costs incurred by traditional Market-Makers that focus on adding liquidity to the Exchange (as opposed to those that provide and take, or just take). The proposed increase in percentage of ADAV over OCV (0.03%) to receive the current 30% discount on monthly Bulk BOE Port fees in the existing tier and proposed new tier offering a 40% discount for reaching an even higher percentage of ADAV over OCV (0.05%) will encourage Market Makers to strive to provide increased levels of liquidity. The proposed increase in the percentage of ''Make Rate'' to 97%, and addition of the same ''Make Rate'' prong of criteria in the proposed new tier, is intended to encourage Market Makers with significant Make Rates to continue to participate on the Exchange and add liquidity, or otherwise increase their Make Rates by streaming more quotes. Increased liquidity and enhanced quote streaming from Market Makers generally provide greater trading opportunities and tighter spreads, which tends to signal additional corresponding increase in order flow from other market participants. This, in turn, benefits all investors by deepening the Exchange's liquidity pool, potentially providing even greater execution incentives and opportunities, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[8] in general, and furthers the objectives of Section 6(b)(4),[9] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Trading Permit Holders and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and, particularly, is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change to amend the Bulk BOE Ports discount program is reasonable, equitable and not unfairly discriminatory. The proposed rule changes to increase the percentage of ADAV over OCV (0.03%) to receive the current 30% discount on monthly Bulk BOE Port fees in the existing tier and to adopt a new tier offering a 40%

[3] *See* Cboe Global Markets U.S. Options Market Volume Summary by Month (May 24, 2022), available at *https://markets.cboe.com/us/options/market_statistics/*.

[4] While BOE Bulk Ports are available to all market participants, they are used primarily by Market Makers or firms that conduct similar business activity.

[5] ''ADAV'' means average daily added volume calculated as the number of contracts added per day. ADAV is calculated on a monthly basis, excluding contracts added or removed on any day that the Exchange's system experiences a disruption that lasts for more than 60 minutes during regular trading hours (''Exchange System Disruption'') and on any day with a scheduled early market close.

[6] ''OCV'' (or ''OCC Customer Volume'' means, the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close.

[7] The ''Make Rate'' shall be derived from a Market-Maker's volume the previous month in all symbols using the following formula: (i) the Market-Maker's total simple add volume divided by (ii) the Market-Maker's total simple volume. Trades on teh open and complex orders will be excluded from the Make Rate calculation. The Exchange will aggregate the trading activity of separate Market-Maker firms for purposes of the discount tier and make rate calculation if there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

discount for reaching an even higher percentage of ADAV over OCV (0.05%) are reasonably designed to encourage Market Makers to strive to provide increased levels of liquidity. Similarly, the proposed rule changes to increase the percentage of ''Make Rate'' to 97% and to add the same ''Make Rate'' prong of criteria in the proposed new tier are reasonably designed to encourage Market Makers with significant Make Rates to continue to participate on the Exchange and add liquidity, or otherwise increase their Make Rates by streaming more quotes. As described above, increased liquidity and enhanced quote streaming from Market Makers generally provide greater trading opportunities and tighter spreads, signaling an additional corresponding increase in order flow from other market participants. This potentially deepens the Exchange's liquidity pool, provides increased execution incentives and opportunities, offers additional flexibility for all investors to enjoy cost savings, supports the quality of price discovery, promotes market transparency and improves investor protection. The Exchange believes the proposed discount of 40% included in the proposed new tier is reasonable in that it is an incremental increase over the discount rate of 30% offered in the existing tier, which is reasonably commensurate with the incremental increase in percentage of ADAV over OCV that a Market Maker must achieve to receive the proposed 40% discount as compared to the percentage of ADAV over OCV that a Market Maker must achieve to receive the existing 30% discount. The Exchange notes that the proposed discount under the proposed new tier is in line with the discount offered to Market Makers on its affiliate exchange, Cboe Exchange, Inc. (''Cboe Options'').[11] Additionally, the Exchange believes it is reasonable to update the baseline month to a month that is closer in time, therefore a more relevant measure for ''step-up'' volume.

The proposed rule change to amend the Bulk BOE Port discount program, which is offered only to Market Makers, is equitable and not unfairly discriminatory because Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. For example, Market Makers have a number of obligations, including quoting obligations and fees associated with appointments that other market participants do not have. The Exchange also believes that the discount program, currently and as amended, provides an incentive for Market Makers to provide more liquidity to the Exchange. Generally, greater liquidity benefits all market participants by providing more trading opportunities and tighter spreads. The Exchange also believes it is reasonable, equitable and not unfairly discriminatory to provide credits to those Market Makers that primarily provide and post liquidity to the Exchange, as the Exchange wants to continue to encourage Market Makers with significant Make Rates to continue to participate on the Exchange and add liquidity. Moreover, the Exchange notes that Market Makers with high Make Rate percentages generally require higher amounts of capacity than other Market Makers. Particularly, Market Makers with high Make Rates are generally streaming significantly more quotes than those with lower Make Rates. As such, Market Makers with high Make Rates may incur more costs than other Market Makers as they may need to purchase multiple Bulk BOE Ports in order to accommodate their capacity needs. The Exchange believes the proposed credits for Bulk BOE Ports encourages Market Makers to continue to provide liquidity for the Exchange, notwithstanding the costs incurred by purchasing multiple ports. Particularly, the discount program, currently and as proposed, is intended to mitigate the costs incurred by traditional Market Makers that focus on adding liquidity to the Exchange (as opposed to those that provide and take, or just take). Additionally, while the Exchange has no way of predicting with certainty how many and which Market Makers will satisfy the proposed criteria to receive the discount, the Exchange anticipates at least two Market Makers will satisfy the criteria across the two tiers to receive the applicable discounts. The Exchange does not believe the proposed discount will adversely impact any Market Maker's pricing. Rather, should a Market Maker not meet the proposed criteria, the Market Maker will merely not receive the proposed discount.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe the proposed rule change to amend the Bulk BOE Port discount program offered to Market Makers will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because Market Makers are valuable market participants that provide liquidity in the marketplace and incur costs that other market participants do not incur. As described above, Market Makers have a number of obligations, including quoting obligations and fees associated with appointments that other market participants do not have. The Exchange does not believe the proposed rule change does will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. As previously discussed, the Exchange operates in a highly competitive market. Trading Permit Holders have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges and off-exchange venues. Additionally, the Exchange represents a small percentage of the overall market. Based on publicly available information, no single options exchange has more than 16% of the market share. Therefore, no exchange possesses significant pricing power in the execution of option order flow. Indeed, participants can readily choose to send their orders to other exchange and off-exchange venues if they deem fee levels at those other venues to be more favorable. Moreover, the Commission has repeatedly expressed its preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. Specifically, in Regulation NMS, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' The fact that this market is competitive has also long been recognized by the courts. In NetCoalition v. Securities and Exchange Commission, the D.C. Circuit stated as follows: ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .''. Accordingly, the

[11] *See* Cboe Options Fees Schedule, Market-Maker Access Credit.

Exchange does not believe its proposed fee change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) of Rule 19b–4 [13] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2–2022–012 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–C2–2022–012. 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–C2–2022–012 and should be submitted on or before July 13, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–13274 Filed 6–21–22; 8:45 am]

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[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Procurement Scorecard Program; Treatment of Deobligations

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: The U.S. Small Business Administration (SBA) publishes an annual procurement scorecard (Scorecard) that scores agencies on their performance in contracting with small businesses. This notice sets forth SBA's method for reflecting negative-dollar transactions (or ''deobligations'') in the SBA scorecard starting with the Fiscal Year 2022 (FY22) scorecard. For purposes of calculating prime contracting achievements, SBA will exclude deobligations associated with certain older awards.

FOR FURTHER INFORMATION CONTACT: Mihaela Ciorneiu, Goaling Manager, Office of Government Contracting and Business Development, *Mihaela.Ciorneiu@sba.gov,* (202) 205–7716. 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 Communications Commission's TTY-Based Telecommunications Relay Service teletype service at 711.

SUPPLEMENTARY INFORMATION:

I. Background

SBA issues an annual Scorecard to score Federal agencies on creating the maximum practicable opportunities for the award of prime contracts and subcontracts to small business concerns, small disadvantaged businesses (SDBs), women-owned small businesses (WOSBs), HUBZone small business concerns, and service-disabled veteran-owned small business concerns (SDVO SBCs). Sec. 868, Public Law 114–92, 129 Stat. 933 (November 25, 2015). SBA bases an agency's score on several weighted factors, the most significant of which is the percentage of prime contracting dollars awarded to small businesses.

SBA receives the prime contracting data for the annual Scorecard from the Federal Procurement Data System (FPDS), through a special data extract prepared by the Integrated Acquisition Environment (IAE), part of the U.S. General Services Administration (GSA). In recent years, it has become apparent to SBA that FPDS's method for recording deobligations skews certain agencies' prime contracting figures, and, by extension, the annual Scorecard inaccurately reports those agencies' small businesses dollars awarded in that fiscal year.

A deobligation is an accounting transaction to reconcile an agency's obligations with its disbursements. When an agency awards a contract, the agency records an obligation in FPDS at the date of the award. FPDS does not reflect disbursements, however, so, in cases where the obligation exceeds the agency's disbursements, agencies will record a deobligation so that the total of obligations matches the total of disbursements. Deobligations appear in FPDS as a negative-dollar transaction in the fiscal year that the agency records its deobligation.

Even though the deobligation appears as a negative-dollar transaction, the agency did not award a negative-dollar contract. The deobligation is for accounting purposes and is used to show that the agency disbursed less on the contract than had been originally obligated. However, as noted above, the deobligation is recorded in the year that deobligation occurred, which can be in

a different year from when the obligation was recorded.

For the purposes of SBA's Scorecard, a problem arises when the agency records the deobligation in a fiscal year different from the year in which the agency recorded the obligation, particularly when the obligation was for a small-business award. The deobligation on a small-business award (or WOSB, HUBZone, SDVO SBC, or SDB contract) is recorded in FPDS as a current-day negative-value transaction, even though the deobligation is an accounting transaction to offset the earlier contract award. This transaction decreases the agency's contracting dollars in FPDS for the current fiscal year, thus creating discrepancy on the agency's performance on that year's SBA Scorecard.

SBA was alerted to this problem on September 10, 2020, via letter from the Chair of the Federal Office of Small and Disadvantaged Business Utilization Directors Interagency Council (OSDBU Council). SBA then received a letter from the Deputy Secretary of the U.S. Department of Housing and Urban Development (HUD) on September 30, 2020. Both sources expressed concern that deobligations make agencies' small-business achievements unpredictable and uncertain.

II. Data Analysis and Agency Collaboration

After receiving the OSDBU Council and HUD letters, SBA analyzed the FPDS data to examine the effect of deobligations on agencies' prime contracting achievements on SBA Scorecard. SBA rejected the idea of excluding all deobligations from the Scorecard because it is quite common for an agency to obligate and deobligate funds on an award in the same fiscal year. SBA also considered but rejected the idea of excluding all deobligations associated with contracts awarded in prior fiscal years because doing so would present an opportunity to agencies to raise their Scorecard scores by obligating small-business dollars at the end of one fiscal year and then immediately deobligating in the next fiscal year.

Furthermore, deobligations occur on all types of awards, including those held by other-than-small contractors. SBA found it incongruous to apply a treatment simply to deobligations of small-business awards.

SBA thus analyzed what effect it would have to exclude deobligations that are associated with awards for which the last positive obligation occurred more than one fiscal year prior. The exclusion changed the governmentwide small-business prime-contracting percentage by less than a tenth of a percentage point. For certain agencies, however, the exclusion significantly impacted the agency's prime-contracting achievements.

SBA shared these results with the Small Business Procurement Advisory Council (SBPAC) at the group's January 2022 meeting and solicited feedback from the SBPAC members. At the February 2022 meeting of the OSDBU Council, SBA further discussed the results and the proposal adopted below. SBA later updated the SBPAC at that body's February 2022 meeting.

III. Exclusion for Deobligations

Starting in the Scorecard for FY 2022, SBA will interpret ''awards'' for the purposes of the Scorecard program to exclude certain deobligations that, when included in the Scorecard, present a distorted view of the opportunities for small businesses to participate in Government contracts with Federal agencies. Specifically, SBA will exclude deobligations that are associated with prime awards for which the most recent positive-dollar obligation was from a year earlier than the most recent prior fiscal year.

SBA will identify the deobligations to be excluded by determining whether the deobligation is on an award (defined by the combination of Procurement Instrument Identifier (PIID) Indefinite Delivery Vehicle PIID (IDV PIID)) that does not have a positive obligation in the current fiscal year or prior fiscal year. The deobligations identified for exclusion will be removed from the current-year Scorecard calculations regardless of whether the transaction was associated with a small business or an other-than-small business.

The following examples illustrate this deobligations exclusions method:

Example 1: Agency A awards Contract X for $1 million, obligating $1 million in FY22 to a small business. Agency A deobligates $1 million on Contract X in FY22. The deobligation is not excluded, and the total obligation for Contract X is $0 for FY22.

Example 2: Agency B awards Contract Y for $1 million, obligating $1 million in FY17 to an other-than-small business. Agency B then obligates $1 million in each of FY18, FY19, FY20, and FY21 on Contract Y. Agency B then deobligates $1 million on Contract Y in FY22. The deobligation is not excluded as it has the same contract identifier as a contract that had a positive obligation not more than one fiscal year prior. The total obligation for Contract Y for FY22 is negative $1 million.

Example 3: Agency C awards Contract Z for $1 million, obligating $1 million in FY11. Agency C then obligates $1 million in each of FY12, FY13, FY14, and FY15. Agency C then deobligates $1 million on Contract Z in FY22. The deobligation is excluded from the FY22 Scorecard calculations because the most recent positive obligation was from more than one fiscal year prior. The total obligation for Contract Z for FY22 is $0. This exclusion applies regardless of whether Contract Z was awarded to a small business or an other-than-small business.

SBA will track excluded obligations for FY22 and beyond and will continue monitor and refine this methodology as necessary.

Antonio Doss,

Deputy Associate Administrator, Office of Government Contracting and Business Development.

[FR Doc. 2022–13287 Filed 6–21–22; 8:45 am]

BILLING CODE 8026–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36613]

Commonwealth Railway, Incorporated—Trackage Rights Exemption—Norfolk Southern Railway Company

Commonwealth Railway, Incorporated (CWRY), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1180.2(d)(7) for the acquisition of local trackage rights over approximately 2.3 miles of rail line owned by Norfolk Southern Railway (NSR) in and near Fairview, W. Va., between approximately States Run Road at milepost LR 77.3 and the end of the track at approximately milepost LR 79.6 (the Line).

Pursuant to a written trackage rights agreement, NSR is granting CWRY trackage rights on the Line to provide local switching service to and from the American Consolidated Natural Resources, Inc., facility at Fairview.[1]

The transaction may be consummated on July 6, 2022, the effective date of the exemption (30 days after the verified notice was filed).

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk & Western Railway—Trackage Rights—Burlington Northern, Inc.,* 354 I.C.C. 605

[1] A redacted copy of the agreement is attached to the verified notice. An unredacted copy has been filed under seal along with a motion for protective order pursuant to 49 CFR 1104.14. That motion is being addressed in a separate decision.

(1978), as modified in *Mendocino Coast Railway—Lease & Operate—California Western Railroad,* 360 I.C.C. 653 (1980).

If the 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 by June 29, 2022 (at least seven days before the exemption becomes effective).

All pleadings, referring to Docket No. FD 36613, should be filed with the Surface Transportation Board either via e-filing or in writing addressed to 395 E Street SW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on CWRY's representative, Eric M. Hocky, Clark Hill PLC, Two Commerce Square, 2001 Market St., Suite 2620, Philadelphia, PA 19103.

According to CWRY, 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)(3).

Board decisions and notices are available at *www.stb.gov.*

Decided: June 16, 2022.

By the Board, Valerie O. Quinn, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2022–13389 Filed 6–21–22; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2022–0828]

Agency Information Collection Activities: Requests for Comments; Clearance of a Renewed Approval of Information Collection: Small Unmanned Aircraft Registration System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Aircraft registration is necessary to ensure personal accountability among all users of the National Airspace System (NAS). Aircraft registration also allows the FAA and law enforcement agencies to address non-compliance by providing the means for identifying an aircraft's owner and operator. This collection also permits individuals to de-register or update their record in the registration database.

DATES: Written comments should be submitted by August 22, 2022.

ADDRESSES: Please send written comments:

By Electronic Docket: www.regulations.gov (Enter docket number into search field).

By mail: Kevin West, Manager, Aircraft Registration Branch, AFB–710, PO Box 25504, Oklahoma City, OK 73125.

By fax: 405–954–8068.

FOR FURTHER INFORMATION CONTACT: Bonnie Lefko by email at: *bonnie.lefko@faa.gov;* phone: 405–954–7461.

SUPPLEMENTARY INFORMATION:

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

OMB Control Number: 2120–0765.

Title: Small Unmanned Aircraft Registration System.

Form Numbers: None.

Type of Review: Renewal of an information collection.

Background: The Secretary of the Department of Transportation (DOT) and the Administrator of the Federal Aviation Administration (FAA) affirmed that all unmanned aircraft, including model aircraft, are aircraft. As such, in accordance with 49 U.S.C. 44101(a) and as further prescribed in 14 CFR part 48, registration is required prior to operation. *See* 80 FR 63912, 63913 (October 22, 2015). Registration allows the FAA to provide respondents with educational materials regarding safety of flight in the NAS to promote greater accountability and responsibility of these new users. Registration also allows the FAA and law enforcement agencies to address non-compliance by providing the means for identifying an aircraft's owner and operator.

Subject to certain exceptions discussed below, aircraft must be registered prior to operation. See 49 U.S.C. 44101–44103. Upon registration, the Administrator must issue a certificate of registration to the aircraft owner. See 49 U.S.C. 44103.

Registration, however, does not provide the authority to operate. Persons intending to operate a small unmanned aircraft must operate in accordance with the exception for limited recreational operations (49 U.S.C. 44809), part 107 or part 91, in accordance with a waiver issued under part 107, in accordance with an exemption issued under 14 CFR part 11 (including those persons operating under an exemption issued pursuant to 49 U.S.C. 44807), or in conjunction with the issuance of a special airworthiness certificate, and are required to register.

Respondents: 283,761 registrants and 21,910 de-registrants based on CY 2021 data.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 6 minutes per response to register and 3 minutes per response to de-register.

Estimated Total Annual Burden: Approximately 28,376 hours to register and 1,096 to de-register.

Issued in Oklahoma City, OK on June 16, 2022.

Bonnie Lefko,

Program Analyst, FAA, Civil Aviation Registry, AFB–700.

[FR Doc. 2022–13319 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice of Final Agency Actions on Proposed Railroad Project in California on Behalf of the California High Speed Rail Authority

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: FRA, on behalf of the California High-Speed Rail Authority (Authority), is issuing this notice to announce actions taken by the Authority that are final. By this notice, FRA is advising the public of the time limit to file a claim seeking judicial review of the actions. The actions relate to the California High-Speed Rail San Jose to Merced Project Section (Project). These actions grant approvals for project implementation pursuant to the National Environmental Policy Act (NEPA) and other laws, regulations, and executive orders.

DATES: A claim seeking judicial review of the agency actions on the Project will be barred unless the claim is filed on or before June 21, 2024. If Federal law later authorizes a time period of less than 2 years for filing such claim, then that shorter time period applies.

FOR FURTHER INFORMATION CONTACT:

For the Authority: Scott Rothenberg, NEPA Assignment Manager, Environmental Services, California High-Speed Rail Authority, telephone: (916) 403–6936; email: *Scott.Rothenberg@hsr.ca.gov.*

For FRA: Marlys Osterhues, Division Chief, Environment and Systems Planning, Federal Railroad Administration, telephone: (202) 493–0413; email: *Marlys.Osterhues@dot.gov.*

SUPPLEMENTARY INFORMATION: Effective July 23, 2019, FRA assigned, and the State of California acting through the Authority assumed, environmental responsibilities for the California High-Speed Rail (HSR) System pursuant to 23 U.S.C. 327. Notice is given that the Authority has taken final agency actions subject to 23 U.S.C. 139(*l*)(1); 49 U.S.C. 24201(a)(4) by issuing approvals for the Project. The purpose of the California HSR System [1] is to provide a reliable, high-speed, electric-powered train system that links the major metropolitan areas of California, delivering predictable and consistent travel times. A further objective is to provide an interface with commercial airports, mass transit, and the highway network, and to relieve capacity constraints of the existing transportation system as increases in intercity travel demand in California occur, in a manner sensitive to and protective of California's unique natural resources. The Authority has selected Alternative 4, with the San Jose Diridon Station, a station in downtown Gilroy, the South Gilroy Maintenance-of-Way Facility and maintenance of way siding (MOWS) west of Turner Island Road in the Central Valley, as identified in the Final Environmental Impact Statement (Final EIS) and Record of Decision, for the San Jose to Merced Project because the Selected Alternative (1) best satisfies the Purpose, Need, and Objectives for the Project and (2) minimizes impacts on the natural and human environment by utilizing an existing transportation corridor where practicable and incorporating mitigation measures where practicable. The actions by the Authority, and the laws under which such actions were taken, are described in the Project's Final EIS and Record of Decision (ROD). The ROD was executed on June 1, 2022. The ROD, Final EIS, and other documents will be available online in PDF at the Authority's website (*www.hsr.ca.gov*) and via electronic media by calling (916) 324–1541.

This notice applies to the ROD, Final EIS, and all other Federal agency decisions with respect to the Project as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. NEPA;
2. Council on Environmental Quality regulations (1978); [2]
3. Fixing America's Surface Transportation Act (FAST Act);
4. Department of Transportation Act of 1966, Section 4(f);
5. Land and Water Conservation Fund (LWCF) Act of 1965, Section 6(f);
6. Clean Air Act Amendments of 1990;
7. Clean Water Act of 1977 and 1987;
8. Endangered Species Act of 1973;
9. Migratory Bird Treaty Act;
10. National Historic Preservation Act of 1966, as amended;
11. Executive Order 11990, Protection of Wetlands;
12. Executive Order 11988, Floodplain Management;
13. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations;
14. Executive Order 13112, Invasive Species.

Issued in Washington, DC.

Jamie P. Rennert,

Director, Office of Infrastructure Investment.

[FR Doc. 2022–13277 Filed 6–21–22; 8:45 am]

BILLING CODE 4910–06–P

[1] The California HSR System will be implemented in two phases. Phase 1 will connect San Francisco to Los Angeles and Anaheim via the Pacheco Pass and the southern Central Valley. Phase 2 will extend the HSR system from the Central Valley (starting at the Merced Station) to the state's capital in Sacramento and from Los Angeles to San Diego.

[2] The Council on Environmental Quality (CEQ) issued new regulations on July 14, 2020, effective September 14, 2020, updating the NEPA implementing procedures at 40 CFR 1500 through 1508. However, this project initiated NEPA before the effective date and relies on the CEQ regulations as they existed prior to September 14, 2020. All subsequent citations to the CEQ regulations in the ROD and Final EIS refer to the 1978 regulations, consistent with 40 CFR 1506.13 (2020) and the preamble at 85 FR 43340.

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Action

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 two individuals 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.

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 Action

On June 15, 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. SHEVCHUK, Stanislav (a.k.a. SHEVCHUK, Stanislav Anatolevich), Ul Asanalieva 8 24, Minsk, Belarus; Spain; DOB 19 Aug 1974; POB Ukraine; nationality Ukraine; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport FB990310 (Ukraine); Identification Number 1974081900757 (Ukraine) (individual) [SDGT] (Linked To: RUSSIAN IMPERIAL MOVEMENT).

Designated pursuant to section 1(a)(iii)(A) of Executive Order 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism,'' 66 FR 49079, as amended by Executive Order 13886 of September 9, 2019, ''Modernizing Sanctions To Combat Terrorism,'' 84 FR 48041 (E.O. 13224, as amended), for having acted or purported to act for or on behalf of, directly or indirectly, the RUSSIAN IMPERIAL MOVEMENT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

2. ZHUCHKOVSKY, Alexander (a.k.a. ZHUCHKOVSKIY, Aleksander; a.k.a. ZHUCHKOVSKIY, Alexander Grigorevich; a.k.a. ZHUCHKOVSKIY, Alexandr; a.k.a. ZHUCHKOVSKY, Alexandr), Voronezhskaya Dom 62 10, Saint Petersburg 190000, Russia; Ul Voronezhskaya D 62 KV 10, Saint Petersburg 658000, Russia; Profinterna 12 3, Rostov Na Donu 344000, Russia; DOB 09 Sep

1986; POB Russia; nationality Russia; Gender Male; Secondary sanctions risk: section 1(b) of Executive Order 13224, as amended by Executive Order 13886; Passport 4014075407 (Russia); alt. Passport 4009930376 (Russia); Tax ID No. 781697836992 (Russia); Government Gazette Number 2187800076825 (Russia) (individual) [SDGT] (Linked To: RUSSIAN IMPERIAL MOVEMENT).

Designated pursuant to section 1(a)(iii)(C) of E.O. 13224, as amended, for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the RUSSIAN IMPERIAL MOVEMENT, a person whose property and interests in property are blocked pursuant to E.O. 13224, as amended.

Dated: June 15, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–13316 Filed 6–21–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0016]

Agency Information Collection Activity Under OMB Review: Claim for Disability Insurance Benefits, Government Life Insurance

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–0016.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0016'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 44 U.S.C. 3501–21.

Title: Claim for Disability Insurance Benefits—VA Form 29–357.

OMB Control Number: 2900–0016.

Type of Review: Extension of a currently approved collection.

Abstract: This form is used by the policyholder to claim disability insurance benefits on S–DVI, NSLI and USGLI policies. The information requested is authorized by law, 38 U.S.C. 1912, 1915, 1922, 1942 and 1948.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 16827 on March 24, 2022, pages 16827 and 16828.

Affected Public: Individuals or Households.

Estimated Annual Burden: 14,175 hours.

Estimated Average Burden per Respondent: 1 Hour and 45 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 8,100.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration, Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13315 Filed 6–21–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–XXXX]

Agency Information Collection Activity: Guaranteed or Insured Loan Reporting Requirements

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Loan Guaranty Service, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: 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. Refer to ''OMB Control No. 2900–XXXX.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–XXXX'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 CFR 36.4303.

Title: Guaranteed or Insured Loan Reporting Requirements.

OMB Control Number: 2900–XXXX.

Type of Review: New Collection.

Abstract: This information collection package seeks OMB approval of information collection requirements currently found in VA regulations, but that do not appear to have previously been approved by OMB. VA statute requires lenders to report a guaranteed or insured loan to VA in such detail as the Secretary may prescribe. 38 U.S.C. 3702(c). In cases where the loan is guaranteed, the Secretary shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. Regulations codified at 38 CFR 36.4303 detail the requirements of lenders to report loans to VA in order to obtain evidence of the guaranty.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 87 FR 46 on March 9, 2022, pages 13371 and 13372.

Affected Public: Individuals and households.

Estimated Annual Burden: 67,452 hours.

Estimated Average Burden per Respondent: 4.8 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 843,150.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13257 Filed 6–21–22; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0086]

Agency Information Collection Activity: Request for a Certificate of Eligibility for VA Home Loan Benefit

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before August 22, 2022.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0086'' in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Maribel Aponte, Office of Enterprise and Integration, Data Governance Analytics (008), 1717 H Street NW, Washington, DC 20006, (202) 266–4688 or email *maribel.aponte@va.gov.* Please refer to ''OMB Control No. 2900–0086'' in any correspondence.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104–13; 44 U.S.C. 3501–3521.

Title: Request for a Certificate of Eligibility for VA Home Loan Benefit, VA Form 26–1880.

OMB Control Number: 2900–0086.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 26–1880 is used by VA to determine an applicant's eligibility for Loan Guaranty benefits, and the amount of entitlement available. Each completed form is normally accompanied by proof of military service and is submitted by the applicant to VA. If eligible, VA will issue the applicant a Certificate of Eligibility (COE) to be used in applying for Loan Guaranty benefits.

This form is also used in restoration of entitlement cases. Generally, if an applicant has used all or part of his or her entitlement, it may be restored if (1) the property has been sold and the loan has been paid in full or (2) a qualified veteran-transferee agrees to assume the balance on the loan and agrees to substitute his or her entitlement for the same amount of entitlement originally used by the applicant to get the loan. The buyer must also meet the occupancy and income and credit requirements of the law. Restoration is not automatic; an applicant must apply for it by completing VA Form 26–1880.

The Secretary is required by 38 U.S.C. 3702(a), (b), and (c) to determine the applicant's eligibility for Loan Guaranty benefits, compute the amount of entitlement, and document the certificate with the amount and type of guaranty used and the amount, if any, remaining.

Affected Public: Individuals and households.

Estimated Annual Burden: 142,917 hours.

Estimated Average Burden per Respondent: Weighted average 4.75 minutes.

- By completing VA Form 26–1880 or Electronic Application by Lender or Veteran: 15 minutes.
- By requesting Automated Certificate of Eligibility by Lender or Veteran and Automatically Issued: 30 seconds.

Frequency of Response: One-time.

Estimated Number of Respondents: TOTAL 1,925,000.

- By completing VA Form 26–1880 or Electronic Application by Lender or Veteran: 1,400,000.
- By requesting Automated Certificate of Eligibility by Lender or Veteran and Automatically Issued: 525,000.

By direction of the Secretary.

Maribel Aponte,

VA PRA Clearance Officer, Office of Enterprise and Integration/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2022–13258 Filed 6–21–22; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 87 Wednesday,

No. 119 June 22, 2022

Part II

Department of the Interior

Fish and Wildlife Service
50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Species Status With a Section 4(d) Rule for Ocmulgee Skullcap and Designation of Critical Habitat; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2021–0059; FF09E21000 FXES1111090FEDR 223]

RIN 1018–BE01

Endangered and Threatened Wildlife and Plants; Threatened Species Status With a Section 4(d) Rule for Ocmulgee Skullcap and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to list the Ocmulgee skullcap (*Scutellaria ocmulgee*), a plant species from Georgia and South Carolina, as a threatened species and designate critical habitat under the Endangered Species Act of 1973, as amended (Act). This determination also serves as our 12-month finding on a petition to list the Ocmulgee skullcap. After a review of the best available scientific and commercial information, we find that listing the species is warranted. Accordingly, we propose to list the Ocmulgee skullcap as a threatened species with a rule issued under section 4(d) of the Act (''4(d) rule''). If we finalize this rule as proposed, it will add this species to the List of Endangered and Threatened Plants and extend the Act's protections to the species. We also propose to designate critical habitat for the Ocmulgee skullcap under the Act. In total, approximately 6,577 acres (ac) (2,662 hectares (ha)) in Bibb, Bleckley, Burke, Columbia, Houston, Monroe, Pulaski, Richmond, Screven, and Twiggs counties, Georgia, and Aiken and Edgefield counties, South Carolina, fall within the boundaries of the proposed critical habitat designation. We also announce the availability of a draft economic analysis (DEA) of the proposed designation of critical habitat for the Ocmulgee skullcap.

DATES: We will accept comments received or postmarked on or before August 22, 2022. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date. We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by August 8, 2022.

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

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter the docket number or RIN for this rulemaking (presented above in the document headings). For best results, do not copy and paste either number; instead, type the docket number or RIN into the Search box using hyphens. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R4–ES–2021–0059, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: 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* under Docket No. FWS–R4–ES–2021–0059 and on the Service's website, at *https://www.fws.gov/office/georgia-ecological-services/library.* Additional supporting information that we developed for this critical habitat designation will also be available on the Service's website, at *https://www.regulations.gov,* or both.

FOR FURTHER INFORMATION CONTACT: Peter Maholland, Acting Field Supervisor, U.S. Fish and Wildlife Service, Georgia Ecological Services Field Office, 355 East Hancock Avenue, Room 320, Athens, Georgia 30601; telephone 706–613–6059. 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 Ocmulgee skullcap meets the definition of a threatened species; therefore, we are proposing to list it as such and proposing a designation of its critical habitat. Both listing a species as an endangered or threatened species and designating critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process.

What this document does. We propose to list the Ocmulgee skullcap as a threatened species, provide measures under section 4(d) of the Act that are tailored to our current understanding of the conservation needs of the species, and propose the designation of critical habitat for the species.

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 primary threats to the Ocmulgee skullcap's current and future condition are habitat loss and fragmentation due to development and urbanization (Factor A), competition and encroachment from nonnative invasive species (Factor A and E), and herbivory from white-tailed deer (*Odocoileus virginianus*) (Factor C).

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.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American Tribes, the scientific community, industry, or any other interested parties concerning this proposed rule.

We particularly seek comments concerning:

(1) Ocmulgee skullcap's biology, range, and population trends, including:

(a) Biological or ecological requirements of the species, including habitat requirements for growing and reproducing;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) Factors that may affect the continued existence of the species, which may include habitat modification or destruction, overutilization, disease, predation, the inadequacy of existing regulatory mechanisms, or other natural or manmade factors.

(3) Biological, commercial trade, or other relevant data concerning any threats (or lack thereof) to this species and existing regulations that may be addressing those threats.

(4) Additional information concerning the historical and current status, range, distribution, and population size of this species, including the locations of any additional populations of this species.

(5) Information on regulations that are necessary and advisable to provide for the conservation of the Ocmulgee skullcap and that we can consider in developing a 4(d) rule for the species. In particular, information concerning the extent to which we should include any of the section 9 prohibitions in the 4(d) rule or whether we should consider any additional exceptions from the prohibitions in the 4(d) rule.

(6) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including information to inform the following factors that the regulations identify as reasons why designation of critical habitat may be not prudent:

(a) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(b) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(c) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States; or

(d) No areas meet the definition of critical habitat.

(7) Specific information on:

(a) The amount and distribution of Ocmulgee skullcap habitat;

(b) What areas, that were occupied at the time of listing and that contain the physical or biological features essential to the conservation of the species, should be included in the designation and why;

(c) Any additional areas occurring within the range of the species, (*i.e.,* Georgia and South Carolina), that should be included in the designation because they (1) are occupied at the time of listing and contain the physical or biological features that are essential to the conservation of the species and that may require special management considerations, or (2) are unoccupied at the time of listing and are essential for the conservation of the species;

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change; and

(e) What areas not occupied at the time of listing are essential for the conservation of the species. We particularly seek comments:

(i) Regarding whether occupied areas are adequate for the conservation of the species; and

(ii) Providing specific information regarding whether or not unoccupied areas would, with reasonable certainty, contribute to the conservation of the species and contain at least one physical or biological feature essential to the conservation of the species, particularly areas in the Savannah River watershed (Unit 1); and

(iii) Explaining whether or not unoccupied areas fall within the definition of ''habitat'' at 50 CFR 424.02 and why.

(8) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(9) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(10) Information on the extent to which the description of probable economic impacts in the draft economic analysis is a reasonable estimate of the likely economic impacts.

(11) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act. If you think we should exclude any additional areas, please provide credible information regarding the existence of a meaningful economic or other relevant impact supporting a benefit of exclusion.

(12) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or a threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document

that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *https://www.regulations.gov*.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov*.

Because we will consider all comments and information we receive during the comment period, our final determinations may differ from this proposal. Based on the new information we receive (and any comments on that new information), we may conclude that the species is endangered instead of threatened, or we may conclude that the species does not warrant listing as either an endangered species or a threatened species. For critical habitat, our final designation may not include all areas proposed, may include some additional areas that meet the definition of critical habitat, and may exclude some areas if we find the benefits of exclusion outweigh the benefits of inclusion. In addition, we may change the parameters of the prohibitions or the exceptions to those prohibitions in the 4(d) rule if we conclude it is appropriate in light of comments and new information received. For example, we may expand the prohibitions to include prohibiting additional activities if we conclude that those additional activities are not compatible with conservation of the species. Conversely, we may establish additional exceptions to the prohibitions in the final rule if we conclude that the activities would facilitate or are compatible with the conservation and recovery of the species.

Public Hearing

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. For the immediate future, we will provide these public hearings using webinars that will be announced on the Service's website, in addition to the **Federal Register**. The use of these virtual public hearings is consistent with our regulation at 50 CFR 424.16(c)(3).

Previous Federal Actions

On April 20, 2010, we were petitioned by the Center for Biological Diversity and others to list 404 riparian and wetland species in the southeastern United States, including Ocmulgee skullcap, under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; Act) and designate critical habitat (CBD 2010, entire). In response to the petition, we completed a partial 90-day finding on September 27, 2011, in which we announced our finding that the petition contained substantial information indicating the Ocmulgee skullcap may warrant listing (76 FR 59836).

Supporting Documents

A species status assessment (SSA) team prepared an SSA report for the Ocmulgee skullcap. 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 the expert opinions of 3 appropriate specialists regarding the SSA. We received 1 response. We also sent the SSA report to 2 partners, including scientists with expertise in biology, habitat, and threats to the species, for review. We received review from 2 partners (State agencies). The SSA report and other materials relating to this proposal can be found at *https://www.regulations.gov* under Docket No. FWS–R4–ES–2021–0059.

I. Proposed Listing Determination

Background

A thorough review of the taxonomy, life history, and ecology of the Ocmulgee skullcap (*Scutellaria ocmulgee*) is presented in the SSA report (version 1.2; Service 2020, pp. 4–11). Ocmulgee skullcap is a perennial herb in the Lamiaceae (mint) family with 4-sided stems that grows up to 16 to 32 inches (in) (40 to 80 centimeters (cm)) tall. It bears blue-violet colored and faintly fragrant flowers in July. Although taxonomy for Ocmulgee skullcap has been consistent through time, identification of the species is difficult; as a result, some occurrences of the congeneric *S. mellichampii* were misidentified as Ocmulgee skullcap prior to 2018.

Ocmulgee skullcap is restricted to the moist, calcareous (calcium rich) north-facing slopes along the Ocmulgee and Savannah River watersheds in Georgia and South Carolina. In these isolated bluff and slope areas, the forest structure is composed of a mixed-hardwood species of trees with a partially open canopy to allow the plants to reach maturity and produce viable seed. The mature, mixed-level canopy provides the mottled shade required by Ocmulgee skullcap. The river bluffs and steep slopes experience localized disturbances including water runoff that limit the accumulation of leaf litter and limit competition from other plants in the shaded, steep forest environment.

The lifespan of Ocmulgee skullcap is estimated to be 5–8 years with 3–6 years of potential viable seed production. The species matures to produce seed in either the first or second year following spring germination. Ocmulgee skullcap reproduces sexually and is pollinated by over 35 different pollinator species including bees, moths, butterflies, and sometimes flies and wasps (Adams et al. 2010, p. 53, Cruzan 2001, pp. 1577–1578).

Ocmulgee skullcap seeds release from the plant in response to disturbance of the stem by wind, rain, animal activity, or other means. The seeds require this dislodging and bare soil rich in calcium under partial shade in order to germinate. Juvenile Ocmulgee skullcap individuals require sufficient amounts of sunlight, moisture, and calcium, presence of pollinators and stable soil conditions to reach maturity and produce seed. In addition, juvenile plants are sensitive to competition for needed resources. Mature Ocmulgee skullcap plants require the same resources as juvenile plants including sufficient time without herbivory or other removal of the seed calyx in order disperse seed.

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 or 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 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 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 proposed for listing as an endangered or threatened species under the Act. However, it does 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 No. FWS–R4–ES–2021–0059 on *https://www.regulations.gov*.

To assess Ocmulgee skullcap 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 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. For Ocmulgee skullcap populations to be sufficiently resilient, the needs of individuals (calcium-rich soil, shade or partial shade from canopy cover, adequate precipitation, reduced competition, pollinators) must be met at a large scale. Areas of suitable habitat must be large enough to support pollinators needed for Ocmulgee skullcap reproduction and must include a spatial buffer that acts to prevent or delay encroachment by nonnative invasive species. At the species level, the Ocmulgee skullcap needs a sufficient number and distribution of healthy populations to withstand environmental stochasticity (resiliency) and catastrophes (redundancy) and to adapt to biological and physical changes in its environment (representation).

Influences on Ocmulgee Skullcap Viability

In the SSA analysis, we reviewed and summarized the factors that may influence the viability of Ocmulgee skullcap. Potential threats to Ocmulgee skullcap's viability include the following factors: (1) habitat destruction and modification; (2) competition from other species (*e.g.,* Chinese privet, autumn and thorny olive, Japanese honeysuckle, kudzu, etc.); (3) collection and harvest; (4) herbivory; (5) climate change, and (6) pollinator visitation and reproduction (Service 2020, pp. 12–17). We found the primary factors driving the species' current and future conditions are habitat loss and fragmentation due to development and urbanization (Factor A), competition and encroachment from nonnative invasive species (Factors A and E), and herbivory from white-tailed deer (Factor C). Although medicinal properties of other *Scutellaria* species have been investigated (Service 2020, p. 13), there is no evidence that overutilization (Factor B) has impacted Ocmulgee skullcap. In addition, conditions across the species' range are likely to be hotter and subject to variable precipitation including extreme weather events. Although we do not have specific information regarding the species likely response to these effects of climate change, we expect that the effects of climate change will negatively affect Ocmulgee skullcap by reducing available resources such as water and limited competition. We do not consider climate change (Factor E) to be a primary risk factor for the species at this time; however, the effects of climate change, including drought and changes in rainfall patterns may affect the species in the future as changes become more extreme. We also reviewed the conservation efforts being undertaken for the habitat where Ocmulgee skullcap occurs. A brief summary of relevant stressors is presented below; for a more detailed discussion of our evaluation of the biological status of Ocmulgee skullcap and the influences that may affect its continued existence, refer to chapter 3 of the SSA report (Service 2020, pp. 12–20).

Urbanization and Land Conversion

Population growth and associated urbanization and development has increased in the Southeast at a rate 40% greater than the rest of the United States over the last 60 years. Much of this growth is in sprawling low-density, suburban areas encompassing large areas of single-family housing and infrastructure (Terando et al. 2014, p. e102261). Land conversion for residential and commercial development, infrastructure, and pine plantation is associated with an increase in population. Two Ocmulgee skullcap populations occur near the city of Macon, Georgia and another population occurs near the city of Augusta, Georgia. Urbanization and land conversion can directly and indirectly impact Ocmulgee skullcap (Morris et al. 2000, pp. 31–32). Urbanization can result in the direct loss of individuals or a population. For example, one occurrence in the Savannah River watershed has been extirpated due to land conversion to pine plantation (Bradley 2019, p. 30), resulting in the loss of the species and its habitat from this location. In addition, urbanization of surrounding or adjacent areas can indirectly impact Ocmulgee skullcap, and two other known occurrences have experienced altered conditions, such as parking lot expansion and erosion on the bluff due to nearby residential development, due to surrounding areas being developed (*i.e.,* urbanization) (Bradley 2019, pp. 27–29).

Further, land use patterns and urbanization near Ocmulgee skullcap occurrences can impact population resiliency. Urbanization modifies surrounding and nearby habitat conditions required by Ocmulgee skullcap by fostering the introduction of nonnative invasive species and increasing the amount and velocity of water runoff during precipitation events due to an increase of impervious surfaces. As further discussed below, nonnative invasive species compete with Ocmulgee skullcap for required resources. Increased runoff reduces the availability of nutrients and soil conditions required for successful reproduction, affecting Ocmulgee skullcap recruitment and resiliency. Because Ocmulgee skullcap grows along steep slopes, when the tops of bluffs are logged or cleared for other land uses, runoff and erosion are increased. Increased water flows containing sediments or other pollutants wash downslope and negatively affect the species' habitat by depositing sediments or pollutants in low gradient areas. In addition, erosion caused by logging and timber harvest activities as well as clearing of forested areas for development increases water runoff along the steep slopes where the species occurs and may remove or damage Ocmulgee skullcap plants (Morris 1999, p. 3). Historical and recent (since 1999) logging on bluffs and resulting erosion occur near five Ocmulgee skullcap occurrences (Morris 1999, entire; Bradley 2019, p. 1–40, 73–78).

Herbivory

Over the last century, white-tailed deer abundance has increased substantially (Horsely et al. 2003, p. 1). White-tailed deer result in herbivory (including preferential browsing of native plants) and trampling, resulting in impacts to plant development and species density, diversity, and composition (Miller et al. 1992, entire; Horsely et al. 2003, p. 113; Averill et al. 2017, p. 2). For many *Scutellaria* species, including Ocmulgee skullcap, immature stems are often browsed by deer; this herbivory can prevent reproduction of that stem for the year if the plant does not flower (Bradley 2019, p. 77). In addition, individual plants may be pulled from the ground during browsing. In contrast, deer herbivory was found to have a potential positive influence on the *Scutellaria montana* (large-flowered skullcap), where deer browsed on all vegetation and large-flowered skullcap individuals benefited from the reduction in competing vegetation (Benson and Boyd 2014, p. 89). However, in 2018, deer herbivory was observed in every Ocmulgee skullcap population surveyed, with severe impacts on reproduction documented at some sites (Bradley 2019, entire). In previous surveys for the species, deer herbivory was documented (Morris 1999, p. 3; Snow 1999, p. 8); therefore, we conclude that deer herbivory continues to be an ongoing threat to Ocmulgee skullcap.

The direct impacts from white-tailed deer are widely noted across the range of the Ocmulgee skullcap with herbivory documented at various levels at numerous sites (Bradley 2019, entire). Survey reports note the presence of herbivory in over 75 percent of occurrences and point to herbivory by deer as a limiting factor for Ocmulgee skullcap populations (Cammack and Genachte 1999, entire; Morris 1999, entire; Snow 1999, entire; Morris et al. 2000; Snow 2001, entire; Bradley 2019, entire). When immature stems of Ocmulgee skullcap are browsed by deer, the plant cannot flower and set seed, thus preventing reproduction of that stem for the year (Bradley 2019, p. 77).

In addition to direct impacts, deer browse affects the vegetative community through facilitation of browse-resilient species and potential increases in species that compete with Ocmulgee skullcap for resources (Horsely et al. 2003, p. 114–115). Encroaching development has decreased the amount and quality of forage and habitat for white-tailed deer, which can increase

the probability of herbivory within Ocmulgee skullcap suitable habitat. Further, as development increases, restrictions on deer harvest in proximity to residential areas may lead to an increase in deer populations and associated herbivory of Ocmulgee skullcap.

Extirpation of the Ocmulgee skullcap occurrence at the Savannah River Bluffs Heritage Preserve in Aiken County, South Carolina, is attributed to severe herbivory by deer (Bradley 2019, p. 24). The preserve is the site of intense public recreation; therefore, deer harvest is not permitted within the preserve for public safety reasons. In addition, residents in housing developments adjacent to the preserve feed the deer and may maintain large piles of ''deer corn'' (Bradley 2019, p. 24). This abundance of food and lack of hunting pressure has resulted in an unnaturally dense deer population surrounding this occurrence. The habitat at this site is now a depauperate, almost barren herbaceous layer.

Nonnative Invasive Species

Invasive plant species limit the available resources (nutrients, space, sunlight, pollinators) necessary for Ocmulgee skullcap germination, growth, and reproduction. The introduction and spread of nonnative invasive species often occur with development (McKinney 2002, p. 888). However, nonnative invasive species can also be introduced from other types of adjacent land uses, such as agriculture and silviculture. This introduction occurs through the creation of areas of transition between natural and anthropogenic affected habitat types and associated edge effects (Brown and Boutin 2009, p. 1654; Honu et al. 2009, p. 182). Nonnative invasive plant species have been documented at 8 of the 32 current Ocmulgee skullcap occurrences (Bradley 2019, entire; Morris 1999, entire).

Nonnative invasive species known to affect multiple Ocmulgee skullcap populations include: *Elaeagnus pungens* (thorny olive), *E. umbellate* (autumn olive), *Ligustrum sinense* (Chinese privet), *Lonicera japonica* (Japanese honeysuckle), and *Microstegium vimineum* (Japanese stiltgrass) (Morris et al. 2000, p. 31, Bradley 2019, p.77). On some sites, other nonnative invasive species, including *Pueraria montana* var. *lobate* (kudzu), *Vinca minor* (periwinkle), *Citrus trifoliata* (hardy orange), and *Pyrus communis* (common pear) pose localized threats to occurrences and/or populations (Bradley 2019, p. 77). These nonnative invasive species, when present, compete with Ocmulgee skullcap plants for required resources including sunlight, water, and space.

Intact forested habitat with a mature canopy and discrete disturbances provides an important buffer of suitable habitat for Ocmulgee skullcap populations to decrease encroachment of competing nonnative invasive plants. Competition with other native species and nonnative invasive species can restrict seedlings, vegetative plants, and flowering plants from obtaining the three key resources (water, sunlight, and soil) needed to grow and reproduce; therefore, healthy Ocmulgee skullcap individuals and populations need reduced competition.

Climate Change

In the southeast United States, several climate change models have projected more frequent drought, more extreme air temperatures, increased heavy precipitation events (*e.g.,* flooding), and more intense storms (*e.g.,* frequency of major hurricanes increases) (Burkett and Kusler 2000, p. 314; Klos et al. 2009, p. 699; IPCC 2013, pp. 3–29). When taking into account future climate projections for temperature and precipitation where Ocmulgee skullcap occurs, warming is expected to be greatest in the summer, which is predicted to increase drought frequency. Additionally, annual mean precipitation is expected to increase, but only slightly, and thus, leading to a slight increase in flooding events (Alder and Hostetler 2013, unpaginated; IPCC 2013, entire; USGS 2020, unpaginated).

To understand how climate change is projected to change where Ocmulgee skullcap occurs, we used the National Climate Change Viewer (NCCV), a climate-visualization tool developed by the U.S. Geological Survey (USGS), to generate future climate projections across the range of the species. The NCCV is a web-based tool for visualizing projected changes in climate and water balance at watershed, state, and county scales (USGS 2020, unpaginated). To evaluate the effects of climate change in the future, we used projections from Representative Concentration Pathway (RCP) 4.5 and RCP8.5 to characterize projected future changes in climate and water resources, averaged for the State of Georgia encompassing the majority of the range of the Ocmulgee skullcap. The projections estimate change in mean annual values for maximum air temperature, minimum air temperature, monthly precipitation, and monthly runoff, among other factors, from historical (1950–2005) to future (2040–2060) time series.

Within the range of the Ocmulgee skullcap, the NCCV projects that under the RCP4.5 scenario, maximum air temperature will increase by 3.4 °F (°F) (1.9 °Celsius (°C), minimum air temperature will increase by 3.2 °F (1.8 °C), precipitation will increase by 0.2 in (5.36 millimeters (mm)) per month, and runoff will remain the same in the 2040–2060 time period (USGS 2020, unpaginated). Under the more extreme RCP8.5 emissions scenario, the NCCV projects that maximum air temperature will increase by 5.0 °F (2.8 °C), minimum air temperature will increase by 4.9 °F (2.7 °C), precipitation will increase by 0.2 in (5.36 mm) per month, and runoff will remain the same (USGS 2020, unpaginated). These estimates indicate that, despite projected minimal increases in annual precipitation, anticipated increases in maximum and minimum air temperatures will likely offset those gains. Based on these projections, Ocmulgee skullcap will, on average, be exposed to increased air temperatures across its range, despite limited increases in precipitation in scenarios based on RCP4.5 and 8.5. The increase of maximum and minimum temperatures and variability in precipitation is expected to result in an increased probability of longer and more severe droughts in the future.

Within mixed hardwood forests where Ocmulgee skullcap occurs, drought conditions due to higher temperatures and variable precipitation could reduce the available resources required for plant survival including water and reduced competition. Extreme rainfall events may increase negative effects from flooding (pollutants) and erosion on the steep slopes where the species occurs. Increased competition from other species more tolerant of drought and extreme rainfall events will also limit the ability of Ocmulgee skullcap to produce viable seed and sustain populations in the wild over time. The species occupies hardwood forests with mature overstory and midstory canopy cover, and these more mesic, shaded habitats may provide a buffer to changes induced by climate change (increased temperature). If precipitation increases slightly, as predicted in some models, and extreme rainfall events are infrequent, the effects to Ocmulgee skullcap could even be beneficial, although this scenario is quite uncertain and climate change is not expected to benefit the species (Alder and Hostetler 2013, unpaginated).

The potential risks associated with long-term climate change as described above will affect ecosystem processes in Ocmulgee skullcap habitat, but there is

uncertainty in how the ecosystems and species will respond. Overall, we do not expect the effects of climate change to be beneficial to the species, but the extent of the negative effects cannot be estimated with the available information on the species' responses to increased temperature and variability in precipitation. Likewise, the threshold or level at which changes in temperature (prolonged hot weather) and rainfall (drought or extreme rainfall events) are expected to affect Ocmulgee skullcap is not available for the species or its congeners. We do not consider climate change to be a primary risk factor for the species at this time; however, the effects of climate change, including drought and changes in rainfall patterns may affect the species in the future as changes become more extreme.

Small Population Size

Some plant species, such as Ocmulgee skullcap, are naturally distributed as small and disjunct populations in heterogeneous landscapes because of their requirements for specific habitat conditions. The specific habitat requirement of Ocmulgee skullcap (*i.e.,* calcium rich soil on forested bluffs) are disjunct and therefore populations are generally very small with 15 of 19 population occurrences having 50 or fewer individuals and 9 populations having 10 or fewer. Only three populations have more than 100 individuals (Service 2020, Appendix A). It is unknown whether Ocmulgee skullcap was historically more abundant but given the magnitude and scope of past habitat loss and modification, it is likely the species' numbers are lower than in the past. In addition, small and isolated populations offer limited nectar and pollen resources available to pollinators, making visitation to these sites more energetically expensive. Small, isolated populations of rare plant species often receive less pollinator visitation in comparison with larger or more widespread plant species (Ellstrand and Elam 1993, p. 227).

Small populations are vulnerable to habitat impacts and face a higher risk of extinction (Matthies et al. 2004, p. 481). Small population size may increase the extinction risk of individual populations due to stochasticity of demographic (fluctuations in population size) and genetic (fluctuations in gene expression) characteristics, environmental stochasticity (spatiotemporal fluctuations in environmental conditions), or impacts from catastrophic events (*e.g.,* hurricanes) (Lande 1993, entire). Within each population, genetic, phenotypic, and demographic structure must have adequate representation for populations to respond to environmental change over time.

Genetic stochasticity due to small population size can contribute to population extirpation, especially when population fragmentation disrupts gene flow. Two genetic consequences of small population size are increased genetic drift and inbreeding. Genetic drift is the random change in allele frequency that occurs because gametes transmitted from one generation to the next carry only a sample of the alleles present in the parental generation. In large populations, changes due to chance in allele frequency from drift are generally small. In contrast, in small populations (*e.g.,* fewer than 100 individuals), allele frequencies may undergo large and unpredictable fluctuations due to drift that can erode genetic variation (diversity) over time and may decrease the potential for a species to persist in the face of environmental change (Ellstrand and Elam 1993, pp. 219, 224). Inbreeding, which can be caused by genetic drift, is the mating of related individuals. Inbreeding can lead to increased homozygosity in a population above levels expected under random mating (Barrett and Kohn 1991, p. 19). Small population size alone may not necessarily threaten the long-term viability of a given population, as small populations of some isolated endemic plant species are known to maintain stable populations for at least 40 years (Abeli 2010, p. 6). However, the synergistic effect of habitat fragmentation, reduced population size, and inbreeding may lead to inbreeding depression and reduced fitness.

Conservation Efforts

Ocmulgee skullcap is listed as threatened in Georgia (Patrick et al. 1995, pp. 173–174) and is not listed or otherwise protected in South Carolina. In Georgia, the Georgia Wildflower Preservation Act of 1973 protects Ocmulgee skullcap growing on State lands from cutting, digging, pulling, or removing unless the Georgia Department of Natural Resources has authorized such acts (Georgia Code 2015). The six populations occurring on State owned or managed Wildlife Management Areas receive the benefits of this Wildflower Preservation Act protection.

Throughout the range of the species, portions of populations occur on lands owned and managed by State and Federal entities that prioritize conservation as a management objective. The Robins Air Force Base Integrated Natural Resource Management Plan specifically considers and manages for two Ocmulgee skullcap occurrences in hardwood bluff areas on the installation and a third occurrence also on the base (see Exemptions, below). The State conservation lands owned or leased and managed by Georgia Department of Natural Resources where Ocmulgee skullcap occurs include Yuchi Creek Wildlife Management Area (WMA), Echeconnee Natural Area, Ocmulgee WMA, and the Oaky Woods WMA. It is expected that the six Ocmulgee skullcap populations are positively affected by protection from development on these State-owned and managed lands and may also benefit when species-appropriate habitat management occurs on Federal lands.

Synergistic and Cumulative Effects

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.

In addition to factors impacting Ocmulgee skullcap individually, it is likely that several of the above summarized threats are acting synergistically or cumulatively on the species. The combined impacts of multiple threats are likely more harmful than a single threat acting alone. Development and urbanization may remove or degrade habitat where Ocmulgee skullcap occurs and also bring an increase in encroaching nonnative invasive species and white-tailed deer due to hunting restrictions near inhabited areas. In addition, herbivory by white-tailed deer may change the community structure to favor plants more resistant to deer browse. The impacts of herbivory by white-tailed deer and competition from nonnative invasive species were

recently noted in several populations (Bradley 2019, entire).

Methods To Assess Current Condition

To evaluate the biological status of Ocmulgee skullcap both currently and into the future, we assessed a range of conditions to consider the species' resiliency, redundancy, and representation. For the purposes of our analysis, representative units (RUs) were delineated to describe the breadth of known genetic, phenotypic, and ecological diversity within the species. We divided the current Ocmulgee skullcap range into two noncontiguous RUs, the Ocmulgee and Savannah River watersheds. We used NatureServe's Habitat-based Plant Element Occurrence Delineation Guidance (NatureServe 2020, entire) 2-km separation distance rule to delineate populations. We delineated populations of the Ocmulgee skullcap using occurrence data obtained from peer-reviewed articles, unpublished survey reports, and survey records (1961 to present) contained in agency and partner databases (*i.e.,* Georgia and South Carolina Natural Heritage databases). Occurrences are defined as an individual or group of individuals in close proximity in an area not widely separated from other individuals. Rangewide, each of the 26 occurrences was buffered by a 2 kilometer (km) (1.24 mile (mi)) radius circle and occurrences with overlapping buffers were considered within the same population, resulting in 19 current Ocmulgee skullcap populations (13 in the Ocmulgee RU and 6 in Savannah RU) (Table 1). Historical occurrence data are limited, but we assumed that the current distribution of Ocmulgee skullcap populations represents at least most of the historical range of the species within the Ocmulgee and Savannah watersheds in Georgia and South Carolina.

TABLE 1—POPULATIONS USED TO ASSESS VIABILITY OF THE OCMULGEE SKULLCAP IN THE OCMULGEE AND SAVANNAH REPRESENTATIVE UNITS

Ocmulgee representative unit populations	Savannah representative unit populations
James Dykes Memorial	Burke South.
Robins Air Force Base	Burke North.
Savage Branch	Columbia Richmond.
Bolingbroke Rest Area	Barney Bluff.
Crooked Creek	Horse Creek.
Jordan Creek	Prescott Lakes.
Shellstone Creek	
Dry Creek	
Oaky Woods Wildlife Management Area North.	
Oaky Woods Wildlife Management Area South.	
River North Bluff	
South Shellstone Creek	
Tributary to Richland Creek.	

The Ocmulgee skullcap needs multiple, sufficiently resilient populations distributed across its range to maintain viability. A sufficiently resilient population exhibits high or moderate resiliency and is characterized by 60 or more individuals in stable or increasing numbers of widespread occurrences with no or few invasive species and no or minor change in habitat condition. A number of factors influence whether Ocmulgee skullcap populations exhibit resiliency to stochastic events. These factors include: (1) Number of individuals in all occurrences within a population, (2) number of flowering individuals (reproductive adults) within a population, (3) number of occurrences (groups of individuals) within a population, (4) change in number of occurrences within a population over time, and (5) condition of habitat, which is directly related to growth, survival, and reproductive success (Service 2020, p. 23). To capture important aspects of the habitat condition, we used two factors, both of which characterize the quality and quantity of native herbaceous ground cover: (1) Presence of nonnative invasive plant species (competition) and (2) presence of deer herbivory (browsing) (Service 2020, p. 23).

We assessed representation for the Ocmulgee skullcap based on the potential adaptive capacity of the species as expressed in the number of current populations across the historical range of the species and within representative units. Finally, we assessed Ocmulgee skullcap redundancy (the ability of a species to withstand catastrophic events) by evaluating the number and distribution of sufficiently resilient populations throughout the species' range.

Current Conditions of Ocmulgee Skullcap

As described above, we delineated the range of Ocmulgee skullcap into two representative units and 19 populations for our analyses. Having a greater number of self-sustaining populations distributed across the known range of the species is associated with an overall higher viability of the species into the future. We determined four condition classes for Ocmulgee skullcap resiliency: very low, low, moderate, and high. A population exhibiting high resiliency is characterized by 100 or more individuals, with multiple, widespread clusters of individuals, an increasing trend in the number of occurrences, few or no nonnative invasive plant species, no evident deer browse impacts, and no substantial change in habitat condition. Moderate resiliency populations are characterized by 60–100 individuals, with a few, somewhat widespread clusters of individuals, stable number of occurrences, few or no nonnative invasive plant species, evident deer browse impacts, and only minor changes in habitat condition. A population in low resiliency is characterized by 40–59 individuals, with two clusters of individuals, a decreasing trend in the number of occurrences, presence of nonnative invasive plant species and deer browse impacts, and moderate change in habitat condition. A very low resiliency population is characterized by <40 individuals in a single, isolated site with evidence of nonnative invasive plant species and deer browse, and substantial change in habitat condition. Resiliency categories are further described in the SSA report (Service 2020, p. 24. Table 4–1).

Currently, 16 of 19 populations within the species' range exhibit low or very low resiliency (see Table 2, below). One population within the Ocmulgee RU exhibits moderate resiliency, and two populations within the Savannah RU exhibit moderate or high resiliency (Table 2). The majority of Ocmulgee skullcap populations of the Ocmulgee skullcap have generally low resilience to stochastic events. Two occurrences within extant populations in the Savannah RU have been extirpated because of deer browsing and land conversion to pine plantation; currently, there are no known extirpated populations.

The Ocmulgee skullcap is found in two non-contiguous RUs (watersheds); and currently occupies the known historical range of the species. Only two occurrences within two populations have been extirpated, but those populations are still extant. Thus, representation may be slightly reduced from the species' historical condition. Based on available information, we determined the Ocmulgee skullcap has adaptive capacity or ability to adapt to changing environmental conditions, given that 19 populations occur in two

watersheds in two states and no populations have been lost from the known historical range. Sixteen of 19 known populations currently exhibit low to very low resiliency across the range, but these populations are distributed across two watersheds in two states across the historical range. Overall, the Ocmulgee skullcap current condition is characterized by low or reduced resiliency, moderate representation and multiple redundant populations.

TABLE 2—CURRENT RESILIENCY CATEGORY OF EACH OCMULGEE SKULLCAP POPULATION

[Service 2020]

Population name	Number of individuals	Overall resiliency category *
Ocmulgee Representative Unit (Ocmulgee River watershed)		
James Dykes Memorial	54	Moderate.
Robins Air Force Base	3	Low.
Savage Branch	50	Low.
Bolingbroke Rest Area	8	Low.
Crooked Creek	31	Low.
Jordan Creek	50	Low.
Shellstone Creek	46	Low.
Dry Creek	10	Very low.
Oaky Woods WMA North	1	Very low.
Oaky Woods WMA South	1	Very low
River North Bluff	1	Very low.
South Shellstone Creek	15	Very low.
Tributary to Richland Creek	6	Very low.
Savannah Representative Unit (Savannah River watershed)		
Burke South	319	High.
Burke North	112	Moderate.
Columbia Richmond	450	Low.
Barney Bluff	50	Low.
Horse Creek	1	Very low.
Prescott Lakes	0	Very low.

* Overall resiliency category includes the demographic metrics of the number of individuals, number of occurrences, and change in number of occurrences, and the habitat metric assessment of native herbaceous groundcover/habitat condition.

Future Scenarios

Given the current conditions of Ocmulgee skullcap and the expected influences on viability, we projected the resiliency, redundancy, and representation of Ocmulgee skullcap under three plausible future scenarios. Our projections incorporate the effects of development (urbanization) and habitat management actions that reduce nonnative invasive species and herbivory from white-tailed deer. We developed three plausible scenarios to assess the future viability of Ocmulgee skullcap populations and predicted how those scenarios affect to future populations' resiliency, representation, and redundancy. Future fluctuations in precipitation and increased annual average temperatures as a result from climate change may also impact the species, but these were not included in our future predictions due to uncertainty surrounding the effects to the species (Service 2020, pp. 15–17).

We evaluated each of the scenarios in terms of how it would be expected to affect Ocmulgee skullcap resiliency, redundancy, and representation of the species in 2040 and 2060. We chose a predictive time horizon of 2040 and 2060 based on the average lifespan of the species (5–8 years), confidence in projections and models of factors influencing the species' viability, and certainty in predictions of the species' response to those factors. We assessed the projected urbanization under two development scenarios using the SLEUTH model—a low development projection that includes areas with a greater than 90 percent probability of being urbanized and a high development projection that includes areas with a greater than 10 percent probability of being urbanized. We then categorized the predicted loss of suitable habitat within the population area extent due to urbanization as high (67–100%), medium (34–67%), or low (0–33%). The habitat loss projections fell into one of two result patterns; one pattern represents the low development projection in 2040, the second represents the low development projection in 2060, the high development projection in 2040, and the high development projection in 2060. Thus, the low development projection results encompass both the upper and lower plausible bounds for the urbanization and development scenarios. To avoid redundancy in our analysis, we used the low development projection in all three future condition scenarios and note that the low development scenario projections for 2060 also represent the high urbanization probability for 2040 and 2060. All three scenarios incorporate the risk level of urbanization and development predicted by the low development probability model in both timesteps, but differ in the level of habitat management (nonnative invasive species control and white-tailed deer harvest) implemented. The scenarios we evaluated for Ocmulgee skullcap are as follows (scenarios are discussed in greater detail in the SSA report (Service 2020, p. 36–42)):

- *Scenario 1 (Decreased Management and Conservation):* the current level of habitat management decreases over time; no additional populations are protected; and there is no augmentation and/or reintroduction of populations;
- *Scenario 2 (Status Quo Management):* the existing level of habitat management remains constant over time; no additional populations are protected; propagation and seed storage efforts remain intact, but no populations

are augmented or reintroduced in the historical range; and

• *Scenario 3 (Increased Management and Conservation):* additional management efforts (increased removal of nonnative invasive species; increased white-tailed deer harvest); additional populations and suitable habitats are protected; and populations are augmented and/or reintroduced on protected lands within the historical range.

Projected urbanization and three plausible future management scenarios (decreased, status quo, and increased levels of management) were evaluated to predict future Ocmulgee skullcap viability. Under Scenario 1 (decreased management), resiliency is decreased for all populations, 10 populations are predicted to be extirpated by 2040, and an additional population is predicted to be extirpated by 2060 (Table 3). All populations experience a decline in resiliency with one moderately resilient population remaining in both time steps. No highly resilient populations will remain in 2040 and 2060. Overall, redundancy is expected to decline in Scenario 1 with fewer, less resilient Ocmulgee skullcap populations with a narrower distribution across the species' range. Ten populations are projected to be extirpated in the Ocmulgee RU and three are expected to be extirpated in the Savannah RU, with all populations losing resiliency and affecting redundancy. With over half of all populations predicted to be extirpated, representation is expected to decline.

Under Scenario 2 (status quo management), six populations experience declines in resiliency in 2040 and eight populations experience declines in resiliency in 2060 (Table 3). No populations are expected to increase in resiliency under Scenario 2. Five populations are predicted to be extirpated by 2040 and six populations are predicted to be extirpated by 2060. Three populations with high or moderate resiliency remain under Scenario 2, with the remaining extant populations exhibiting low or very low resiliency at 2040 and 2060, respectively. The populations predicted to be extirpated occur across the distribution in the Ocmulgee RU (five populations) and in the upstream portion of the Savannah RU (one population). Given reduced species resiliency and extirpation of populations in both RUs, species redundancy is predicted to be reduced from current levels under Scenario 2 with status quo management and conservation efforts. Five populations in the Ocmulgee RU and one population in the Savannah RU are predicted to be extirpated under Scenario 3, with most populations declining in resiliency and affecting species redundancy. With fewer populations in both RUs and reduced abundance in remaining populations, species' representation is expected to decline from the current moderate level.

Under Scenario 3 (increased management), resiliency changes are mixed, but overall, there is an increase in population resiliency. However, one population is predicted to be extirpated by 2040 and three populations are predicted to be extirpated by 2060 in this scenario. One population is projected to the extirpated in 2040 and three populations are projected to be extirpated in 2060 in the Ocmulgee RU, with no extirpations projected in the Savannah RU. In addition, the increased management and conservation efforts scenario includes augmentation, establishment, or reintroduction of additional populations within the species' historical range, providing increased redundancy for the species. Representation for the species is expected to remain at the moderate level in Scenario 3, with population extirpations countered by reintroduction and establishment of new populations.

In all scenarios, the loss of sufficiently resilient populations within both RUs indicates a future decline in the species' adaptive capacity (representation). In addition, when populations are extirpated, connectivity between populations is reduced, further limiting potential genetic exchange between populations. Under all three plausible future scenarios, the number of populations is decreased and the distribution of populations across the species' range is reduced. However, extant populations remain in both RUs under the conditions assessed, although most populations exhibit low resiliency. The predicted declines in resiliency and extirpation of populations within both representative units indicates a future decline in the species' redundancy. Therefore, Ocmulgee skullcap is at an increased risk of extirpation from a catastrophic event.

TABLE 3—FUTURE RESILIENCY OF 19 OCMULGEE SKULLCAP POPULATIONS WITH LOW FUTURE DEVELOPMENT RISK AND UNDER THREE FUTURE MANAGEMENT SCENARIOS AT 2040 AND 2060. CHANGES BETWEEN POPULATION RESILIENCY AT 2040 AND 2060 ARE SHOWN IN BOLD

Population name	Current resiliency	Scenario 1	Scenario 2	Scenario 3
		2040/2060	2040/2060	2040/2060
Ocmulgee RU				
James Dykes Memorial	Moderate	Low/Low	Moderate/Moderate	High/High.
Robins Air Force Base	Low	Very Low/Very Low	Low/Low	Moderate/Moderate.
Savage Branch	Low	Extirpated/Extirpated	Extirpated/Extirpated	Extirpated/Extirpated.
Bolingbroke Rest Area	Low	Very Low/Very Low	Low/Low	Moderate/Moderate.
Crooked Creek	Low	Very Low/Very Low	Low/Low	Moderate/Moderate.
Jordan Creek	Low	Very Low/Very Low	Low/Low	Moderate.
Shellstone Creek	Low	Very Low/Very Low	Low/Low	Moderate/Moderate.
Dry Creek	Very Low	Extirpated/Extirpated	Extirpated/Extirpated	Low/Extirpated.
Oaky Woods WMA North	Very Low	Extirpated/Extirpated	Extirpated/Extirpated	Moderate/Moderate.
Oaky Woods WMA South	Very Low	Extirpated/Extirpated	Extirpated/Extirpated	Low/Extirpated.
River North Bluff	Very Low	Extirpated/Extirpated	Extirpated/Extirpated	Very Low/Very Low.
South Shellstone Creek	Very Low	Extirpated/Extirpated	Very Low/Very Low	Low/Low.
Tributary to Richland Creek.	Very Low	Extirpated/Extirpated	Very Low/Very Low	Low/Low.
Savannah RU				
Burke South	High	Moderate/Moderate	High/High	High/High.

TABLE 3—FUTURE RESILIENCY OF 19 OCMULGEE SKULLCAP POPULATIONS WITH LOW FUTURE DEVELOPMENT RISK AND UNDER THREE FUTURE MANAGEMENT SCENARIOS AT 2040 AND 2060. CHANGES BETWEEN POPULATION RESILIENCY AT 2040 AND 2060 ARE SHOWN IN BOLD—Continued

Population name	Current resiliency	Scenario 1	Scenario 2	Scenario 3
		2040/2060	2040/2060	2040/2060
Burke North	Moderate	Low/Low	Moderate/Moderate	High/High.
Columbia Richmond	Low	Very Low/Extirpated	Low/Very Low	Moderate/Low.
Barney Bluff	Low	Extirpated/Extirpated	Very Low/Very Low	Low/Low.
Horse Creek	Very Low	Extirpated/Extirpated	Very Low/Extirpated	Low/Very Low.
Prescott Lakes	Very Low	Extirpated/Extirpated	Very Low/Very Low	Low/Low.

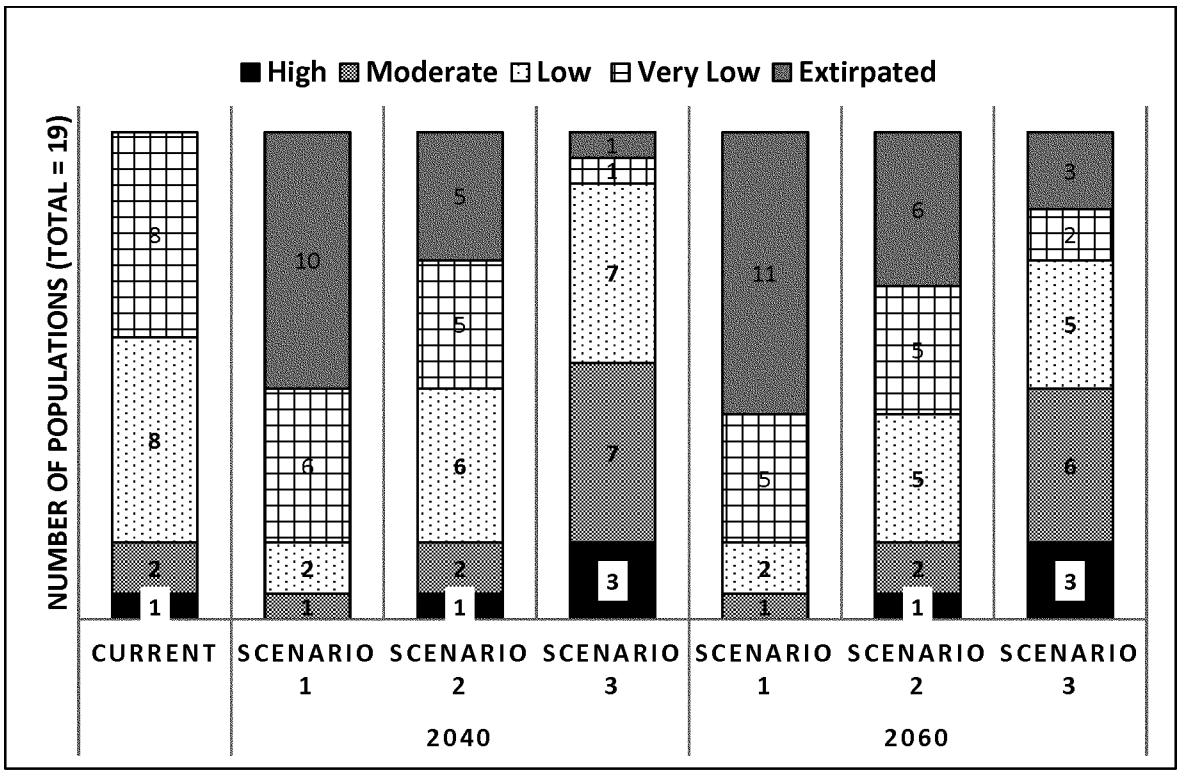

Figure 1. Future resiliency for 19 Ocmulgee skullcap populations at 2040 and 2060 under three future scenarios. Scenario 1 is decreased management; Scenario 2 is status quo management; and Scenario 3 is increased management. Current population resiliency is shown for comparison.

Determination of Ocmulgee Skullcap 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

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats, and the cumulative effect of the threats to the Ocmulgee skullcap. Our review of the best

available information indicates Ocmulgee skullcap occurs in 19 extant populations in 2 representative units, the Ocmulgee River watershed in Georgia (13 populations) and the Savannah River watershed in Georgia/South Carolina (6 populations), across the historical range of the species. Recently, there have been two extirpations of occurrences within currently extant populations in the Savannah River watershed. One occurrence extirpation resulted from land use conversion to a pine plantation and the other from severe deer herbivory. Ocmulgee skullcap populations are generally small. At present, 3 extant populations contain >100 individuals and 15 extant populations have 50 or fewer than 50 individuals. Generally, the Ocmulgee skullcap has low resilience to stochastic events at the population level. Sixteen of the known populations have low abundance and exhibit low or very low resiliency to stochastic events. Of the remaining three (out of 19) extant populations, one population in the Savannah RU has high resiliency and two have moderate resiliency (one in each the Ocmulgee and Savannah RUs). As stated previously, Ocmulgee skullcap populations are distributed in two watersheds across the historical range of the species. We determined the Ocmulgee skullcap has sufficient representation based on the species occurrences across the range and the lack of population extirpations. The species-level redundancy was determined to be reduced from historical condition due to the loss of two occurrences. Although populations are distributed across the species' range, the resiliency of most populations is low or very low. Overall, the species has sufficient redundancy and the ability to withstand catastrophic events.

Ocmulgee skullcap faces threats from habitat degradation or loss as a result of development and urbanization (Factor A), competition and encroachment from nonnative invasive species (Factor A and E) and from herbivory by white-tailed deer (Factor C). These threats, which are expected to be exacerbated by the small population size and existing regulatory mechanisms that do not adequately addressing the threats, were important factors in our assessment of the future viability of Ocmulgee skullcap. The existing regulatory mechanisms (Factor D) are not adequately addressing these threats to the extent that listing is not warranted. Overutilization (Factor B), disease (Factor C), or climate change (Factor E) are not currently affecting Ocmulgee skullcap populations or are projected to do so in the future.

While threats are currently acting on most of the Ocmulgee skullcap populations throughout its range, we find that the Ocmulgee skullcap is not currently in danger of extinction throughout its range, because the species current representation and redundancy is only slightly reduced from historical conditions (two occurrences extirpated), and currently includes one highly resilient population and two moderately resilient populations. Further, an additional 16 extant populations, albeit with low to very low resiliency, occur across the historical range of the species. In addition, given that the species occurs in two different watersheds (two representative units), a single catastrophic event is not likely to impact both units at the same time. The current condition still provides for resiliency, redundancy, and representation such that it is not currently at risk of extinction throughout its range. Therefore, we did not find that Ocmulgee skullcap is currently in danger of extinction throughout all of its range, based on the current condition of the species; thus, an endangered status is not appropriate.

However, we expect that resiliency, redundancy, and representation for the Ocmulgee skullcap will be reduced from its current condition in the foreseeable future. In the future, an increase in urbanization, competition from nonnative plants, and herbivory by white-tailed deer in and near the habitat where Ocmulgee skullcap occurs is expected. Given current and projected decreases in resiliency, populations would become more vulnerable to extirpation from stochastic events, in turn, resulting in concurrent losses in representation and redundancy. The three plausible future scenarios, which projected urbanization and changes in management of the species' habitat conditions and population factors, suggest potential extirpation of as many as 11 of the 19 currently extant populations and a further loss of resiliency in all populations. The future scenario expected to be most beneficial to the species (through increased management) projected the loss of three populations by 2060 with some populations exhibiting increased resiliency.

The current threats to Ocmulgee skullcap are expected to continue into the future. To assess future conditions, we used a 40-year timeframe to account for reasonable predictions of threats continuing into the future based on our examination of empirical data in the recent past and takes into consideration the biology of the species (multiple generations of a plant with a 5–8-year lifespan). Based on the average lifespan of the species, confidence in projections and models of factors influencing the species' viability, and certainty in predictions of the species' response to those factors, we assessed the future condition of Ocmulgee skullcap at the predictive time horizon of 2060. By using the 40-year time step for future scenarios, we represented a minimum of six generations to account for normal variation in plant reproduction and annual variation in climate conditions.

Our analysis of the best available information determined the threats currently acting upon the Ocmulgee skullcap are expected to continue into the foreseeable future, some of which (urbanization) are reasonably expected to worsen over time, thus reducing the species' resiliency, redundancy, and representation. Overall, the current threats acting on the Ocmulgee skullcap and its habitat are expected to continue, and there are no indications that these threats would lessen or that declining population trends would be reversed. These threats and the effects to Ocmulgee skullcap put the species at risk of extinction in the foreseeable future due to its limited resiliency, representation, and redundancy. Based on our assessment, the Ocmulgee skullcap is likely to become an endangered species within the foreseeable future 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 conclude that the risk factors acting on the Ocmulgee skullcap and its habitat, either singly or in combination, are not of sufficient imminence, scope, or magnitude to indicate the species is in danger of extinction now. Thus, after assessing the best available information, we conclude that Ocmulgee skullcap is not currently in danger of extinction but is likely to become in danger of extinction within the foreseeable future throughout all of its 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. The court in *Center for Biological Diversity* v. *Everson,* 2020 WL 437289 (D.D.C. Jan. 28, 2020) (*Center for Biological Diversity*), 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'' (Final Policy) (79 FR 37578; July 1, 2014) that provided that the Service does not undertake an analysis of significant portions of a species' range if the species warrants listing as threatened throughout all of its range. Therefore, we proceed to evaluating whether the species is endangered in a significant portion of its range—that is, whether there is any portion of the species' range for which both (1) the portion is significant; and (2) the species is in danger of extinction in that portion. Depending on the case, it might be more efficient for us to address the ''significance'' question or the ''status'' question first. We can choose to address either question first. Regardless of which question we address first, if we reach a negative answer with respect to the first question that we address, we do not need to evaluate the other question for that portion of the species' range.

Following the court's holding in *Center for Biological Diversity,* we now consider whether there are any significant portions of the species' range where the species is in danger of extinction now (*i.e.,* endangered). In undertaking this analysis for Ocmulgee skullcap, we choose to address the status question first—we consider information pertaining to the geographic distribution of both the species and the threats that the species faces to identify any portions of the range where the species is endangered.

For Ocmulgee skullcap, we considered whether the threats are geographically concentrated in any portion of the species' range at a biologically meaningful scale. We examined the following threats: habitat loss and fragmentation due to development and urbanization (Factor A); nonnative invasive plants (Factor A and E); and herbivory (Factor C), including cumulative effects. We found no concentration of threats in any portion of the Ocmulgee skullcap's range at a biologically meaningful scale. Ocmulgee skullcap populations affected by invasive plants and herbivory are broadly and evenly distributed across both representative units and the species' range. Populations on protected lands are considered less at risk from stressors associated with current and future development due to long-term management plans, conservation easements in perpetuity, or other protective mechanisms. Nonetheless, Ocmulgee skullcap populations on protected lands (8 of 19 populations) occur throughout the range of the species and have comparable resiliency to populations on non-protected lands, with the exception of one population that exhibits high current resiliency on protected lands.

Thus, there are no portions of the species' range where the species has a different status from its rangewide status. Therefore, no portion of the species' range provides a basis for determining that the species is in danger of extinction in a significant portion of its range, and we determine that the species is likely to become in danger of extinction within the foreseeable future throughout all of its range. This does not conflict with the courts' holdings in *Desert Survivors* v. *U.S. Department of the Interior,* 321 F. Supp. 3d 1011, 1070–74 (N.D. Cal. 2018) and *Center for Biological Diversity* v. *Jewell,* 248 F. Supp. 3d 946, 959 (D. Ariz. 2017) because, in reaching this conclusion, we did not need to consider whether any portions are significant and, therefore, did not apply the aspects of the Final Policy's definition of ''significant'' that those court decisions held were invalid.

Determination of Status

Our review of the best available scientific and commercial information indicates that the Ocmulgee skullcap meets the definition of a threatened species. Therefore, we propose to list the Ocmulgee skullcap as a threatened species in accordance with sections 3(20) and 4(a)(1) of the Act.

Available Conservation Measures

Conservation measures provided for species listed as endangered or threatened species under the Act include recognition as a listed species, planning and implementation of 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 goal of this process is to restore listed species to a point where they are secure, self-sustaining, and functioning components of their ecosystems.

The recovery planning process begins with development of a recovery outline made available to the public soon after a final listing determination. The recovery outline guides the immediate implementation of urgent recovery actions while a recovery plan is being developed. Recovery teams (composed of species experts, Federal and State agencies, nongovernmental organizations, and stakeholders) may be established to develop and implement recovery plans. The recovery planning process involves the identification of actions that are necessary to halt and reverse the species' decline by addressing the threats to its survival and recovery. The recovery plan 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. Revisions of the plan may be done to address continuing or new threats to the species, as new substantive information becomes available. The recovery outline, draft recovery plan, final recovery plan, and any revisions will be available on our website as they are completed (*https://www.fws.gov/endangered*), or from our Georgia 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.

If this species is listed, 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 State(s) of Georgia and South Carolina would be eligible for Federal funds to implement management actions that promote the protection or recovery of the Ocmulgee skullcap. Information on our grant programs that are available to aid species recovery can be found at: *https://www.fws.gov/grants.*

Although the Ocmulgee skullcap is only proposed for listing under the Act at this time, please let us know if you are interested in participating in recovery efforts for this species. 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 proposed or 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)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, 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 the 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 issuance of a permit under section 404 Clean Water Act (33 U.S.C. 1251 *et seq.*) by the U.S. Army Corps of Engineers, and construction and maintenance of roads or highways by the Federal Highway Administration.

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 would or would 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 proposed listing on proposed and ongoing activities within the range of the species proposed for listing. The Act allows the Secretary to promulgate protective regulations for threatened species pursuant to section 4(d) of the Act. The discussion below regarding protective regulations under section 4(d) of the Act complies with our policy.

II. Proposed Rule Issued Under Section 4(d) of the Act

Background

Section 4(d) of the Act contains two sentences. The first sentence states that the Secretary shall issue such regulations as she deems necessary and advisable to provide for the conservation of species listed as threatened. The U.S. Supreme Court has noted that statutory language similar to the language in section 4(d) of the Act authorizing the Secretary to take action that she ''deems necessary and advisable'' affords a large degree of deference to the agency (see *Webster* v. *Doe,* 486 U.S. 592, 600 (1988)). Conservation is defined in the Act to mean the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Additionally, the second sentence of section 4(d) of the Act states that the Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9(a)(1), in the case of fish or wildlife, or section 9(a)(2), in the case of plants. Thus, the combination of the two sentences of section 4(d) provides the Secretary with wide latitude of discretion to select and promulgate appropriate regulations tailored to the specific conservation needs of the threatened species. The second sentence grants particularly broad discretion to the Service when adopting one or more of the prohibitions under section 9.

The courts have recognized the extent of the Secretary's discretion under this standard to develop rules that are appropriate for the conservation of a species. For example, courts have upheld, as a valid exercise of agency authority, rules developed under section 4(d) that included limited prohibitions against takings (see *Alsea Valley Alliance* v. *Lautenbacher,* 2007 WL 2344927 (D. Or. 2007); *Washington Environmental Council* v. *National Marine Fisheries Service,* 2002 WL 511479 (W.D. Wash. 2002)). Courts have also upheld 4(d) rules that do not address all of the threats a species faces (see *State of Louisiana* v. *Verity,* 853 F.2d 322 (5th Cir. 1988)). As noted in the legislative history when the Act was initially enacted, ''once an animal is on the threatened list, the Secretary has an almost infinite number of options available to [her] with regard to the permitted activities for those species. [She] may, for example, permit taking, but not importation of such species, or [she] may choose to forbid both taking and importation but allow the transportation of such species'' (H.R. Rep. No. 412, 93rd Cong., 1st Sess. 1973).

The provisions of this proposed 4(d) rule would promote conservation of the Ocmulgee skullcap by encouraging management of the landscape in ways that meet both land management considerations and the conservation needs of the Ocmulgee skullcap, specifically by providing exceptions for incidental take for State agency conservation actions, scientific permits for research, and use of cultivated-origin seeds for education. The provisions of this proposed rule are one of many tools that we would use to promote the conservation of the Ocmulgee skullcap. This proposed 4(d) rule would apply only if and when we make final the listing of the Ocmulgee skullcap as a threatened species.

As mentioned previously in Available Conservation Measures, 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. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action that is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

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 Federal 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.

These requirements are the same for a threatened species with a species-specific 4(d) rule. For example, a Federal agency's determination that an action is ''not likely to adversely affect'' a threatened species will require the Service's written concurrence. Similarly, a Federal agency's determination that an action is ''likely to adversely affect'' a threatened species will require formal consultation and the formulation of a biological opinion.

Provisions of the Proposed 4(d) Rule

Exercising the Secretary's authority under section 4(d) of the Act, we have developed a proposed rule that is designed to address the Ocmulgee skullcap's conservation needs. As discussed previously in the Summary of Biological Status and Threats, we have concluded that the Ocmulgee skullcap is likely to become in danger of extinction within the foreseeable future primarily due to development and urbanization, increasing prevalence of nonnative invasive plants, herbivory, and the interaction between these elements. Specifically, a number of activities have the potential to affect the Ocmulgee skullcap, including land clearing for development, agriculture and silviculture, and actions related to urbanization and development. Section 4(d) requires the Secretary to issue such regulations as she deems necessary and advisable to provide for the conservation of each threatened species and authorizes the Secretary to include among those protective regulations any of the prohibitions that section 9(a)(2) of the Act prescribes for endangered species. We find that, if finalized, the protections, prohibitions, and exceptions in this proposed rule as a whole satisfy the requirement in section 4(d) of the Act to issue regulations deemed necessary and advisable to provide for the conservation of the Ocmulgee skullcap.

The protective regulations we are proposing for the Ocmulgee skullcap incorporate prohibitions from section 9(a)(2) to address the threats to the species. Section 9(a)(2) prohibits the following activities for endangered plants: importing or exporting; certain acts related to removing, damaging, and destroying; delivering, receiving, transporting, or shipping in interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce. These proposed protective regulations include all of these prohibitions for the Ocmulgee skullcap because the Ocmulgee skullcap is at risk of extinction in the foreseeable future and putting these prohibitions in place will help to preserve remaining populations, slowing their rate of potential decline, and decreasing synergistic, negative effects from other stressors. Prohibiting import and export, transportation, and commerce of the species limits unauthorized propagation and distribution. As a whole, the proposed 4(d) rule would help in the efforts to recover the species.

In particular, this proposed 4(d) rule would provide for the conservation of the Ocmulgee skullcap by prohibiting the following activities, unless they fall within specific exceptions or are otherwise authorized or permitted: remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy the species on any such area; remove, cut, dig up, or damage or destroy the species 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; importing or exporting; certain acts related to interstate or foreign commerce in the course of commercial activity; or selling or offering for sale in interstate or foreign commerce.

The exceptions to the prohibitions would include all the general exceptions to the prohibition against removing and reducing to possession endangered plants, as set forth in 50 CFR 17.61.

Despite these prohibitions regarding threatened species, we may under certain circumstances issue permits to carry out one or more otherwise-prohibited activities, including those described above. The regulations that govern permits for threatened plants state that the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened species (50 CFR 17.72). Those regulations also state that the permit shall be governed by the provisions of § 17.72 unless a special rule applicable to the plant is provided in §§ 17.73 to 17.78. Therefore, permits for threatened species are governed by the provisions of § 17.72 unless a species-specific 4(d) rule provides otherwise. However, under our recent revisions to § 17.71, the prohibitions in § 17.71(a) will not apply to any plant listed as a threatened species after September 26, 2019. As a result, for threatened plant species listed after that date, any protections must be contained in a species-specific 4(d) rule. We did not intend for those revisions to limit or alter the applicability of the permitting provisions in § 17.72, or to require that every species-specific 4(d) rule spell out any permitting provisions that apply to that species and species-specific 4(d) rule. To the contrary, we anticipate that permitting provisions would generally be similar or identical for most species, so applying the provisions of § 17.72 unless a species-specific 4(d) rule provides otherwise would likely avoid substantial duplication. Moreover, this interpretation brings § 17.72 in line with the comparable provision for wildlife at 50 CFR 17.32, in which the second sentence states that the permit shall be governed by the provisions of § 17.32 unless a special rule applicable to the wildlife, appearing in 50 CFR 17.40 to 17.48, provides otherwise. Under 50 CFR 17.72 with regard to threatened plants, a permit may be issued for the following purposes: for scientific purposes, to enhance propagation or survival, for economic hardship, for botanical or horticultural exhibition, for educational purposes, or for other purposes consistent with the purposes and policy of the Act. Additional statutory exemptions from the prohibitions are found in sections 9 and 10 of the Act.

We recognize the beneficial and educational aspects of activities with seeds of cultivated plants, which generally enhance the propagation of the species and, therefore, would satisfy permit requirements under the Act. We intend to monitor the interstate and foreign commerce and import and export of these specimens in a manner that will not inhibit such activities, providing the activities do not represent a threat to the survival of the species in the wild. In this regard, seeds of cultivated specimens would not be subject to the prohibitions above, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container (*e.g.,* the seeds could be moved across State lines or between territories for purposes of seed banking or to use for outplanting without additional regulations) (50 CFR 17.71(a)).

We recognize the special and unique relationship with our State natural resource agency partners in contributing to conservation of listed species. State agencies often possess scientific data and valuable expertise on the status and distribution of endangered, threatened, and candidate species of wildlife and plants. State agencies, because of their authorities and their close working

relationships with local governments and landowners, are in a unique position to assist the Service in implementing all aspects of the Act. In this regard, section 6 of the Act provides that the Service shall cooperate to the maximum extent practicable with the States in carrying out programs authorized by the Act. Therefore, any qualified employee or agent of a State conservation agency that is a party to a cooperative agreement with the Service in accordance with section 6(c) of the Act, who is designated by his or her agency for such purposes, would be able to conduct activities designed to conserve the Ocmulgee skullcap, which may result in otherwise prohibited activities without additional authorization.

Nothing in this proposed 4(d) rule would change in any way the recovery planning provisions of section 4(f) of the Act, the consultation requirements under section 7 of the Act, or our ability to enter into partnerships for the management and protection of the Ocmulgee skullcap. However, interagency cooperation may be further streamlined through planned programmatic consultations for the species between us and other Federal agencies, where appropriate. We ask the public, particularly State agencies and other interested stakeholders that may be affected by the proposed 4(d) rule, to provide comments and suggestions regarding additional guidance and methods that we could provide or use, respectively, to streamline the implementation of this proposed 4(d) rule (see Information Requested, above).

III. 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). Additionally, our regulations at 50 CFR 424.02 define the word ''habitat,'' for the purposes of designating critical habitat only, as the abiotic and biotic setting that currently or periodically contains the resources and conditions necessary to support one or more life processes of a species. We proposed to rescind this definition on October 27, 2021 (86 FR 59353); however, for purposes of this rule, we have determined the proposed critical habitat designation meets this definition.

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 the 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 those planning efforts calls for a different outcome.

Prudency Determination

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary shall designate critical habitat at the time the species is determined to be an endangered or threatened species. Our regulations (50 CFR 424.12(a)(1)) state that the Secretary may, but is not required to, determine that a designation would not be prudent in the following circumstances:

(i) The species is threatened by taking or other human activity and identification of critical habitat can be expected to increase the degree of such threat to the species;

(ii) The present or threatened destruction, modification, or curtailment of a species' habitat or range is not a threat to the species, or threats to the species' habitat stem solely from causes that cannot be addressed through management actions resulting from consultations under section 7(a)(2) of the Act;

(iii) Areas within the jurisdiction of the United States provide no more than negligible conservation value, if any, for a species occurring primarily outside the jurisdiction of the United States;

(iv) No areas meet the definition of critical habitat; or

(v) The Secretary otherwise determines that designation of critical habitat would not be prudent based on the best scientific data available.

As discussed earlier in this document, there is currently no imminent threat of collection or vandalism identified under Factor B for this species, and identification and mapping of critical habitat is not expected to initiate any such threat. In our SSA report and proposed listing determination for the Ocmulgee skullcap, we determined that the present or threatened destruction, modification, or curtailment of habitat or range is a threat to Ocmulgee skullcap and that those threats in some way can be addressed by section 7(a)(2) consultation measures. The species occurs wholly in the jurisdiction of the United States, and we are able to identify areas that meet the definition of critical habitat. Therefore, because none of the circumstances enumerated in our regulations at 50 CFR 424.12(a)(1) have been met and because the Secretary has not identified other circumstances for which this designation of critical habitat would be not prudent, we have determined that the designation of critical habitat is prudent for the Ocmulgee skullcap.

Critical Habitat Determinability

Having determined that designation is prudent, under section 4(a)(3) of the Act we must find whether critical habitat for the Ocmulgee skullcap is determinable. Our regulations at 50 CFR 424.12(a)(2) state that critical habitat is not determinable when one or both of the following situations exist:

(i) Data sufficient to perform required analyses are lacking, or

(ii) The biological needs of the species are not sufficiently well known to identify any area that meets the definition of ''critical habitat.''

When critical habitat is not determinable, the Act allows the Service an additional year to publish a critical habitat designation (16 U.S.C. 1533(b)(6)(C)(ii)).

We reviewed the available information pertaining to the biological needs of the species and habitat characteristics where this species is located. This and other information represent the best scientific data available and led us to conclude that the designation of critical habitat is determinable for the Ocmulgee skullcap.

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 that 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 a 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, the Service 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.

Our SSA report for the Ocmulgee skullcap provides the scientific information upon which this proposed critical habitat designation is based (Service 2020, entire). A thorough account of the ecological needs of the Ocmulgee skullcap can be found in the SSA report (Service 2020, chapter 2, pp. 4–11), and is briefly summarized here in the context of the physical or biological features that are essential to the conservation of the species.

Habitat: As described in the Background section, Ocmulgee skullcap occurs in moist, calcareous hardwood forests on north to northeast facing slopes of river bluffs and their floodplains in the Ocmulgee and Savannah River watersheds in Georgia and South Carolina. River bluffs and steep slopes are subject to localized disturbances that limit the accumulation of leaf litter and competition. Ocmulgee skullcap individuals require reduced competition to grow and reproduce within suitable habitat.

These hardwood forests are characterized by a mature, mixed-level canopy with spatial heterogeneity that provides mottled shade required by Ocmulgee skullcap. The herbaceous layer in this forest type includes a rich diversity of grasses and forbs. These grasses and forbs in the herbaceous layer of an intact forest support the required pollinators for the species in adequate numbers to facilitate Ocmulgee skullcap reproduction. The upper canopy of mixed hardwoods in a forest with suitable habitat provides the partial shade required for germination, growth, and reproduction. Intact calcareous forests are characterized by a diverse species composition ranging from short-lived pioneer species to long-lived shade tolerant species (Edwards et al. 2013, p. 406). Communal species in these areas may consist of red buckeye (*Aesculus pavia*), Eastern redbud (*Cercis canadensis*), white oak (*Quercus alba*), basswood (*Tilia americana*), American holly (*Ilex opaca*), and relict trillium (*Trillium reliquum*) (Edwards et al. 2013, p. 409; Bradley 2019, pp. 21–28).

Intact forested habitat with a mature canopy and discrete disturbances provides an important buffer of suitable habitat for Ocmulgee skullcap populations to decrease encroachment of competing nonnative invasive plants. Competition with other native species and nonnative invasive species can restrict seedlings, vegetative plants, and flowering plants from obtaining the three key resources (water, sunlight, and soil) needed to grow and reproduce; therefore, healthy Ocmulgee skullcap individuals and populations need reduced competition.

Soils: The calcareous hardwood forests where Ocmulgee skullcap occurs are influenced by outcroppings of limestone or marl (*i.e.,* calcium rich parent material for soils). Ocmulgee skullcap requires well-drained soils or shallow, calcium rich soils that are buffered or circumneutral (pH between 6.5 and 7.5) to germinate. These soils occur within regions underlain or otherwise influenced by limestone or marl.

More detail on the habitat and life history needs are summarized above under Background, and a thorough review is available in the SSA report (Service 2020, entire; available on *https://www.regulations.gov* under Docket No. FWS–R4–ES–2021–0059).

A summary of the resource needs of the Ocmulgee skullcap is provided below in Table 4.

TABLE 4—OCMULGEE SKULLCAP INDIVIDUAL RESOURCES NEEDS BY LIFE STAGE. H = HABITAT, N = NUTRITION, R = REPRODUCTION. KEY RESOURCE NEEDS ARE IN BOLDED TEXT AND INCLUDE PRECIPITATION (WATER), PARTIAL SUNLIGHT, SOIL, AND REDUCED COMPETITION

[Collins 1976; Chafin 2008]

Life stage	Resource and/or circumstances needed for individuals to complete life stage	Resource function (HNR)
Seed	Fall/winter precipitation	N
	Bare mineral calcium-rich soil	H, N, R
	Partial sunlight	N
Seedling	Sufficient summer/fall precipitation	N
	Calcium-rich soil	H, N
	Reduced competition from invasives/encroaching plants	H
	Partial sunlight for photosynthesis	N
Vegetative plant	Spring/summer precipitation	N
	Calcium-rich soil	H, N
	Reduced competition from invasives/encroaching plants	H
	Partial sunlight for photosynthesis	N
Flowering plant	Spring/summer precipitation	N
	Calcium-rich soil	H, N
	Reduced competition from invasives/encroaching plants	H
	Pollinators required	R
	Partial sunlight for photosynthesis	N

Summary of Essential Physical or Biological Features

We derive the specific physical or biological features essential to the conservation of Ocmulgee skullcap 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–R4–ES–2021–0059). We have determined that the following physical or biological features are essential to the conservation of Ocmulgee skullcap:

(1) River bluffs with steep and/or shallow soils that are subject to localized disturbances that limit the accumulation of leaf litter and competition within the Upper Gulf Coastal Plain and Piedmont of Georgia.

(2) Well-drained soils that are buffered or circumneutral (pH between 6.5 and 7.5) generally within regions underlain or otherwise influenced by limestone or marl (mixed carbonate-clay rock).

(3) A mature, mixed-level canopy with spatial heterogeneity, providing mottled shade and often including a rich diversity of grasses and forbs characterizing the herb layer.

(4) Intact forested habitat that is fully functional (*i.e.,* with mature canopy and discrete disturbances) and buffered by surrounding habitat to impede the invasion of competitors.

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 Ocmulgee skullcap may require special management considerations or protection to reduce the following threats: development, nonnative invasive species (plants), and herbivory by white-tailed deer.

Special management considerations or protection are required within critical habitat areas to address these threats. Management activities that could ameliorate these threats include, but are not limited to, review of proposed County and State projects and other development projects for effects to Ocmulgee skullcap and its habitat and avoidance of impacts to the species, control and reduction of nonnative invasive species, harvest of deer to reduce herbivory in affected populations, and habitat restoration projects. These management activities would protect the physical or biological features for the species by promoting intact vegetative community with mixed heterogeneity, mottled shade, and a diverse herbaceous layer.

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. To determine and select appropriate occupied areas that contain the physical or biological features essential to the conservation of the species or areas otherwise essential for the conservation of the Ocmulgee skullcap, we developed a conservation strategy for the species. The goal of the conservation strategy for the Ocmulgee skullcap is to recover the species to the point where the protections of the Act are no longer necessary. The role of critical habitat in achieving this conservation goal is to identify the specific areas within the species' range that provide essential physical or biological features, without which range-wide resiliency, redundancy, and representation could not be achieved. We anticipate that recovery will require continued protection of existing populations and habitats that contribute to the viability of the species, as well as ensuring there are adequate numbers of individual plants in populations and that there are multiple sufficiently resilient populations in each representative unit and across the current range of the species. This approach will help to ensure that catastrophic events cannot simultaneously affect all known populations of the Ocmulgee skullcap as well as lead to connectivity among populations. Recovery considerations, such as striving for representation of both watersheds in the species' current range, were considered in formulating this proposal.

Current extant populations, with the exception of one large area, are confined to small patches (ranging in size from 0.24 to 24 ac (0.1 to 9.7 ha)). We defined current extant populations as those with occurrences since 1999. Most populations have occurrence data from 2007–2019, but we included element occurrence data from the 1999 comprehensive species survey in for those few sites that have not been revisited but contain suitable habitat with the physical or biological features essential to the conservation of the species. The areas surrounding these patches contain similar habitat, with the physical or biological features essential to the conservation of the species, although occurrences have not been recorded, and in some instances, no surveys conducted there. Ocmulgee skullcap requires areas of intact hardwood forest to provide the appropriate canopy conditions in large enough areas to buffer the species from encroachment of nonnative invasive species. The small patches do not, by themselves, provide enough habitat to support the species or provide connectivity among populations. In addition, the small populations in these patches experience the exacerbation of other threats associated with small population size (see *Influences on Ocmulgee Skullcap Viability*). Based on the Act's implementing regulations (50 CFR 424.12 (d)), when habitats are in close proximity to one another, an inclusive area may be designated. We delineated populations of Ocmulgee skullcap using a 2 km (1.24 mi) radius circle, with overlapping buffers determined to be within the same population based on the need for sufficient space and resources for required pollinators (NatureServe 2020, entire; Service 2020, p. 21). Therefore, the habitat areas surrounding Ocmulgee skullcap occurrences are also included within these proposed occupied units, because they have the physical or biological features essential to the conservation of the species, provide space for population expansion that would increase the resiliency within these units, provide connectivity between individual patches of occupied habitat, and support the conditions the Ocmulgee skullcap individuals and populations require. The SSA report contains the best available information used to identify critical habitat for the Ocmulgee skullcap, which includes existing monitoring data, population status surveys, and relevant Geographic Information Systems (GIS) layers (Service 2020, pp. 26, 36–39, Appendix A).

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: areas that are considered to be occupied at the time of listing within the historical range of the

species, and that contain physical or biological features to support life-history functions that are essential for the conservation of the species. For the purposes of the proposed critical habitat designation, and for areas within the geographic area occupied by the species at the time of listing, we determined a unit to be occupied if it contains a recent observation (*i.e.,* observed since 1999). These areas are consistent with the identified populations in the SSA report that were derived using occurrence data and a 2-km separation distance for sufficient space and resources for required pollinators (NatureServe 2020, entire; Service 2020, p. 21). Suitable habitat within the buffered occurrences was determined through GIS analyses that identified the areas with appropriate aspect, geomorphons (landform pattern), temperature, burned area, soil type, vegetation cover and landcover, using source data from the National Elevation Dataset, Landsat, WorldClim, NatureServe landcover map, and the GAP/LANDFIRE National Terrestrial Ecosystems dataset. Information specific to calcium-rich soils was not available; therefore, we consider species occurrence to represent presence of this identified species need.

Based on this analysis, the following areas meet the criteria for areas occupied by the species at the time of listing: Columbia/Richmond, Barney Bluff, Burke North, Burke South, Prescott Lakes, Bolingbroke Rest Area, River North Bluff, Savage Branch, Robins Air Force Base, Tributary (Trib) Richland Creek, Oaky Woods North, Crooked Creek, Shellstone Creek, Oaky Woods South, Dry Creek, James Dykes Memorial, South Shellstone Creek, and Jordan Creek. These areas, known to be occupied by the species historically, include the extant populations. These areas meet our conservation strategy and provide essential physical or biological features necessary to support and increase resiliency, redundancy, and representation for the Ocmulgee skullcap, and designating critical habitat in these areas, which occur in both watersheds (representative units) and currently contribute to, or are units in which resiliency can be improved to contribute to, the species' viability, will sufficiently lead to the protection, and eventual reduction in risk of extirpation, of the species.

We are not currently proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that are essential for the conservation of the species. The protection of the current extant populations in both representative units would sufficiently reduce the risk of extinction, and improving the resiliency within these currently occupied units would increase viability to the point that the protections of the Act are no longer necessary. We have determined that the areas we are proposing are sufficient for the recovery of the species and align with our conservation strategy for Ocmulgee skullcap.

Sources of data for this proposed designation of critical habitat include multiple databases maintained by universities and State agencies in Georgia and South Carolina, as well as numerous survey reports in suitable habitat throughout the species' range. Other sources of available information on habitat requirements for this species include studies conducted at occupied sites and published in peer-reviewed articles, agency reports, and data collected during monitoring efforts (Cammack and Genachte 1999, entire; Morris 1999, entire; Snow 1999 and 2001, entire; Bradley 2019, entire; Service 2020, entire). Observation and collection records were compiled and provided to us by State partners during the SSA analysis.

When determining proposed 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 Ocmulgee skullcap. 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 nor all lands covered under the Robins Air Force Base integrated natural resources management plan (INRMP), which are exempted from the proposed critical habitat designation (see *Application of Section 4(a)(3) of the Act* under Exemptions, below). Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the physical or biological features in the adjacent critical habitat.

We propose to designate as critical habitat lands 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 proposed for designation based on one or more of the physical or biological features being present to support Ocmulgee skullcap's life-history processes. All units contain all of the identified physical or biological features and support multiple life-history processes.

The proposed 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 Proposed 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–R4–ES–2021–0059 and on our internet site *https://www.fws.gov/office/georgia-ecological-services/library.*

Proposed Critical Habitat Designation

We are proposing to designate 6,577 ac (2,662 ha) in 18 units as critical habitat for Ocmulgee skullcap. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for Ocmulgee skullcap. The 18 areas we propose as critical habitat are: (1) Columbia/Richmond; (2) Barney Bluff; (3) Burke North; (4) Burke South; (5) Prescott Lakes; (6) Bolingbroke Rest Area; (7) River North Bluff; (8) Savage Branch; (9) Robins Air Force Base; (10) Trib Richland Creek; (11) Oaky Woods North; (12) Crooked Creek; (13) Shellstone Creek; (14) Oaky Woods South; (15) Dry Creek; (16) James Dykes Memorial; (17) South Shellstone Creek; and (18) Jordan Creek. All 18 proposed units are currently occupied by Ocmulgee skullcap. Table 5 shows the proposed critical habitat units and the approximate area of each unit. Approximately 76 percent of the proposed critical habitat occurs on private lands, 0.4 percent occurs on county lands, and the remaining 23 percent occurs on State owned or managed lands. No Federal lands are included in this proposed critical habitat designation.

TABLE 5—PROPOSED CRITICAL HABITAT UNITS FOR OCMULGEE SKULLCAP

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit number and name	Land ownership by type	Size of unit in acres (hectares)
1a: Columbia/Richmond	Richmond County; Private	106 (43)
1b: Columbia/Richmond	Private	117 (47)
1c: Columbia/Richmond	Private	334 (135)
2: Barney Bluff	Private	415 (168)
3: Burke North	Private	526 (213)
4: Burke South	State of Georgia; Private	976 (395)
5: Prescott Lakes	Private	81 (33)
6: Bolingbroke Rest Area	Private	338 (137)
7: River North Bluff	State of Georgia; Private	115 (46)
8: Savage Branch	Private	115 (46)
9: Robins Air Force Base	Private	231 (93)
10: Trib Richland Creek	State of Georgia; Private	340 (138)
11: Oaky Woods North	State of Georgia; Private	657 (266)
12: Crooked Creek	State of Georgia; Private	205 (83)
13: Shellstone Creek	State of Georgia; Private	160 (65)
14: Oaky Woods South	State of Georgia; Private	363 (147)
15: Dry Creek	State of Georgia; Private	330 (133)
16: James Dykes Memorial	State of Georgia; Private	515 (208)
17: South Shellstone Creek	State of Georgia; Private	403 (163)
18: Jordan Creek	Private	250 (101)
Total		6,577 (2,662)

NOTE: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for Ocmulgee skullcap, below.

Unit 1: Columbia/Richmond

Unit 1 consists of three subunits comprising 557 ac (225 ha) in Columbia and Richmond Counties, Georgia, and Aiken and Edgefield Counties, South Carolina. This unit consists of land owned by Richmond County (five percent) and private landowners (95 percent), with 40 percent of Unit 1 held in a conservation easement. Unit 1 is considered occupied by Ocmulgee skullcap. All subunits are located north of Interstate 20 along the Savannah River and the state border.

Subunit 1a consists of 106 ac (43 ha) in Columbia County, Georgia. This subunit lies on the west side of the Savannah River, just north of the City of Augusta. Richmond County owns and manages 28 ac (11.3 ha) in this subunit, and the other 78 ac (31.7 ha) are privately owned. The subunit contains all of the physical or biological features essential to the conservation of the species, as described above under *Summary of Essential Physical or Biological Features.* Essential physical or biological feature (4) is degraded in this subunit which is adjacent to developed areas. Special management considerations or protection may be required in Subunit 1a to address and alleviate impacts from stressors that have led to the loss or degradation of the habitat, including urbanization and commercial development and nonnative invasive species (see Special Management Considerations or Protection, above). Special management considerations related to developed areas that would benefit the habitat in this subunit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap, and control or removal of nonnative invasive species.

Subunit 1b consists of 117 ac (47 ha) in Richmond County, Georgia, on lands in private ownership. This subunit lies on the west side of the Savannah River, just north of the City of Augusta. The subunit contains all of the physical or biological features essential to the conservation of the species, as described above under *Summary of Essential Physical or Biological Features.* Essential physical or biological feature (4) is degraded in this subunit which is adjacent to developed areas. Special management considerations or protection may be required in Subunit 1b to address and alleviate impacts from stressors that have led to the loss or degradation of the habitat, including urbanization and commercial development and nonnative invasive species (see Special Management Considerations or Protection, above). Special management considerations related to developed areas that would benefit the habitat in this subunit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap, and control or removal of nonnative invasive species.

Subunit 1c consists of 334 ac (135 ha) Aiken and Edgefield Counties, South Carolina. This subunit lies on the east side of the Savannah River, just north of the City of Augusta. The Nature Conservancy owns and manages the 224 ac (90 ha) Greystone Preserve for conservation in this subunit, and the remaining 110 ac (45 ha) are in private ownership. The subunit contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Subunit 1c to alleviate impacts from stressors that have led to the loss and degradation of the habitat, including urbanization and residential and commercial development, nonnative invasive species, and herbivory by deer. Special management considerations related to encroachment of nonnative invasive species and herbivory by deer that would benefit the habitat in this subunit include, but are not limited to, removal of nonnative invasive species via prescribed burning, mechanical, or chemical treatments, restoration of forest conditions, and increased harvest/hunting or exclusion of white-tailed deer. In addition, special management

considerations related to developed areas that would benefit the habitat in this subunit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap, native vegetation restoration in right-of-way and transmission line vegetation maintenance areas (edge effect), and removal of nonnative invasive species.

Unit 2: Barney Bluff

Unit 2 consists of 415 ac (168 ha) in the southeast portion of Richmond County, Georgia. This unit lies to the west of the Savannah River south of the City of Augusta on land in private ownership. Unit 2 is considered occupied by Ocmulgee skullcap. The unit contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 2 to alleviate impacts from stressors that have led to the degradation of the habitat, including urbanization and development, erosion due to logging, and herbivory by deer. Such special management or protection may include conservation efforts to reduce deer browsing through hunting/harvest or exclusion. Special management or protection to reduce erosion may also include implementation of best management practices during silviculture and logging and habitat restoration efforts. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap.

Unit 3: Burke North

Unit 3 consists of 526 ac (213 ha) in the northwestern portion of Burke County, Georgia. The unit lies to the west of the Savannah River on land in private ownership. A conservation easement is in place on 9 ac (3.6 ha) of private land within the unit. Unit 3 is considered occupied by Ocmulgee skullcap. Unit 3 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 3 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including effects of silviculture and logging and herbivory by deer. Such special management or protection may include conservation efforts to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include implementation of best management practices in silviculture and logging activities and habitat restoration efforts.

Unit 4: Burke South

Unit 4 consists of 976 ac (395 ha) in the western portion of Burke County, Georgia. This unit lies west of the Savannah River on lands owned by the Georgia Department of Natural Resources (199 ac (80 ha) on the Yuchi Wildlife Management Area), and on lands in private ownership (777 ac (314 ha)). Unit 4 is considered occupied by Ocmulgee skullcap. Unit 4 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 4 to alleviate impacts from stressors that have led to the degradation of the habitat, including urbanization and development and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap. Special management or protection may also include habitat restoration efforts.

Unit 5: Prescott Lakes

Unit 5 consists of 81 ac (33 ha) in the northern portion of Screven County, Georgia. This unit is adjacent to the main stem of the Savannah River and lies on lands in private ownership. Unit 5 is considered occupied Ocmulgee skullcap. Unit 5 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 5 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including land conversion to agriculture and herbivory by deer. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include habitat restoration efforts.

Unit 6: Bolingbroke Rest Area

Unit 6 consists of 338 ac (137 ha) in southern Monroe County, Georgia. This unit falls on lands in private ownership adjacent to the main stem of the Ocmulgee River, north of the city of Macon. Unit 6 is considered occupied by Ocmulgee skullcap. Unit 6 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 6 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including commercial development, silviculture and logging, road maintenance, and herbivory by deer. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include implementation of best management practices in silviculture and logging activities and habitat restoration efforts. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to review of development plans and other projects considering land use changes.

Unit 7: River North Bluff

Unit 7 consists of 115 ac (46 ha) in the northern corner of Bibb County, Georgia. This unit is adjacent to the Ocmulgee River, north of the city of Macon. This unit contains land owned by the Georgia Department of Natural Resources (10 ac (4 ha) on the Echeconnee Wildlife Management Area), and lands in private ownership (105 ac (42 ha). This unit is adjacent to the main stem of the Ocmulgee River, north of the city of Macon. Unit 7 is considered occupied by Ocmulgee skullcap. Unit 7 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 7 to alleviate impacts from stressors that have led to the degradation of the habitat, including competition and encroachment by nonnative invasive species. In some cases, these threats are being addressed or coordinated with our partners and

landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments. Special management or protection may also include habitat restoration efforts.

Unit 8: Savage Branch

Unit 8 consists of 115 ac (46 ha) in the northern portion of Bibb County, Georgia. This unit is adjacent to the main stem of the Ocmulgee River, north of the city of Macon, and falls on lands in private ownership. Unit 8 is considered occupied by Ocmulgee skullcap. Unit 8 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 8 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including urbanization and development and nonnative invasive species. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap. Special management or protection may also include habitat restoration efforts.

Unit 9: Robins Air Force Base

Unit 9 consists of 455 ac (184 ha) in western Houston County, Georgia. This unit is adjacent to the main stem of the Ocmulgee River. This unit contains 231 ac (93 ha) in private ownership and 224 ac (91 ha) of Department of Defense (DoD)-owned lands that are covered under the Robins Air Force Base INRMP, which are exempted from proposed critical habitat designation (see *Application of Section 4(a)(3) of the Act* under Exemptions, below), and, therefore, the total area proposed for designation is 231 ac (93 ha). Unit 9 is considered occupied by Ocmulgee skullcap. Unit 9 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 9 to alleviate impacts from stressors that have led to the degradation of the habitat, including urbanization and development and nonnative invasive species. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap. Special management or protection may also include habitat restoration efforts.

Unit 10: Trib Richland Creek

Unit 10 consists of 340 ac (138 ha) in eastern Twiggs County, Georgia. This unit lies east of Robins Air Force Base and along a tributary of the Ocmulgee River. The unit falls on lands leased by the Georgia Department of Natural Resources (242 ac (98 ha) on the Ocmulgee Wildlife Management Area), and lands in private ownership (98 acres (40 ha)). Unit 10 is considered occupied by Ocmulgee skullcap. Unit 10 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 10 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including land conversion to agriculture and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce deer browsing through hunting/harvest or exclusion. Special management or protection related to land conversion may also include consideration of Ocmulgee skullcap in agriculture conversion plans and habitat restoration efforts in affected field/forest edges.

Unit 11: Oaky Woods North

Unit 11 consists of 657 ac (266 ha) in western Houston County, Georgia. This unit lies adjacent to the county line, along a tributary of the Ocmulgee River. The unit falls on lands owned by the Georgia Department of Natural Resources (228 ac (92 ha) on the Oaky Woods Wildlife Management Area) and lands in private ownership (429 acres (174 ha)). Unit 11 is considered occupied by Ocmulgee skullcap. Unit 11 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 11 to alleviate impacts from stressors that have led to the degradation of the habitat, including limited effects of nonnative invasive species and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include habitat restoration efforts.

Unit 12: Crooked Creek

Unit 12 consists of 205 ac (83 ha) in southeastern Twiggs County, Georgia. This unit is located south of Highway 96, and along a tributary of the Ocmulgee River. The unit falls on lands leased by the Georgia Department of Natural Resources (201 ac (81 ha) on the Ocmulgee Wildlife Management Area) and on lands in private ownership (4 ac (1.6 ha)). Unit 12 is considered occupied by Ocmulgee skullcap. Unit 12 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 12 to alleviate impacts from stressors that have led to the degradation of the habitat, including nonnative invasive species and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include continued conservation efforts to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include habitat restoration efforts.

Unit 13: Shellstone Creek

Unit 13 consists of 160 ac (65 ha) in southeastern Twiggs County, Georgia. This unit lies east of Unit 12, along a tributary of the Ocmulgee River. The unit falls on lands leased by the Georgia Department of Natural Resources (15 ac (6 ha) on the Ocmulgee Wildlife Management Area) and on lands in private ownership (145 ac (59 ha)). Unit 13 is considered occupied by Ocmulgee skullcap. Unit 13 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 13 to alleviate impacts from stressors that have led to the loss or

degradation of the habitat, including forest conversion to agriculture, residential development, nonnative invasive species, and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection related to land conversion may also include consideration of Ocmulgee skullcap in agriculture conversion plans and habitat restoration efforts in affected field/forest edges. Special management or protection may also include habitat restoration efforts.

Unit 14: Oaky Woods South

Unit 14 consists of 363 ac (145 ha) in western Houston County, Georgia. This unit is west of units 15 and 16, and along a tributary of the Ocmulgee River. This unit falls on lands leased by the Georgia Department of Natural Resources (84 ac (34 ha) on the Oaky Woods Wildlife Management Area), and on lands in private ownership (279 ac (113 ha)). Unit 14 is considered occupied by Ocmulgee skullcap. Unit 14 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 14 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including urbanization and commercial development. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap. Special management or protection may also include habitat restoration efforts.

Unit 15: Dry Creek

Unit 15 consists of 330 ac (133 ha) in western Houston and northern Pulaski counties, Georgia. This unit is adjacent to the county line, and along a tributary of the Ocmulgee River. This unit falls on lands leased by the Georgia Department of Natural Resources (50 ac (20 ha) on the Ocmulgee Wildlife Management Area), and lands in private ownership (280 ac (113 ha)). Unit 15 is considered occupied by Ocmulgee skullcap. Unit 15 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 15 to alleviate impacts from stressors that have led to the degradation of the habitat, including nonnative invasive species and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments, and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection may also include habitat restoration efforts.

Unit 16: James Dykes Memorial

Unit 16 consists of 515 ac (208 ha) in eastern Bleckley County and northern Pulaski County, Georgia. This unit is adjacent to the main stem of the Ocmulgee River, west of the City of Cochran. This unit falls on lands owned by the Georgia Department of Natural Resources (497 ac (201 ha) on the Ocmulgee Wildlife Management Area), and on lands in private ownership (18 ac (7 ha)). Unit 16 is considered occupied by Ocmulgee skullcap. Unit 16 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 16 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including land conversion to agriculture, nonnative invasive species, and herbivory by deer. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Such special management or protection may include conservation efforts to reduce or control nonnative invasive plants via prescribed burning, mechanical, or chemical treatments and to reduce deer browsing through hunting/harvest or exclusion. Special management or protection related to land conversion may also include consideration of Ocmulgee skullcap in agriculture conversion plans and habitat restoration efforts in affected field/forest edges. Special management or protection may also include habitat restoration efforts.

Unit 17: South Shellstone Creek

Unit 17 consists of 403 ac (163 ha) in eastern Bleckley County, Georgia. This unit is adjacent to a tributary of the Ocmulgee River, north of the City of Cochran. This unit falls on lands owned by the Georgia Department of Natural Resources (4 ac (1.6 ha), and on lands in private ownership (399 ac (161 ha)). Unit 17 is considered occupied by Ocmulgee skullcap. Unit 17 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 17 to alleviate impacts from stressors that have led to the loss or degradation of the habitat, including land conversion to agriculture and other nonnative habitat. In some cases, these threats are being addressed or coordinated with our partners and landowners to implement needed actions. Special management or protection related to land conversion may also include consideration of Ocmulgee skullcap in agriculture conversion plans and habitat restoration efforts in affected field/forest edges. Special management or protection may also include habitat restoration efforts.

Unit 18: Jordan Creek

Unit 18 consists of 250 ac (101 ha) in northern Pulaski County, Georgia. This unit is adjacent to a tributary of the Ocmulgee River, north of the City of Hawkinsville. The unit falls on lands in private ownership. Unit 18 is considered occupied by Ocmulgee skullcap. Unit 18 contains all of the physical or biological features essential to the conservation of the species.

Special management considerations or protection may be required within Unit 18 to alleviate impacts from stressors that have led to the degradation of the habitat, including limited urbanization and development. In addition, special management considerations related to developed areas that would benefit the habitat in this unit include, but are not limited to, review of County development plans and other projects considering land use changes with recommendations to avoid areas occupied by Ocmulgee skullcap. Special management or protection may also include habitat restoration efforts.

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. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

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, 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 ''Destruction or 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 Service may, during a consultation under section 7(a)(2) of the Act, find are likely to destroy or adversely modify critical habitat include, but are not limited to:

(1) Actions that would alter native vegetation structure or composition within the hardwood forest habitat and diminish the availability of shade or partial shade. Such activities could include, but are not limited to, land conversion or clearing related to residential, commercial, agricultural or recreational development, including associated infrastructure, logging or removal of overstory and midstory trees in the forest canopy, or introduction of nonnative plant species. These activities could lead to loss, modification, or fragmentation of the forest habitat and required canopy cover, thereby eliminating or reducing the habitat necessary for the growth and reproduction of the species.

(2) Actions that would alter the pH of the soil. Such activities could include, but are not limited to, timber harvest activities, particularly burning as site preparation or slash pile disposal, oil and gas development and mining. These activities could result in significant ground disturbance that could alter the chemical and physical properties of the soil.

(3) Actions that would decrease the diversity and abundance of floral resources and pollinators. Such activities could include, but are not limited to, the use of pesticides and herbicides, livestock grazing, and conversion of habitat to agricultural or silvicultural land use. These activities could lead to direct mortality of pollinators and diminish the floral resources available to pollinators.

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the

conservation and management of natural resources to complete an INRMP by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, 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, 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 the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for Ocmulgee skullcap to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are Department of Defense (DoD) lands with completed, Service-approved INRMPs within the proposed critical habitat designation.

Approved INRMP

Robins Air Force Base, 224 ac (91 ha)

Robins Air Force Base (AFB) has an approved INRMP. The U.S. Air Force is committed to working closely with the Service, and the Georgia Department of Natural Resources to continually refine the existing INRMP as part of the Sike's Act INRMP review process.

Robins AFB completed an INRMP in 2017, which serves as the principal management plan governing all natural resource activities on the installation (Robins AFB INRMP 2017, entire). The 2017 INRMP includes benefits for Ocmulgee skullcap through: (1) control or elimination of competing, nonnative vegetation (mowing or hand clearing during winter months when Ocmulgee skullcap is dormant); (2) limiting recreational and other activities that may impact the species near Ocmulgee skullcap locations; and, (3) promoting natural regeneration of the dominant plant species in upland hardwood bluff forest communities. Further, Robins AFB environmental staff review projects and enforce existing regulations and orders that, through their implementation, avoid and minimize impacts to natural resources, including Ocmulgee skullcap and its habitat. In addition, Robins AFB INRMP provides protection to forested habitat for Ocmulgee skullcap by implementing forest management activities, designating stream and wetland protection zones, and engaging in public outreach and education. Robins AFB INRMP specifies periodic monitoring of the distribution and abundance of the Ocmulgee skullcap populations on the base.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the Robins AFB INRMP and that conservation efforts identified in the INRMP will provide a benefit to Ocmulgee skullcap. Therefore, lands within this installation are exempt from critical habitat designation under section 4(a)(3)(B) of the Act. We are not including approximately 224 ac (91 ha) of forested habitat on Robins AFB in this proposed critical habitat designation because of this exemption.

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 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. 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. We describe below the process that we undertook for taking into consideration each category of impacts and our analyses of the relevant impacts.

Consideration of 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. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a proposed critical habitat designation is analyzed by comparing scenarios both ''with critical habitat'' and ''without critical habitat.''

The ''without critical habitat'' scenario represents the baseline for the analysis, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). Therefore, the baseline represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat incurred regardless of whether critical habitat is designated). The ''with critical habitat'' scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts would

not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary 4(b)(2) exclusion analysis.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the Ocmulgee skullcap (Industrial Economics, Inc. 2020). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out particular geographic areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes any probable incremental economic impacts where land and water use may already be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species. Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. If the proposed critical habitat designation contains any unoccupied units, the screening analysis assesses whether those units require additional management or conservation efforts that may incur incremental economic impacts. This screening analysis, combined with the information contained in our IEM, constitute what we consider to be our draft economic analysis (DEA) of the proposed critical habitat designation for the Ocmulgee skullcap; our DEA is summarized in the narrative below.

Executive Orders (E.O.s) 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with the E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess, to the extent practicable, the probable impacts to both directly and indirectly affected entities. As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the Ocmulgee skullcap, first we identified, in the IEM dated February 12, 2021, probable incremental economic impacts associated with the following categories of activities: (1) roadway and bridge maintenance, repair, and construction; (2) agriculture; (3) recreation; (4) commercial or residential development; and (5) State lands management (Georgia Department of Natural Resources Wildlife Management Areas). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. If we list the species, in areas where the Ocmulgee skullcap is present, Federal agencies would be required to consult with the Service under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If, when we list the species, we also finalize this proposed critical habitat designation, our consultations would include an evaluation of measures to avoid the destruction or adverse modification of critical habitat.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.,* difference between the jeopardy and adverse modification standards) for the Ocmulgee skullcap's critical habitat. Because the designation of critical habitat for Ocmulgee skullcap was proposed concurrently with the listing, it has been our experience that it is more difficult to discern which conservation efforts are attributable to the species being listed and those which will result solely from the designation of critical habitat. However, the following specific circumstances in this case help to inform our evaluation: (1) The essential physical or biological features identified for critical habitat are the same features essential for the life requisites of the species, and (2) any actions that would result in sufficient harm or harassment to constitute jeopardy to the Ocmulgee skullcap would also likely adversely affect the essential physical or biological features of critical habitat. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species. This evaluation of the incremental effects has been used as the basis to evaluate the probable incremental economic impacts of this proposed designation of critical habitat.

The proposed critical habitat designation for the Ocmulgee skullcap totals approximately 6,577 ac (2,662 ha) in 10 Georgia counties and 2 South Carolina counties. We have divided the proposed critical habitat into 18 units, with 1 unit divided into 3 subunits. All eighteen units are considered occupied because they contain current (1999–2020) occurrences of Ocmulgee skullcap. We are not proposing to designate any units of unoccupied habitat. Approximately 15 percent of the proposed designation is located on State-owned lands and 9 percent of the proposed designation is located on State owned or managed lands (leased lands in private ownership). Eighty-five percent of proposed lands are privately owned (includes the nine percent with State management) and no Federal lands are included in the proposed designation. Actions that may affect the species or its habitat would also affect designated critical habitat, and it is unlikely that any additional conservation efforts would be recommended to address the adverse modification standard over and above those recommended as necessary to avoid jeopardizing the continued existence of the Ocmulgee skullcap. Therefore, the potential incremental economic effects of the critical habitat designation are expected to be limited to administrative costs and minor costs of conservation efforts. Administrative costs include the additional effort from the Service and the Federal action agency to consider critical habitat for Ocmulgee skullcap in a section 7 consultation that already considers the presence of Ocmulgee skullcap.

The entities most likely to incur incremental costs are parties to section 7 consultations, including Federal action agencies and, in some cases, third parties, most frequently State agencies or municipalities. Activities we expect

would be subject to consultations that may involve private entities as third parties are residential and commercial development that may occur on private lands. Our analysis of economic impacts makes the following assumptions about consultation activity, most of which are more than likely to overstate than understate potential impacts due to the history of biological assessments and implementation of project conservation measures by the Federal action agencies. The analysis assumes that approximately 73 section 7 consultations (approximately one formal consultation, two informal consultations, and 70 technical assistance efforts including species lists) will occur annually in the proposed critical habitat areas, based on the previous consultation history in the area. The annual costs to the Service and other action agencies are estimated at approximately $39,700. Units 1, 3, 4, and 7 are projected to have the highest number of consultations with six or more per unit.

The probable incremental economic impacts of the Ocmulgee skullcap proposed critical habitat designation are expected to be limited to additional administrative effort and minor costs of conservation efforts resulting from a small number of future section 7 consultations (Industrial Economics, Inc. 2020). This is due to two factors: (1) All proposed critical habitat areas are considered to be occupied by the species, and incremental economic impacts of critical habitat designation, other than administrative costs and minor costs of conservation efforts, are unlikely; and (2) few actions are anticipated that would result in section 7 consultation or associated project modifications. At approximately $10,000 per formal programmatic consultation, the burden resulting from the designation of critical habitat for Ocmulgee skullcap, based on the anticipated annual number of consultations and associated consultation costs, is not expected to exceed $39,700 in most years (Industrial Economics, Inc. 2020). The designation is unlikely to trigger additional requirements under State or local regulations. Thus, the annual administrative burden is relatively low.

In our DEA, we did not identify any ongoing or future actions that would warrant additional recommendations or project modifications to avoid adversely modifying critical habitat above those we would recommend for avoiding jeopardy to the species, and we anticipate minimal change in management at Georgia Department of Natural Resource wildlife management areas due to the designation of critical habitat for Ocmulgee skullcap.

We are soliciting data and comments from the public on the DEA discussed above, as well as all aspects of this proposed rule and our required determinations. During the development of a final designation, we will consider the information presented in the DEA and any additional information on economic impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2) and our implementing regulations at 50 CFR 17.90. If we receive credible information regarding the existence of a meaningful economic or other relevant impact supporting a benefit of exclusion, we will conduct an exclusion analysis for the relevant area or areas. We may also exercise the discretion to evaluate any other particular areas for possible exclusion. Furthermore, when we conduct an exclusion analysis based on impacts identified by experts in, or sources with firsthand knowledge about, impacts that are outside the scope of the Service's expertise, we will give weight to those impacts consistent with the expert or firsthand information unless we have rebutting information. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

Consideration of National Security Impacts

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), then national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of ''critical habitat.'' However, the Service must still consider impacts on national security, including homeland security, on those lands or areas not covered by section 4(a)(3)(B)(i), because section 4(b)(2) requires the Service to consider those impacts whenever it designates critical habitat. Accordingly, if DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns, or we have otherwise identified national-security or homeland-security impacts from designating particular areas as critical habitat, we generally have reason to consider excluding those areas.

However, we cannot automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the basis of national-security or homeland-security impacts, we must conduct an exclusion analysis if the Federal requester provides credible information, including a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction, as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If we conduct an exclusion analysis because the agency provides a reasonably specific justification or because we decide to exercise the discretion to conduct an exclusion analysis, we will defer to the expert judgment of DoD, DHS, or another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary section 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

Under section 4(b)(2) of the Act, we also consider whether a national security or homeland security impact might exist on lands owned or managed by DoD or DHS. In preparing this proposal, we have determined that, other than the land exempted under section 4(a)(3)(B)(i) of the Act based upon the existence of an approved INRMP (see Exemptions, above), the lands within the proposed designation of critical habitat for Ocmulgee skullcap are not owned or managed by DoD or DHS. Therefore, we anticipate no impact on national security or homeland security. However, if through the public comment period we receive

credible information regarding impacts on national security or homeland security from designating particular areas as critical habitat, then as part of developing the final designation of critical habitat, we will conduct a discretionary exclusion analysis to determine whether to exclude those areas under authority of section 4(b)(2) and our implementing regulations at 50 CFR 17.90.

Consideration of 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 discussed above. Other relevant impacts may include, but are not limited to, impacts to Tribes, States, local governments, public health and safety, community interests, the environment (such as increased risk of wildfire or pest and invasive species management), Federal lands, and conservation plans, agreements, or partnerships. To identify other relevant impacts that may affect the exclusion analysis, 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 (SHAs), or candidate conservation agreements with assurances (CCAAs)—or whether there are non-permitted conservation agreements and partnerships that may be impaired by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, public-health, community-interest, environmental, or social impacts that might occur because of the designation.

We have not identified any areas to consider for exclusion from critical habitat based on other relevant impacts. In preparing this proposal, we have determined that there are currently no permitted conservation plans or other management plans for Ocmulgee skullcap. We are not aware of any partnerships, management, or protection afforded by cooperative management efforts that provide for the conservation of the species. We have determined that no Tribal lands fall within the boundaries of the proposed critical habitat for the Ocmulgee skullcap. There are no areas for which exclusion would result in conservation, or in the continuation, strengthening, or encouragement of partnerships.

However, during the development of a final designation, we will consider all information currently available or received during the public comment period. If we receive credible information regarding the existence of a meaningful impact supporting a benefit of excluding any areas, we will undertake an exclusion analysis and determine whether those areas should be excluded from the final critical habitat designation under the authority of section 4(b)(2) and our implementing regulations at 50 CFR 17.90. We may also exercise the discretion to undertake exclusion analyses for other areas as well, and we will describe all of our exclusion analyses as part of a final critical habitat determination.

Summary of Exclusions Considered Under 4(b)(2) of the Act

At this time, we are not considering any exclusions from the proposed designation based on economic impacts, national security impacts, or other relevant impacts—such as partnerships, management, or protection afforded by cooperative management efforts—under section 4(b)(2) of the Act. In this proposed rule, we are seeking credible information from the public regarding the existence of a meaningful impact supporting a benefit of excluding any areas that would be used in an exclusion analysis that may result in the exclusion of areas from the final critical habitat designation. (Please see **FOR FURTHER INFORMATION CONTACT** for instructions on how to submit comments).

Required Determinations

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

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 proposed 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 whether 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 would be directly regulated if we adopt the proposed critical habitat designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would 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, if made final, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small business entities. Therefore, an initial 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 proposed critical habitat designation would significantly affect energy supplies, distribution, or use. We did not find that designation of this proposed critical habitat will have an annual effect on the economy of $100 million or more or significantly affect energy supplies, distribution, or use due to the lack of any energy supply or distribution lines within the proposed critical habitat designation. 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 proposed rule would 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 would significantly or uniquely affect small governments. The lands being proposed for critical habitat designation are owned by Richmond County and the State of Georgia. Neither of these governments fits the definition of ''small governmental jurisdiction'', nor does the designation of critical habitat impose an obligation on State or local governments. 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 Ocmulgee skullcap 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 the proposed designation of critical habitat for Ocmulgee skullcap, and it concludes that, if adopted, 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 proposed 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 proposed 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, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed 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 would 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 E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the physical or biological features essential to the conservation of the species. The proposed areas of designated critical habitat are presented on maps, and the proposed 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 coordinated with the Catawba Tribe regarding the SSA that informed this proposed listing determination and critical habitat designation and provided the Tribe with an opportunity to review the SSA report. We have determined that no Tribal lands fall within the boundaries of the proposed critical habitat for the Ocmulgee skullcap, so no Tribal lands would be affected by the proposed 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 Georgia Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are the staff members of the Fish and Wildlife Service's Species Assessment Team and the Georgia Ecological Services Field Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to 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

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 1. The authority citation for part 17 continues to read as follows:

■ 2. In § 17.12 in paragraph (h) amend the table by adding an entry for ''*Scutellaria ocmulgee*'' 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				
*	*	*	*	* * *
Scutellaria ocmulgee.	Ocmulgee skullcap.	Wherever found	T	[**Federal Register** citation when published as a final rule]; 50 CFR 17.73(m); [4d] 50 CFR 17.96(a).[CH]
*	*	*	*	* * *

■ 3. Amend § 17.73 by adding paragraphs (c) through (m) to read as follows:

§ 17.73 Special rules—flowering plants.

* * * * *

(c) through (l) [Reserved]

(m) *Scutellaria ocmulgee* (Ocmulgee skullcap).

(1) *Prohibitions.* The following prohibitions that apply to endangered plants also apply to Ocmulgee skullcap. Except as provided under paragraph (m)(2) of this section, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or cause to be committed, any of the following acts in regard to this species:

(i) Import or export, as set forth at § 17.61(b) for endangered plants.

(ii) Remove and reduce to possession the species from areas under Federal jurisdiction; maliciously damage or destroy the species on any such area; or remove, cut, dig up, or damage or destroy the species 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.

(iii) Engage in interstate or foreign commerce in the course of commercial activity, as set forth at § 17.61(d) for endangered plants.

(iv) Sale or offer for sale, as set forth at § 17.61(e) for endangered plants.

(2) *Exceptions from prohibitions.* In regard to this species, you may:

(i) Conduct activities as authorized by permit under § 17.72.

(ii) Remove and reduce to possession from areas under Federal jurisdiction, as set forth at § 17.71(b) for threatened plants.

(iii) Engage in any act prohibited under paragraph (m)(1) of this section with seeds of cultivated specimens, provided that a statement that the seeds are of ''cultivated origin'' accompanies the seeds or their container.

■ 4. Amend § 17.96(a) by adding an entry for ''Family Lamiaceae: *Scutellaria ocmulgee* (Ocmulgee skullcap)'', immediately after the entry for ''Family Lamiaceae: *Monardella viminea* (willowy monardella)'', to read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Lamiaceae: *Scutellaria ocmulgee* (Ocmulgee skullcap)

(1) Critical habitat units are depicted for Bibb, Bleckley, Burke, Columbia, Houston, Monroe, Pulaski, Richmond, Screven, and Twiggs Counties in Georgia and Aiken and Edgefield Counties in South Carolina, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Ocmulgee skullcap consist of the following components:

(i) River bluffs with steep and/or shallow soils that are subject to localized disturbances that limit the accumulation of leaf litter and competition within the Upper Gulf Coastal Plain and Piedmont of Georgia.

(ii) Well-drained soils that are buffered or circumneutral (pH between 6.5 and 7.5) generally within regions underlain or otherwise influenced by limestone or marl.

(iii) A mature, mixed-level canopy with spatial heterogeneity, providing mottled shade and often including with a rich diversity of grasses and forbs characterizing the herb layer.

(iv) Intact forested habitat that is fully functional (*i.e.,* with mature canopy and discrete disturbances) and buffered by surrounding habitat to impede the invasion of competitors.

(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 the effective date of this rule.

(4) Data layers defining map units were created using ArcMap version 10.6 (Environmental Systems Research Institute, Inc.), a geographic information systems program on a base of USA Topo Maps. Critical habitat units were then mapped using NAD 1983, Universal Transverse Mercator (UTM) Zone 17N 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/office/georgia-ecological-services/library,* at *https://www.regulations.gov* at Docket No. FWS–R4–ES–2021–0059, 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:

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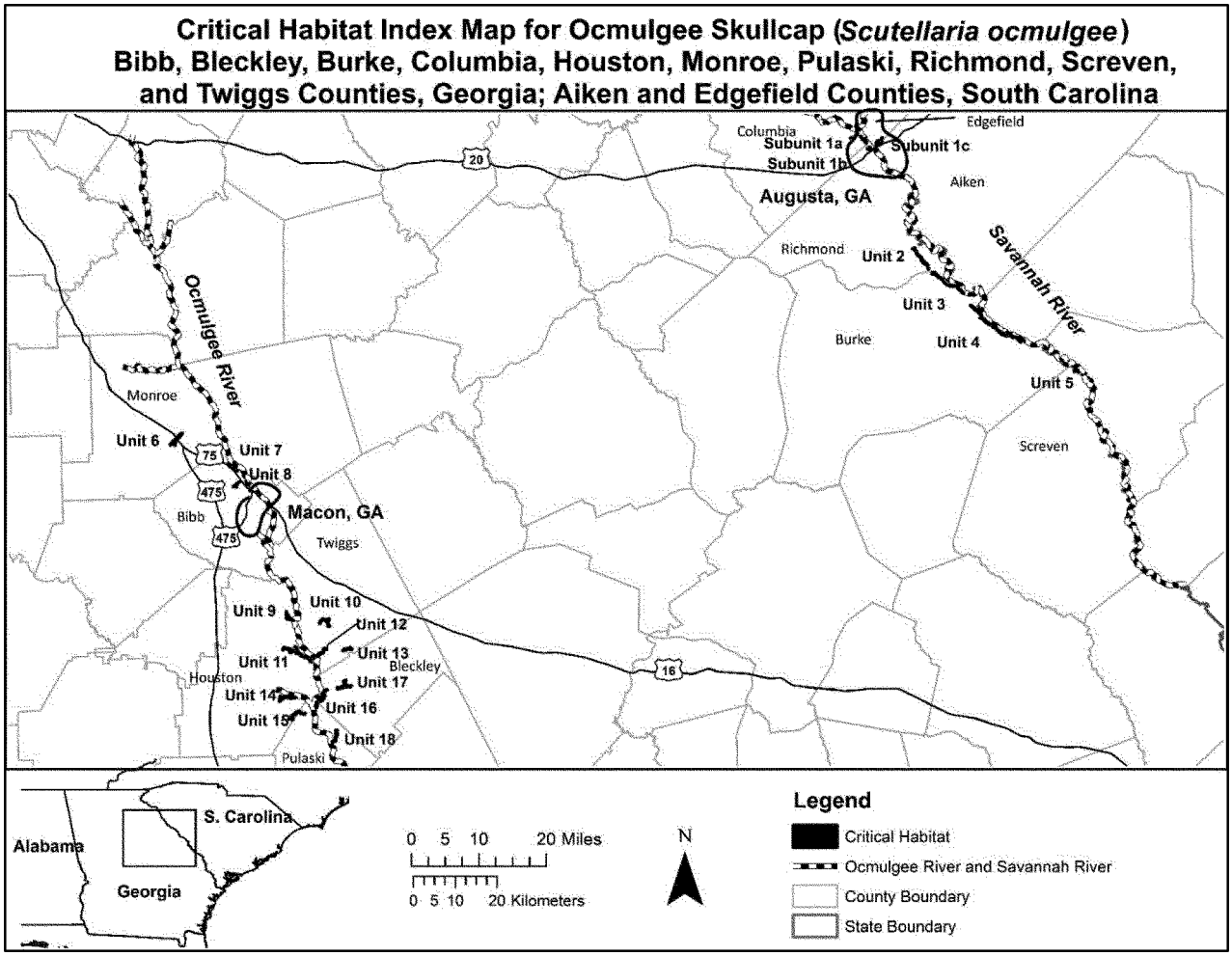
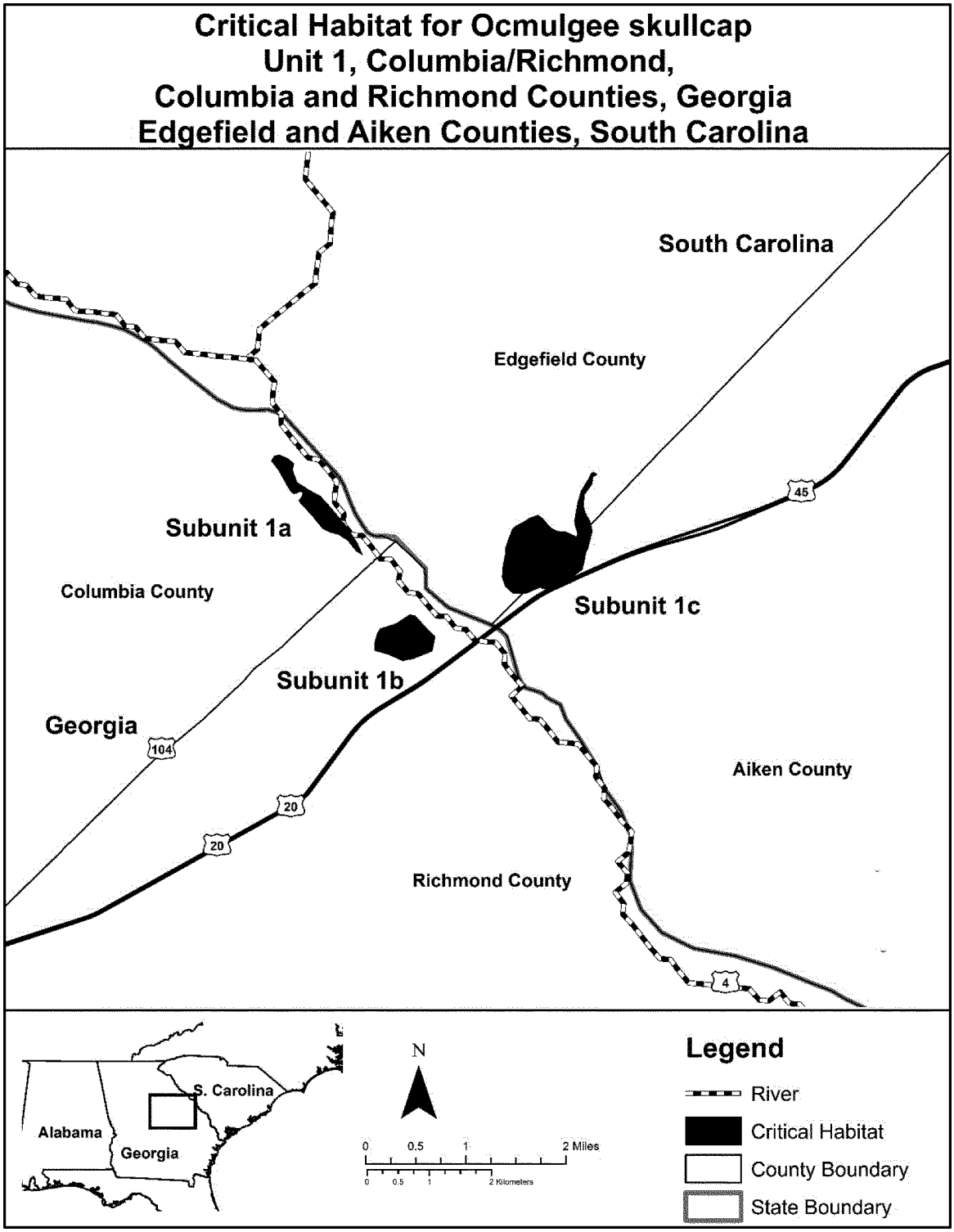


(6) Unit 1: Columbia/Richmond, Columbia and Richmond Counties, Georgia, and Aiken and Edgefield Counties, South Carolina.

(i) Unit 1 includes 3 subunits and consists of 557 ac (225 ha) in Columbia and Richmond Counties, Georgia, and Aiken and Edgefield Counties, South Carolina, including county-owned lands (28 ac (11 ha)) and lands in private ownership (529 ac (214 ha)).

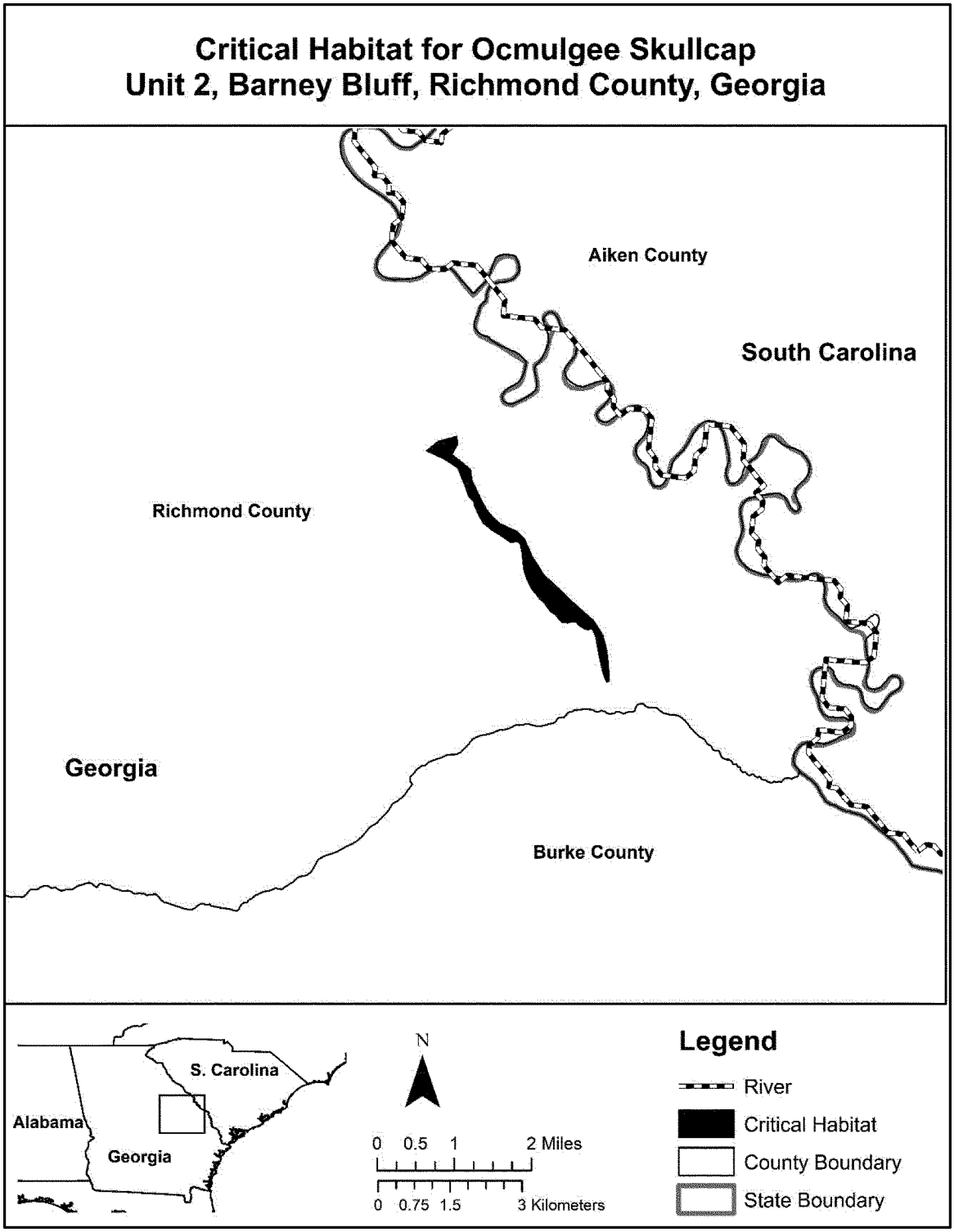
(ii) Map of Unit 1 follows:



(7) Unit 2: Barney Bluff, Richmond County, Georgia.

(i) Unit 2 consists of 415 ac (168 ha) in Richmond County, Georgia, and is composed of lands in private ownership.

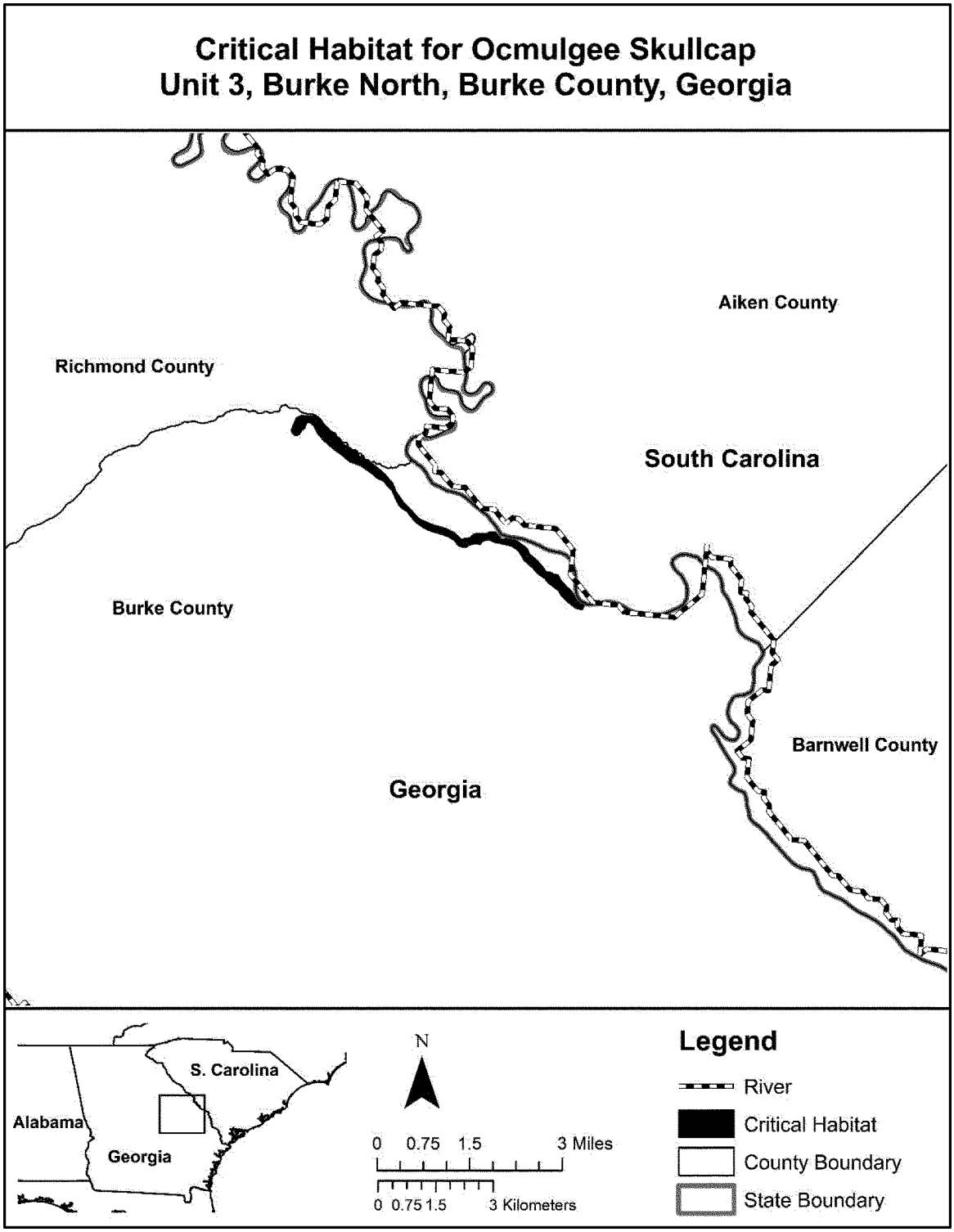
(ii) Map of Unit 2 follows:



(8) Unit 3: Burke North; Burke County, Georgia.

(i) Unit 3 consists of 526 ac (213 ha) in Burke County, Georgia, and is composed of lands in private ownership.

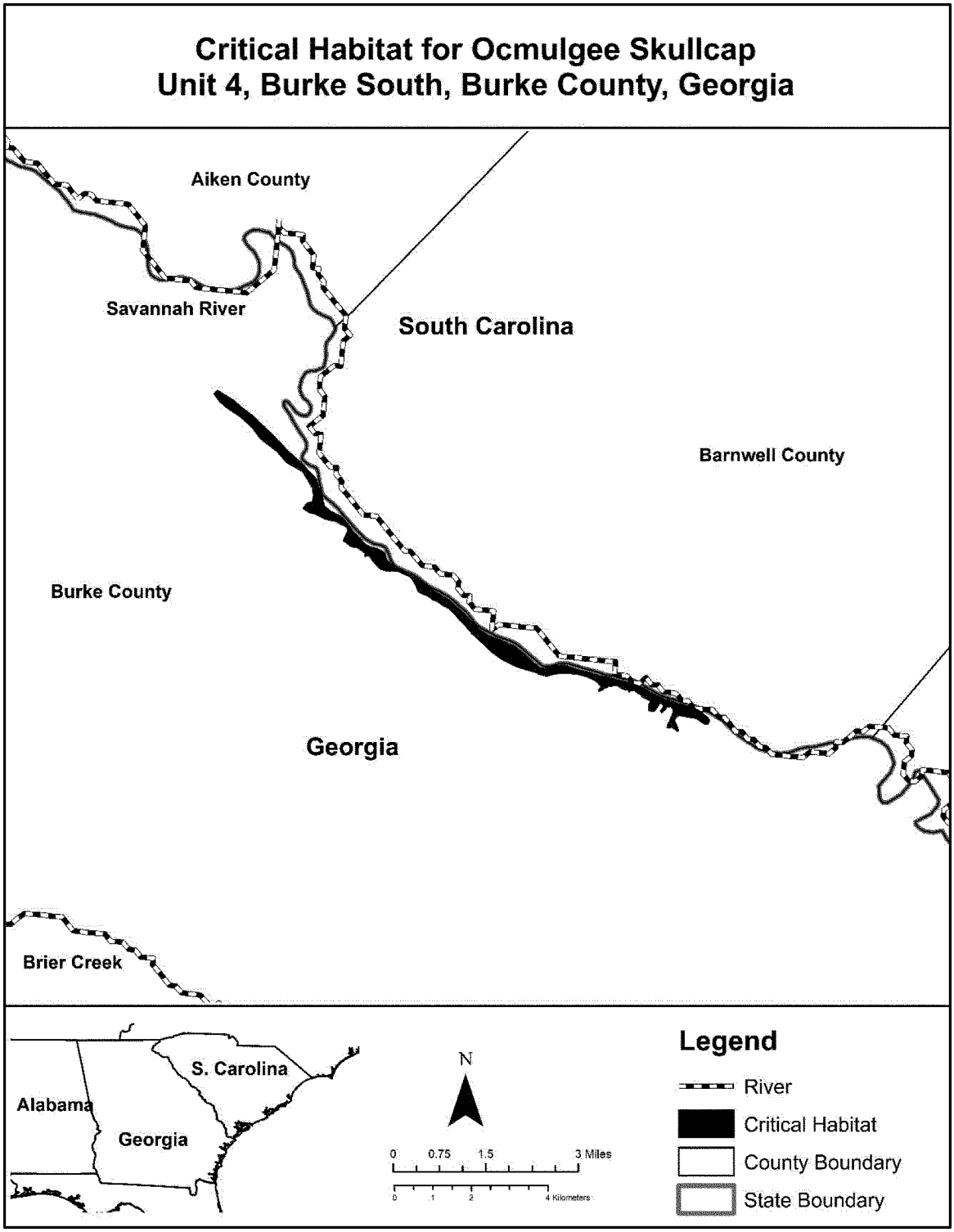
(ii) Map of Unit 3 follows:



(9) Unit 4: Burke South, Burke County, Georgia.

(i) Unit 4 consists of 976 ac (395 ha) in Burke County, Georgia, and is composed of lands in State (199 ac (80 ha)) and private (777 ac (314 ha)) ownership.

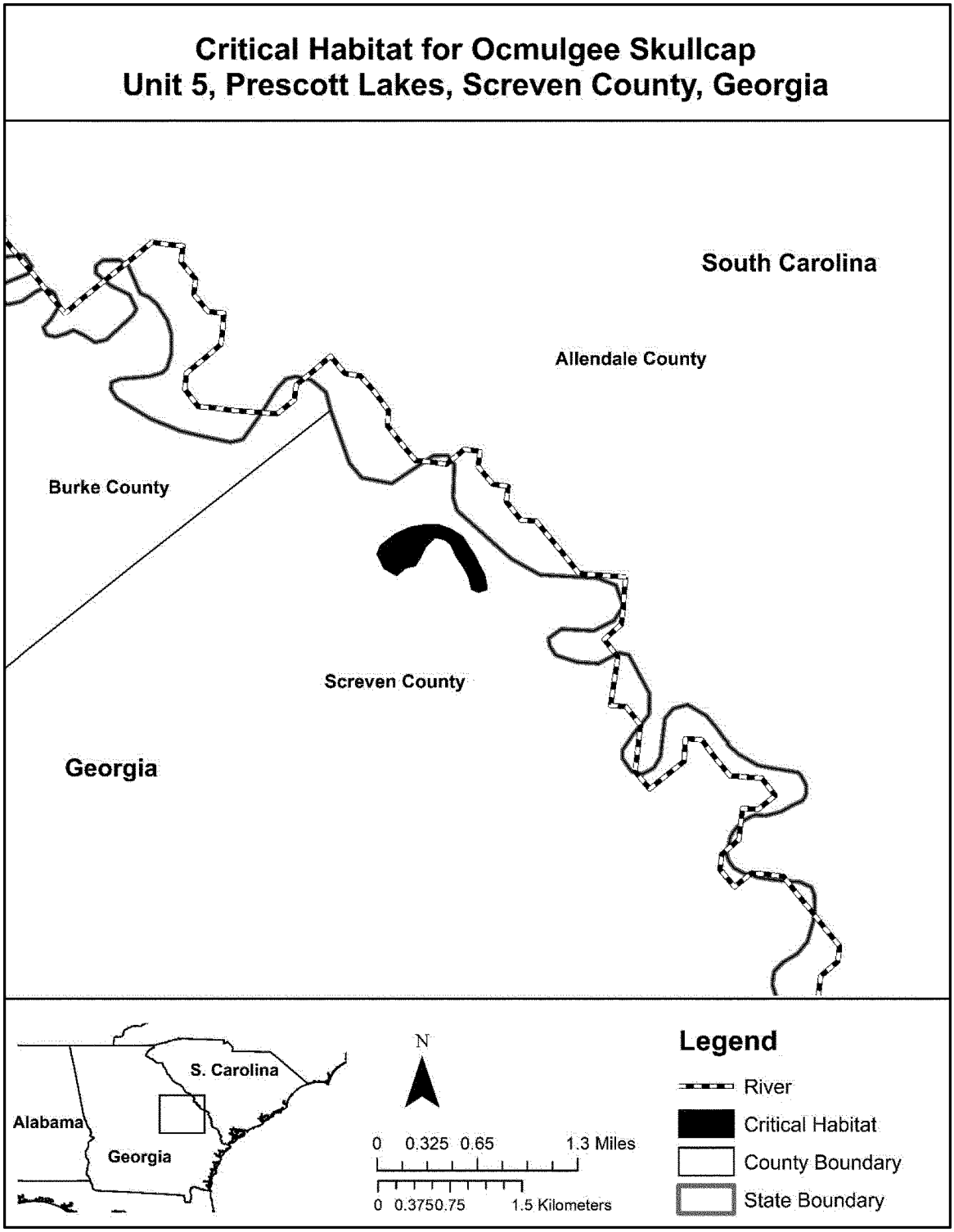
(ii) Map of Unit 4 follows:



(10) Unit 5: Prescott Lakes, Screven County, Georgia.

(i) Unit 5 consists of 81 ac (33 ha) in Screven County, Georgia, and is composed of lands in private ownership.

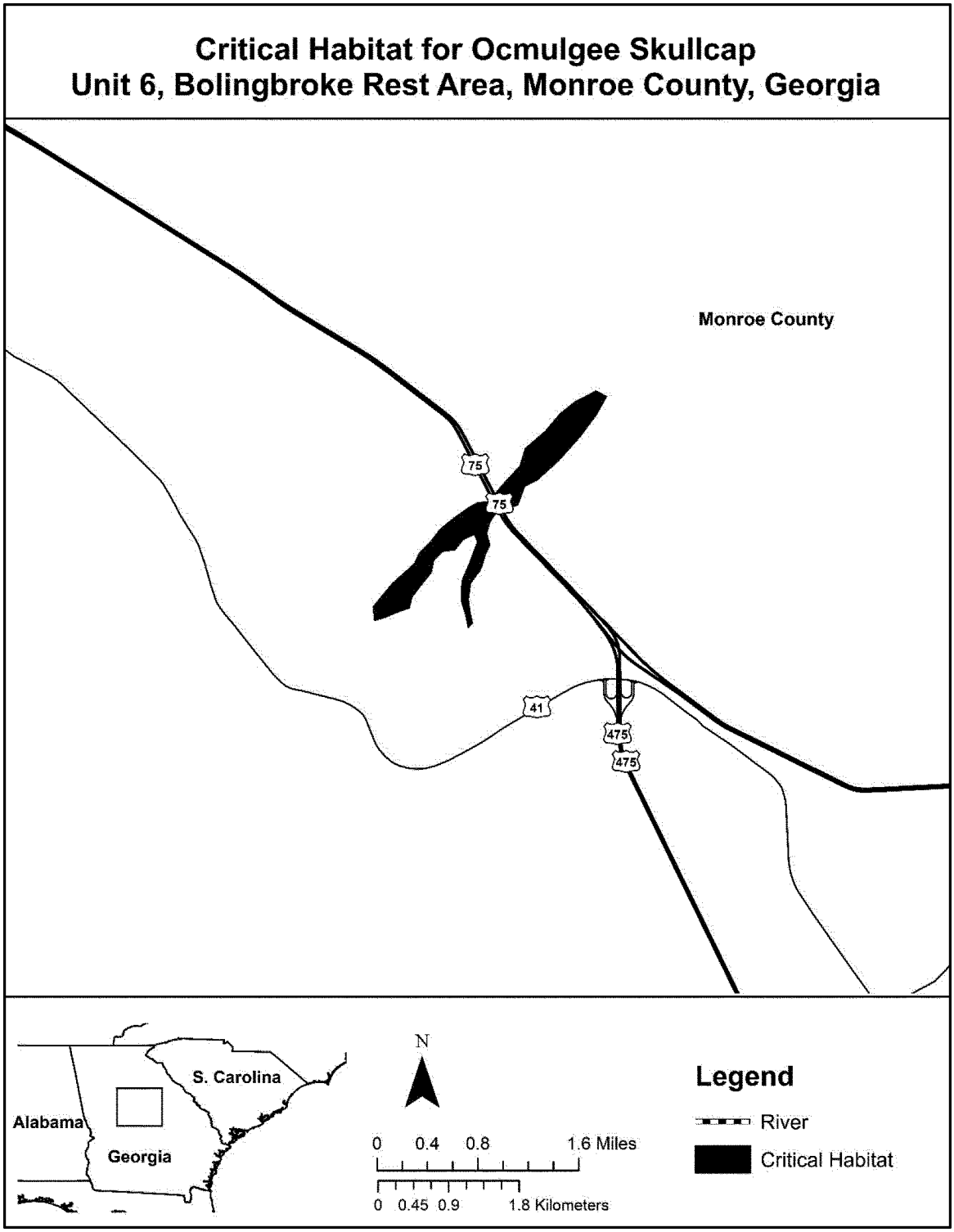
(ii) Map of Unit 5 follows:



(11) Unit 6: Bolingbroke Rest Area, Monroe County, Georgia.

(i) Unit 6 consists of 338 ac (137 ha) in Monroe County, Georgia, and is composed of lands in private ownership.

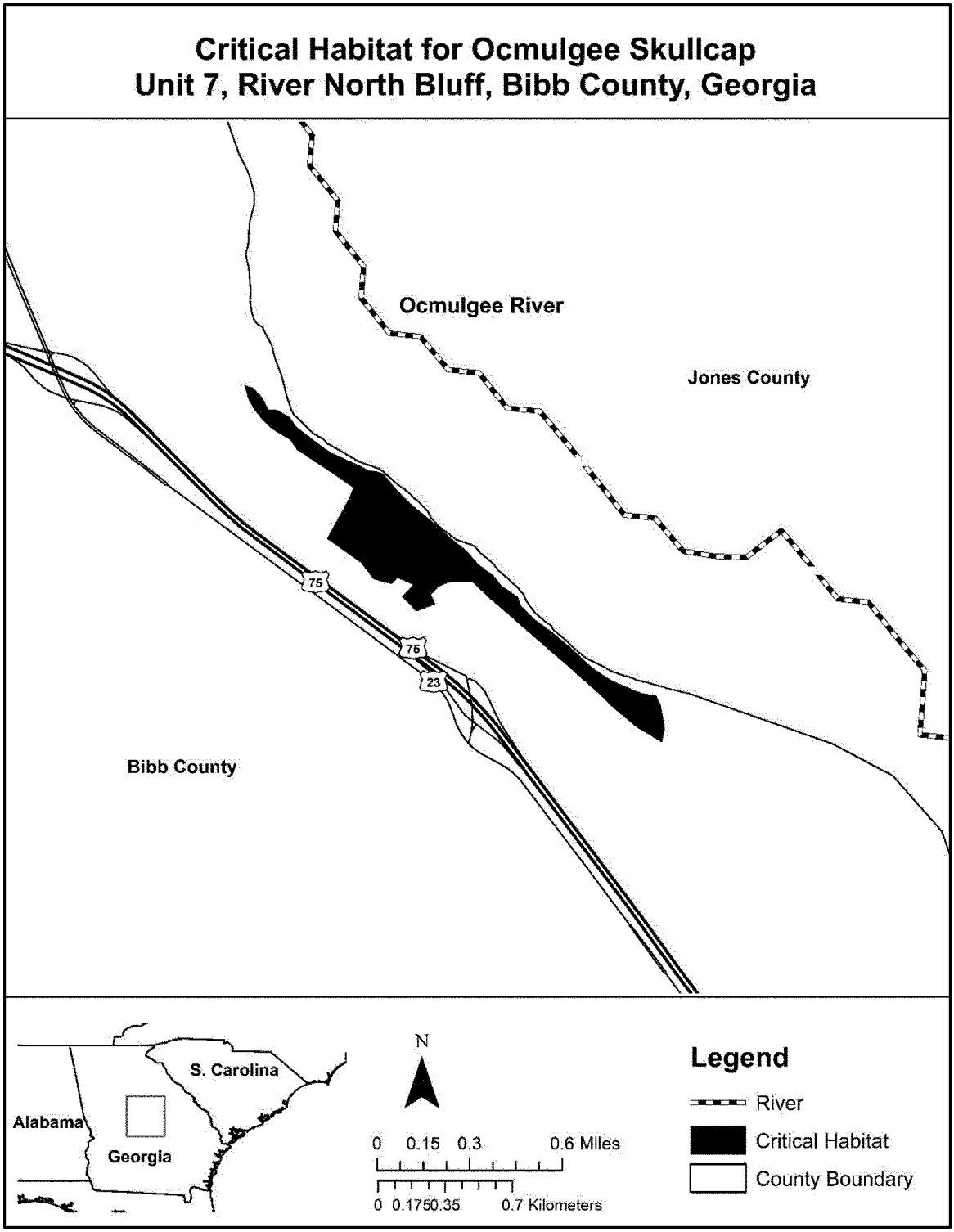
(ii) Map of Unit 6 follows:



(12) Unit 7: River North Bluff, Bibb County, Georgia.

(i) Unit 7 consists of 115 ac (46 ha) in Bibb County, Georgia, and is composed of lands in State (10 ac (4 ha)) and private (105 ac (42 ha)) ownership.

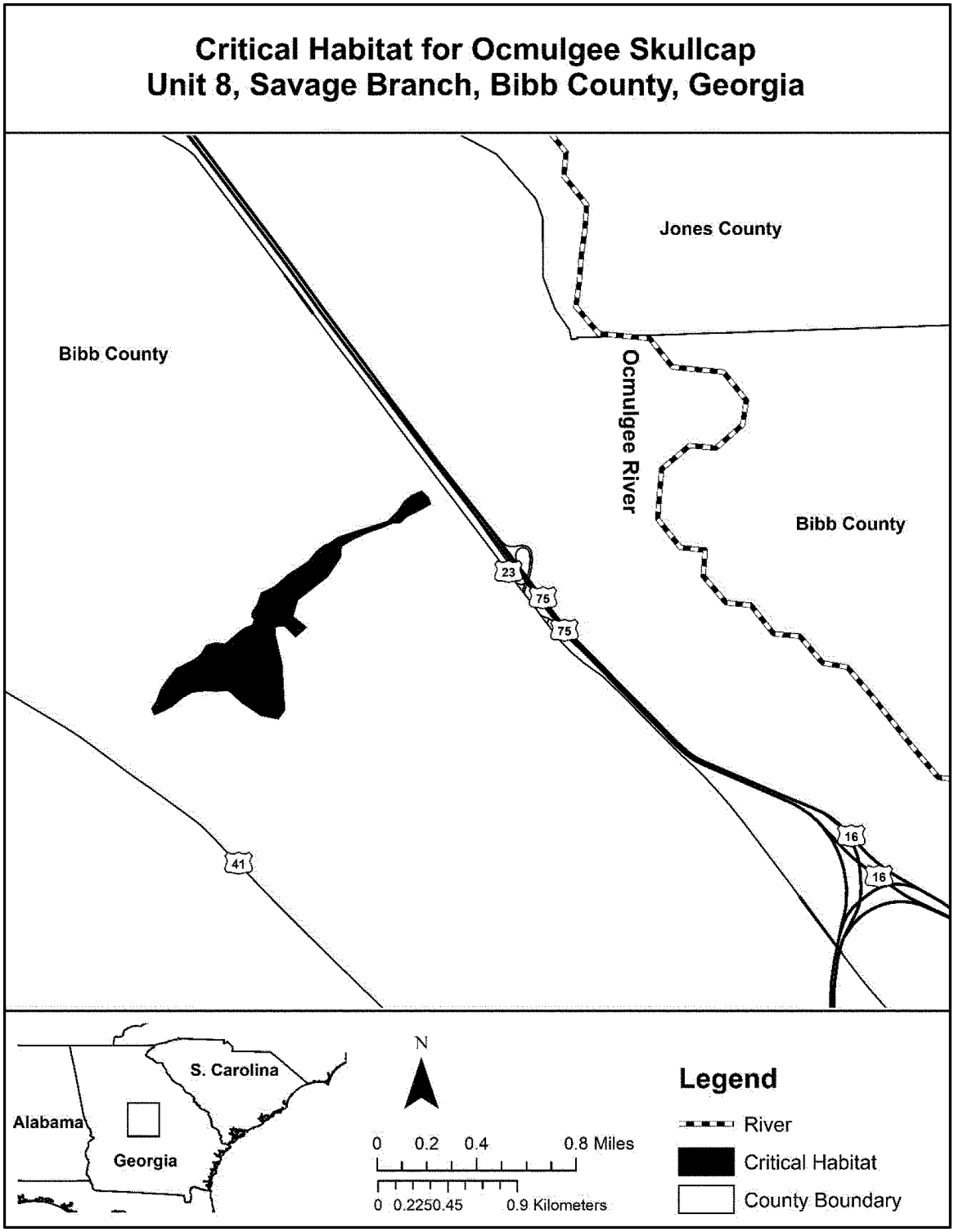
(ii) Map of Unit 7 follows:



(13) Unit 8: Savage Branch, Bibb County, Georgia.

(i) Unit 8 consists of 115 ac (46 ha) in Bibb County, Georgia, and is composed of lands in private ownership.

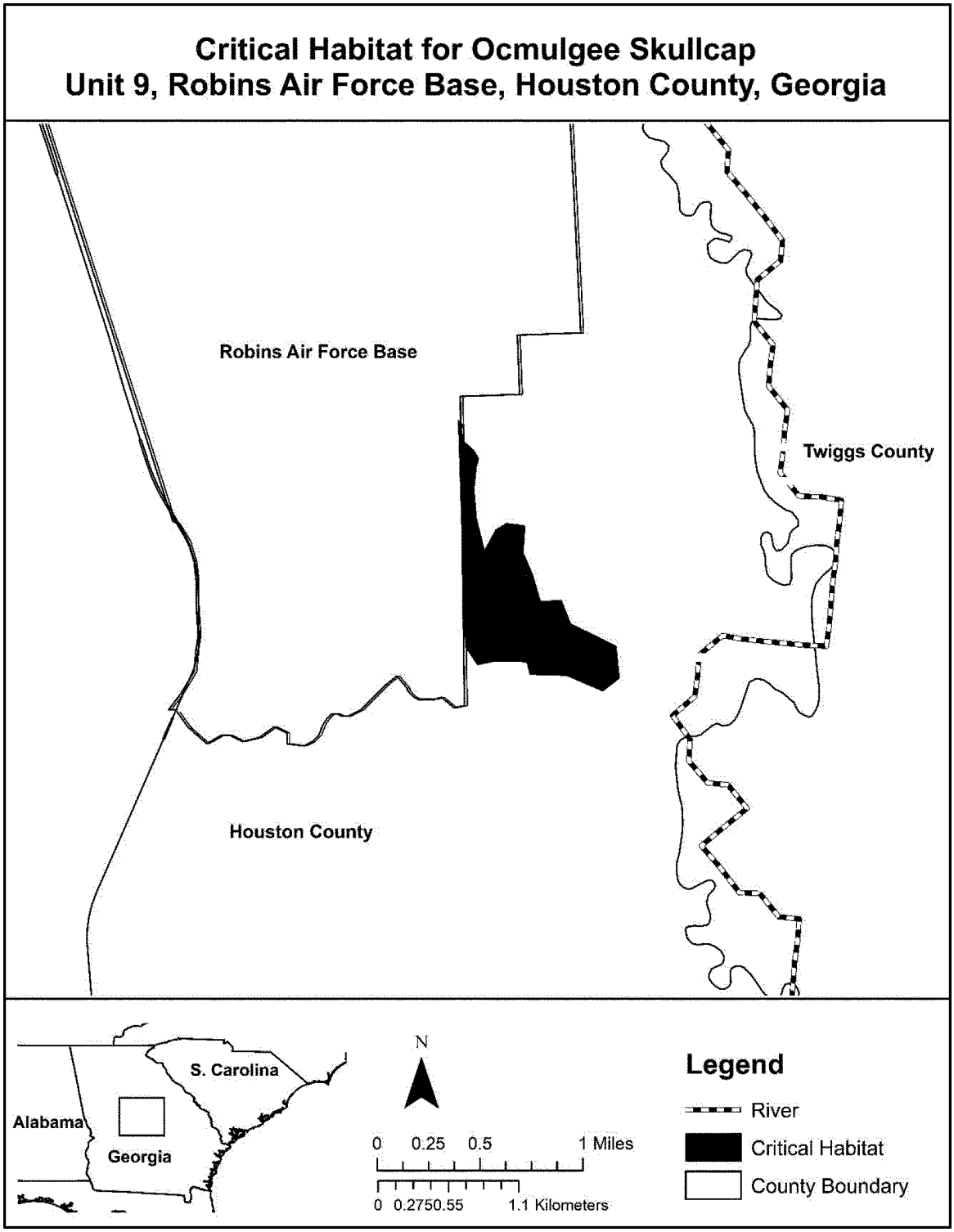
(ii) Map of Unit 8 follows:



(14) Unit 9: Robins Air Force Base, Houston County, Georgia.

(i) Unit 9 consists of 231 ac (93 ha) in Houston County, Georgia, and is composed of lands in private ownership.

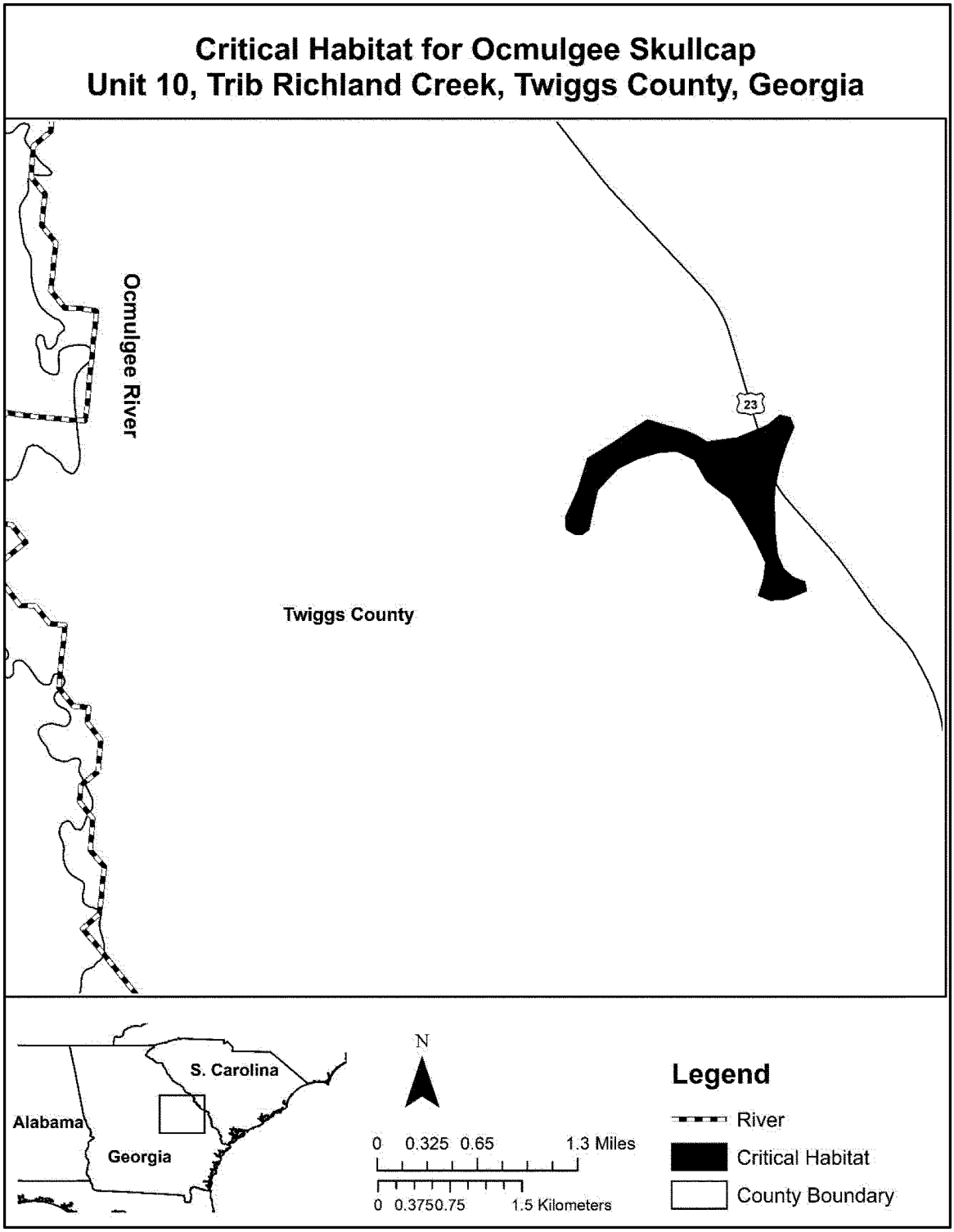
(ii) Map of Unit 9 follows:



(15) Unit 10: Trib Richland Creek, Twiggs County, Georgia.

(i) Unit 10 consists of 340 ac (138 ha) in Twiggs County, Georgia, and is composed of lands in State (242 ac (98 ha)) and private (98 ac (40 ha)) ownership.

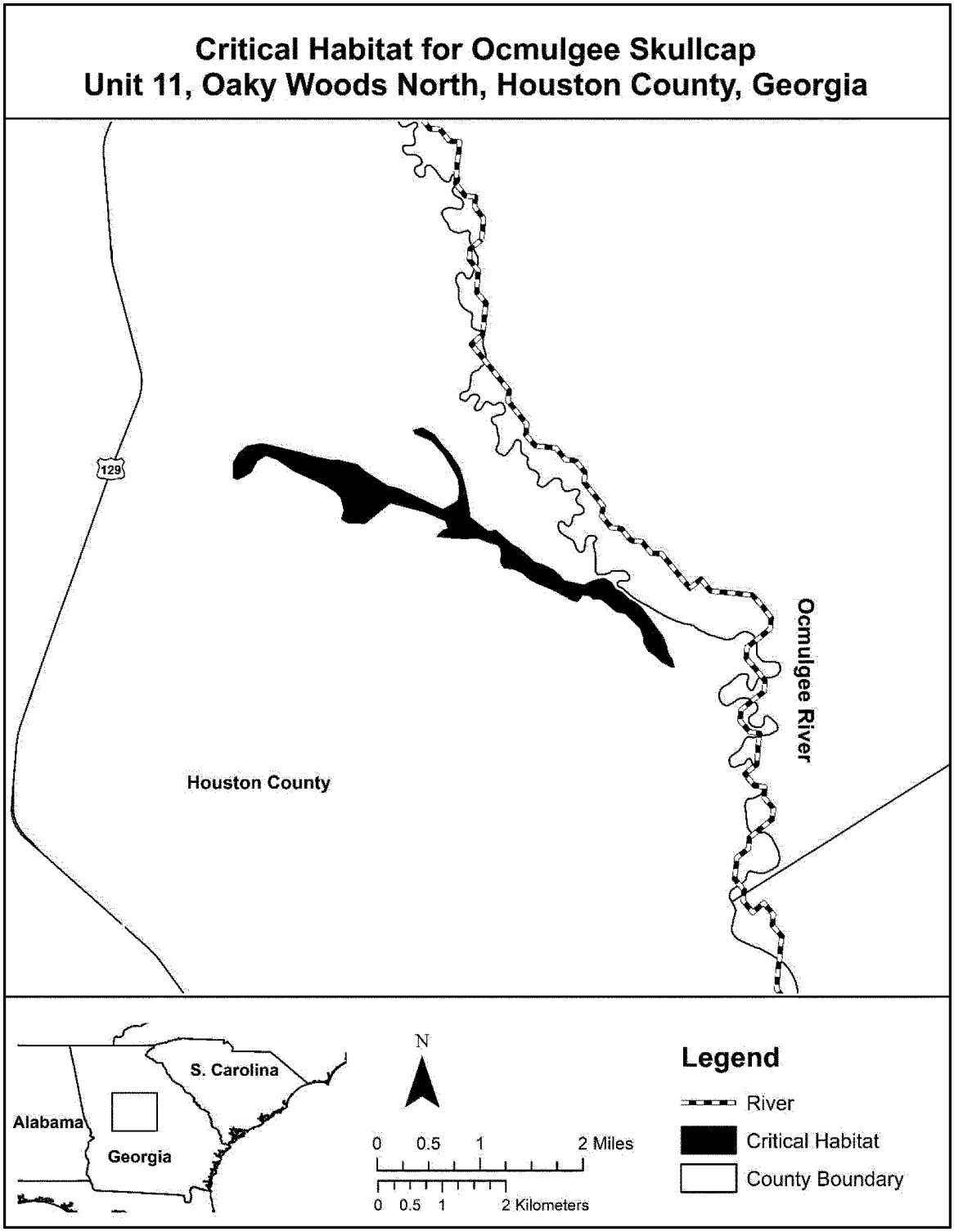
(ii) Map of Unit 10 follows:



(16) Unit 11: Oaky Woods North, Houston County, Georgia.

(i) Unit 11 consists of 657 ac (266 ha) in Houston County, Georgia, and is composed of lands in State (228 ac (92 ha)) and private (429 ac (174 ha)) ownership.

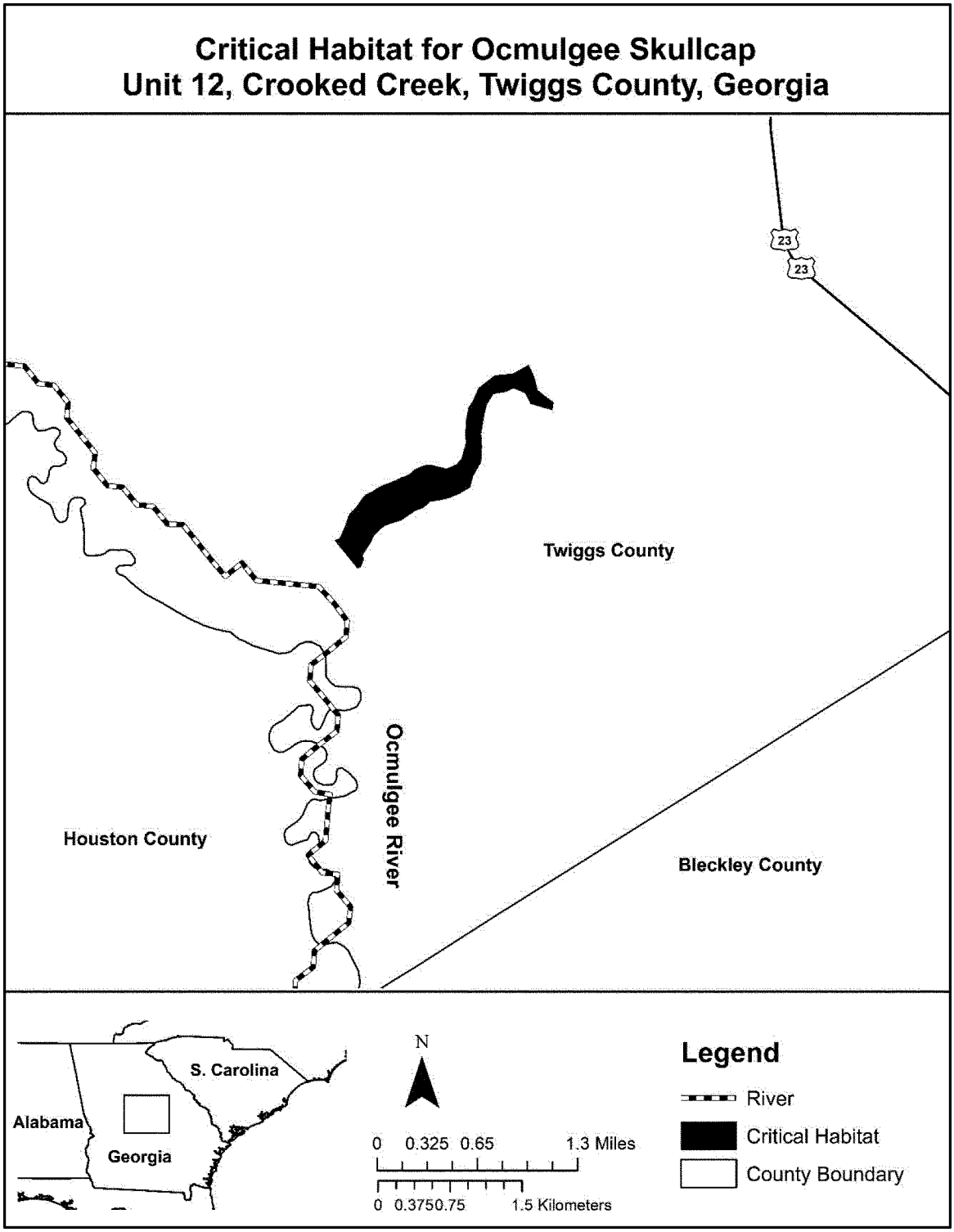
(ii) Map of Unit 11 follows:



(17) Unit 12: Crooked Creek, Twiggs County, Georgia.

(i) Unit 12 consists of 205 ac (83 ha) in Twiggs County, Georgia, and is composed of lands in State (201 ac (81 ha)) and private (4 ac (1.6 ha)) ownership.

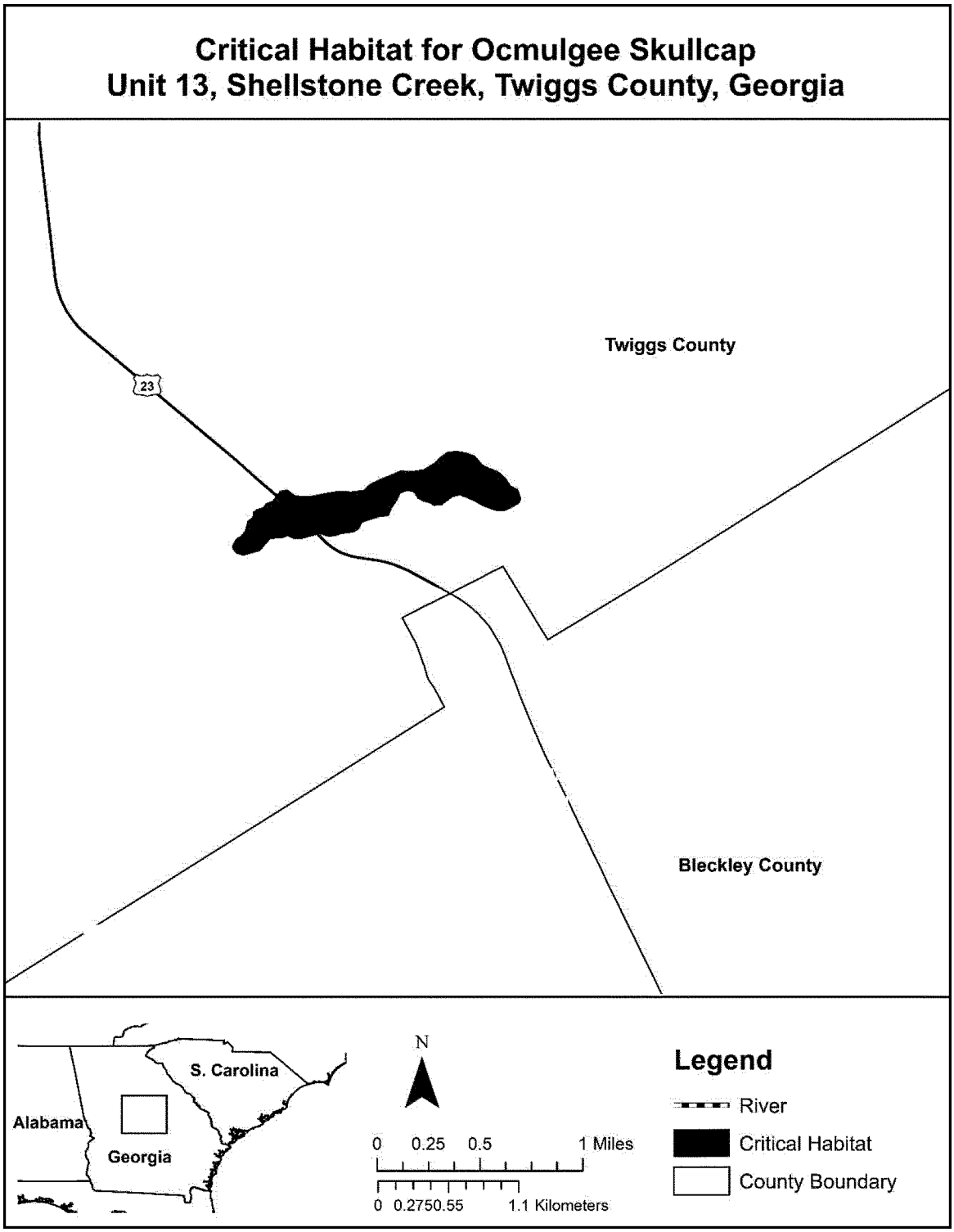
(ii) Map of Unit 12 follows:



(18) Unit 13: Shellstone Creek, Twiggs County, Georgia.

(i) Unit 13 consists of 160 ac (65 ha) in Twiggs County, Georgia, and is composed of lands in State (15 ac (6 ha)) and private (145 ac (59 ha)) ownership.

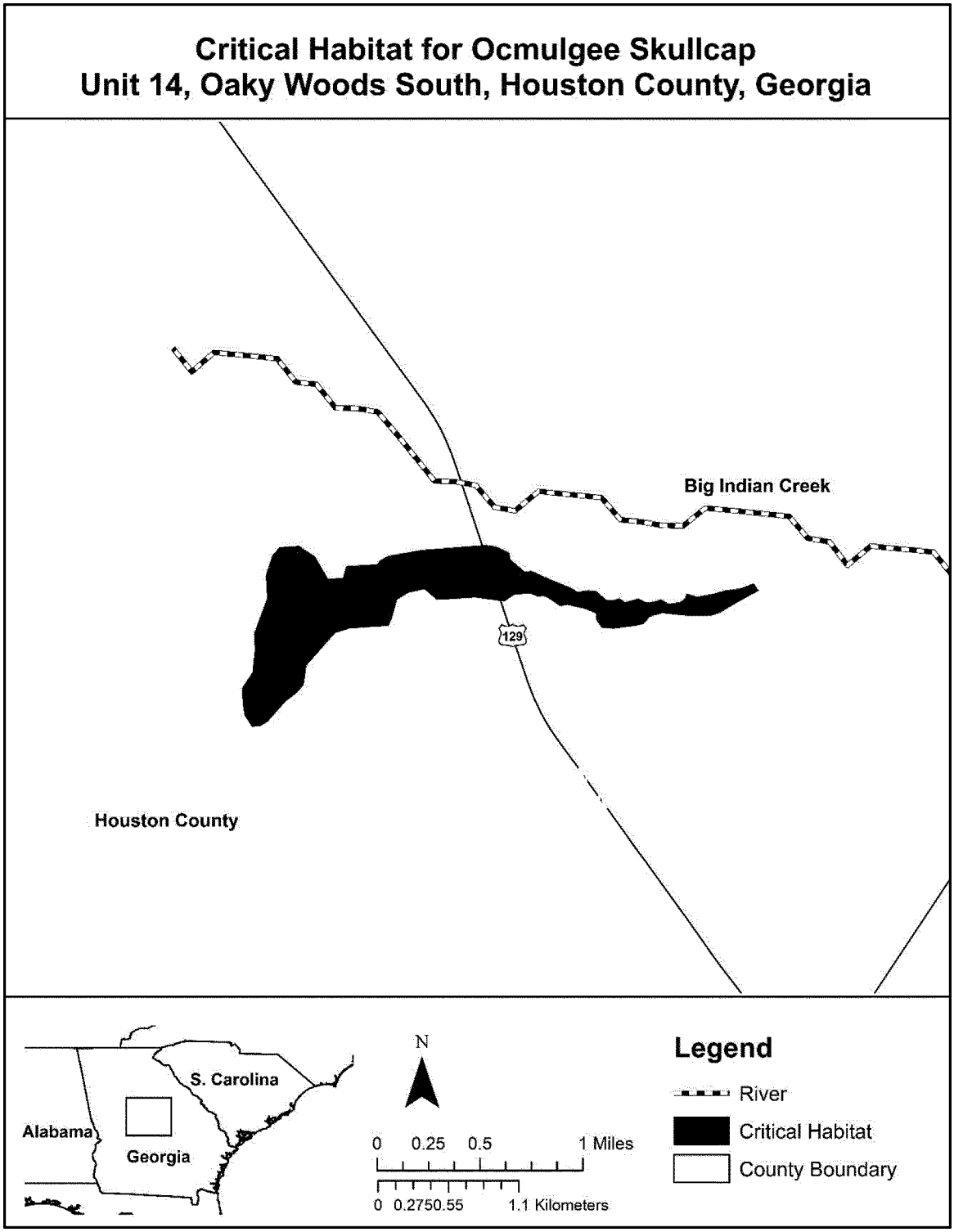
(ii) Map of Unit 13 follows:



(19) Unit 14: Oaky Woods South, Houston County, Georgia.

(i) Unit 14 consists of 363 ac (147 ha) in Houston County, Georgia, and is composed of lands in State (84 ac (34 ha)) and private (279 ac (113 ha)) ownership.

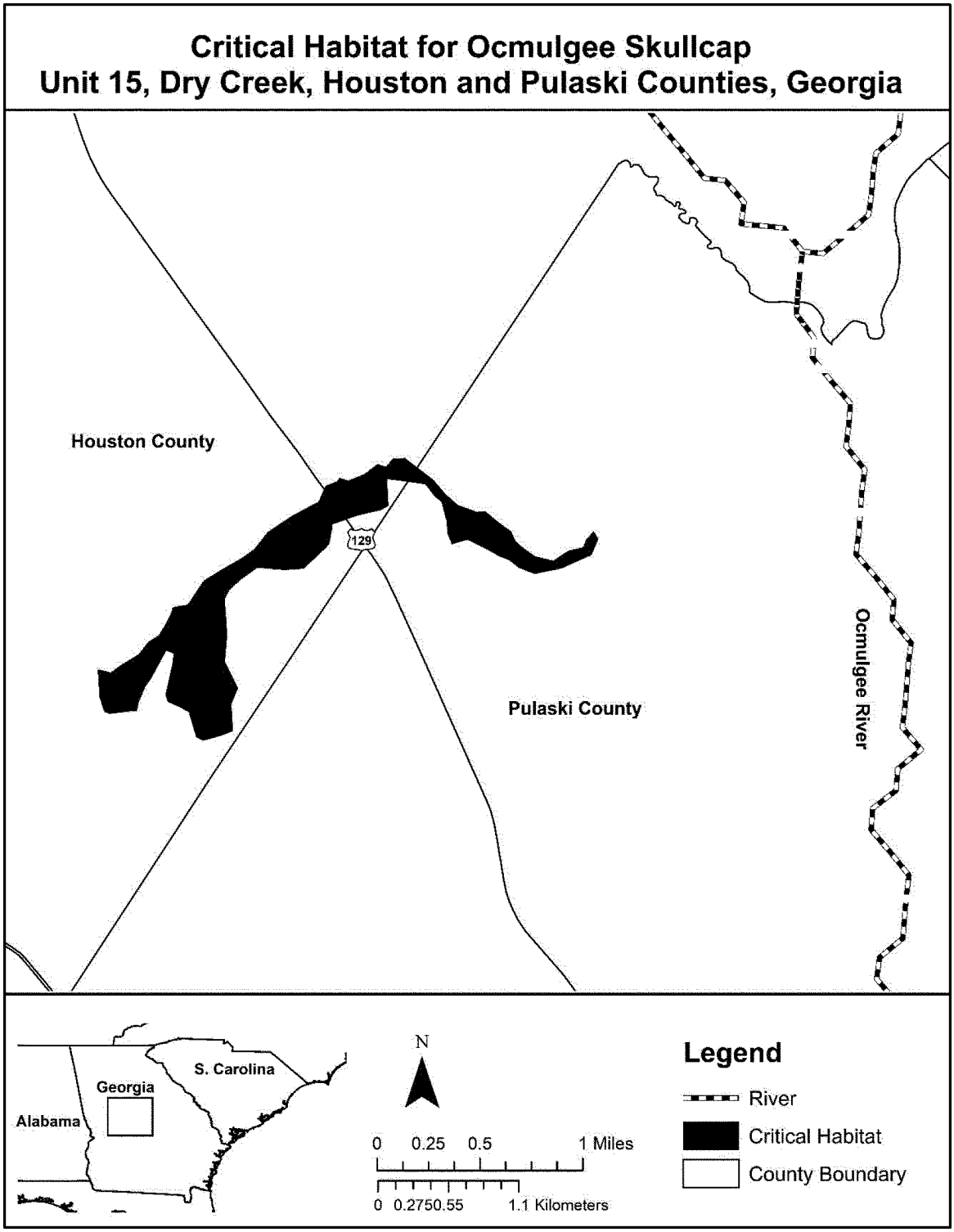
(ii) Map of Unit 14 follows:



(20) Unit 15: Dry Creek, Houston and Pulaski Counties, Georgia.

(i) Unit 15 consists of 330 ac (133 ha) in Houston and Pulaski Counties, Georgia, and is composed of lands in State (50 ac (20 ha)) and private (280 ac (113 ha)) ownership.

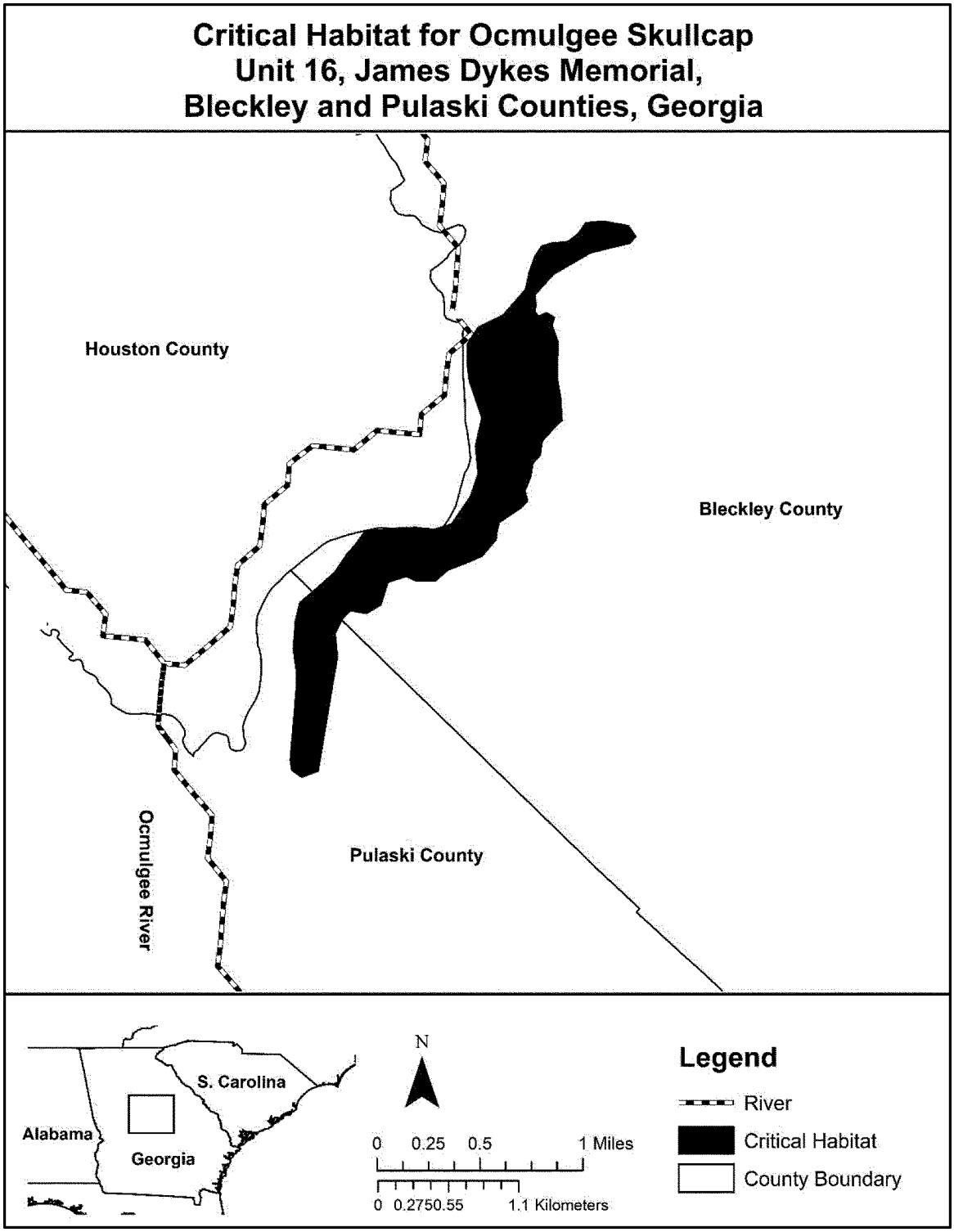
(ii) Map of Unit 15 follows:



(21) Unit 16: James Dykes Memorial, Bleckley and Pulaski counties, Georgia.

(i) Unit 16 consists of 515 ac (208 ha) in Bleckley and Pulaski Counties, Georgia, and is composed of lands in State (497 ac (201 ha)) and private (18 ac (7.3 ha)) ownership.

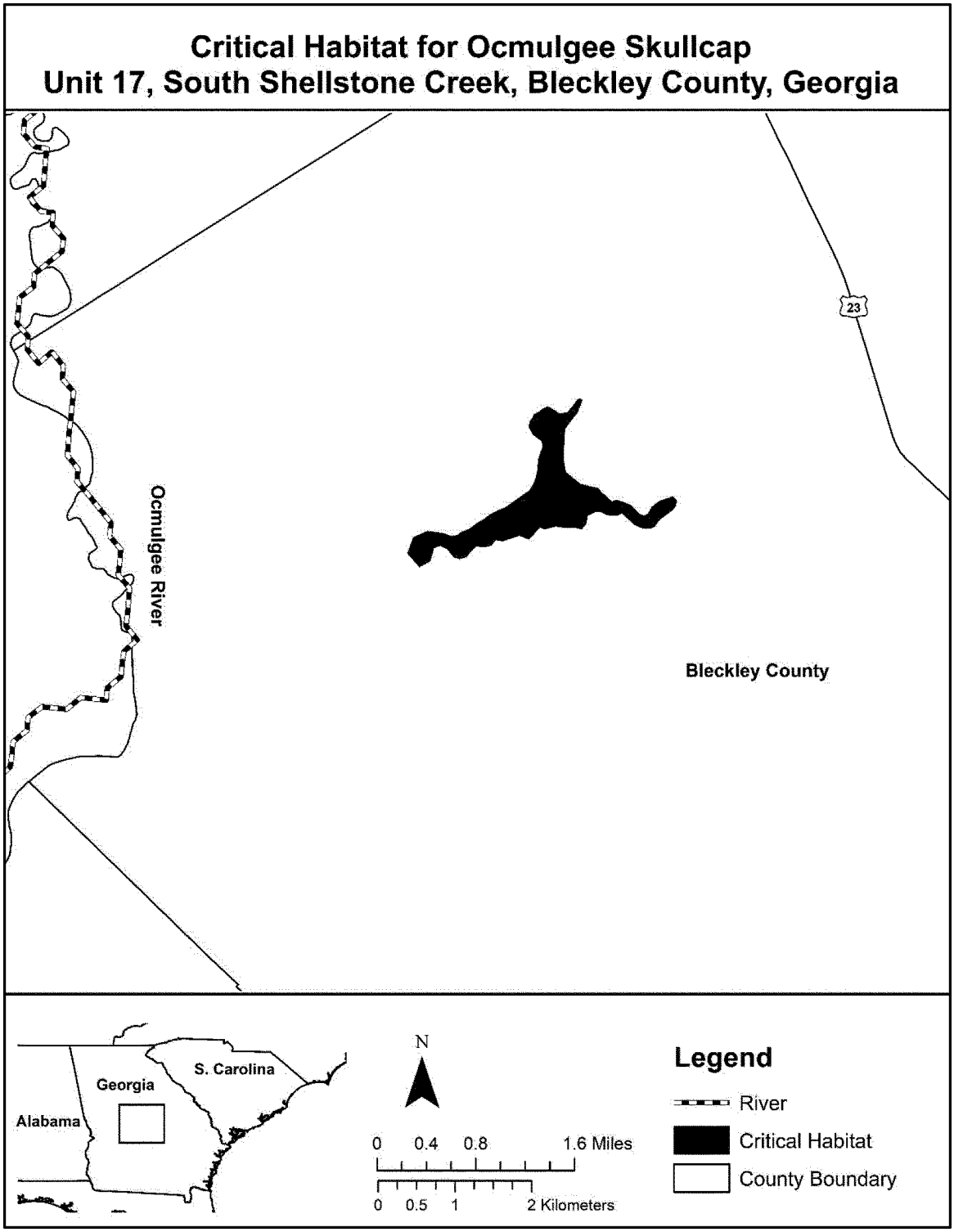
(ii) Map of Unit 16 follows:



(22) Unit 17: South Shellstone Creek, Bleckley County, Georgia.

(i) Unit 17 consists of 403 ac (163 ha) in Bleckley County, Georgia, and is composed of lands in State (4 ac (1.6 ha)) and private (399 ac (161 ha)) ownership.

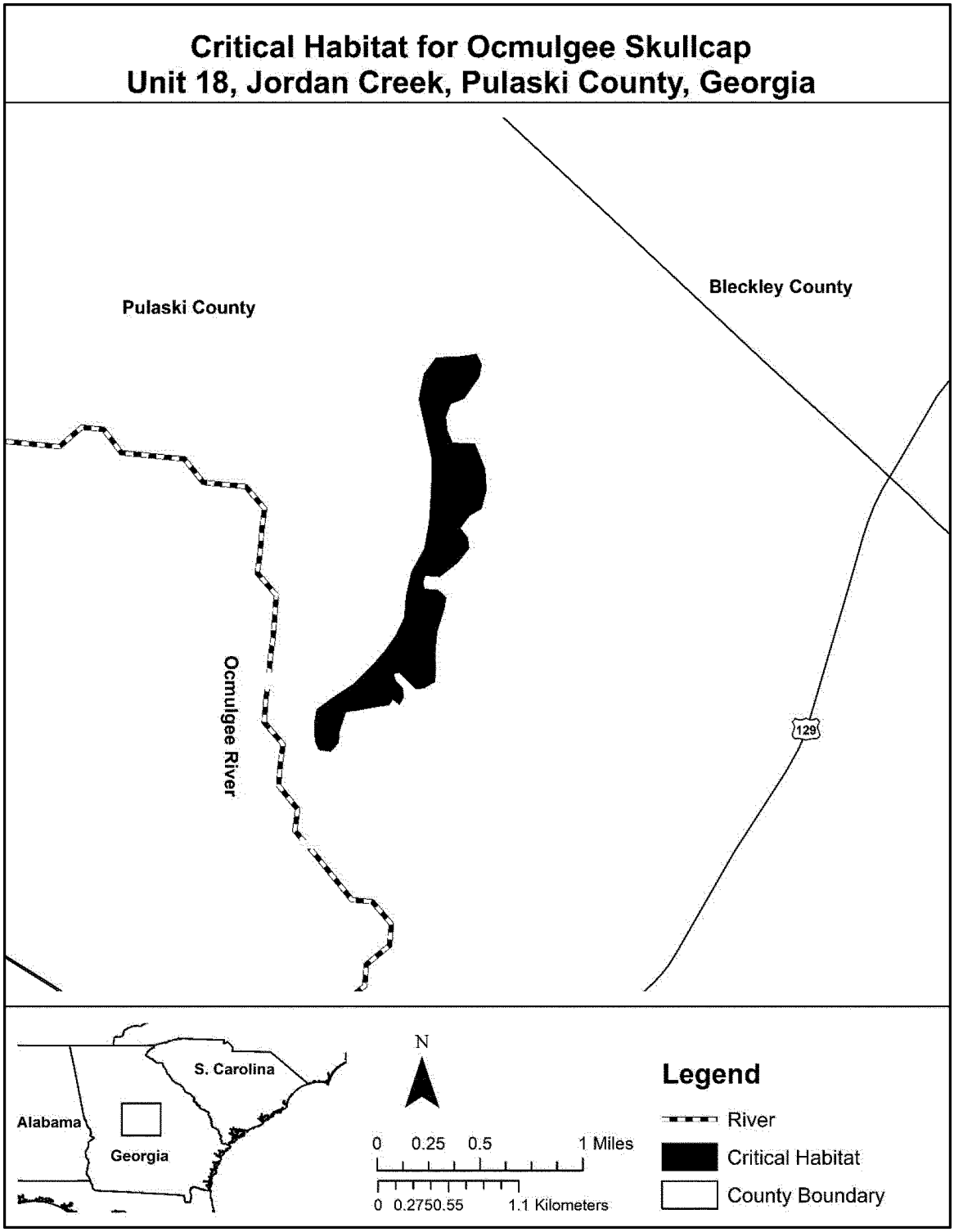
(ii) Map of Unit 17 follows:



(23) Unit 18: Jordan Creek, Pulaski County, Georgia.

(i) Unit 18 consists of 250 ac (101 ha) in Pulaski County, Georgia, and is composed of lands in private ownership.

(ii) Map of Unit 18 follows:



* * * * *

Martha Williams,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2022–12824 Filed 6–21–22; 8:45 am]

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FEDERAL REGISTER

Vol. 87 Wednesday,
No. 119 June 22, 2022

Part III

The President

Memorandum of June 16, 2022—Establishment of the White House Task Force to Address Online Harassment and Abuse

Federal Register
Vol. 87, No. 119
Wednesday, June 22, 2022

Presidential Documents

Title 3—

The President

Memorandum of June 16, 2022

Establishment of the White House Task Force to Address Online Harassment and Abuse

Memorandum for the Heads of Executive Departments and Agencies

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to improve efforts to prevent and address online harassment and abuse, it is hereby ordered as follows:

Section 1. *Policy*. Technology platforms and social media can be vital tools for expression, civic participation, and building a sense of community. But the scale, reach, and amplification effects of technology platforms have also exacerbated gender-based violence, particularly through online harassment and abuse. Online harassment and abuse include a broad array of harmful and sometimes illegal behaviors that are perpetrated through the use of technology. Women, adolescent girls, and LGBTQI+ individuals, who may be additionally targeted because of their race, ethnicity, religion, and other factors, can experience more severe harms from online harassment and abuse. Online harassment and abuse take many forms, including the non-consensual distribution of intimate digital images; cyberstalking; sextortion; doxing; malicious deep fakes; gendered disinformation; rape and death threats; the online recruitment and exploitation of victims of sex trafficking; and various forms of technology-facilitated intimate partner abuse. In the United States, 1 in 3 women under the age of 35 reports having been sexually harassed online, and over half of LGBTQI+ individuals report having been the target of severe online abuse, including sustained harassment, physical threats, and stalking in addition to sexual harassment. Globally, half of girls report that they are more likely to be harassed through social media than on the street.

In the United States and around the world, women and LGBTQI+ political leaders, public figures, activists, and journalists are especially targeted by sexualized forms of online harassment and abuse, undermining their ability to exercise their human rights and participate in democracy, governance, and civic life. Online abuse and harassment, which aim to preclude women from political decision-making about their own lives and communities, undermine the functioning of democracy. Growing evidence also demonstrates that online radicalization can be linked to gender-based violence, which, along with other forms of abuse and harassment, spans the digital and physical realms. Online harassment and abuse can result in a range of dire consequences for victims, from psychological distress and self-censorship to economic losses, disruptions to education, increased self-harm, suicide, homicide, and other forms of physical and sexual violence. Further, digital technologies are often used in concert with other forms of abuse and harassment, underscoring the urgency of addressing the interplay of in-person and online harms. More research is needed to fully understand the nature, magnitude, and costs of these harms and ways to address them in the United States and globally.

Therefore, I am directing the Director of the White House Gender Policy Council and the Assistant to the President for National Security Affairs to lead an interagency effort to address online harassment and abuse, specifically focused on technology-facilitated gender-based violence, and to develop

concrete recommendations to improve prevention, response, and protection efforts through programs and policies in the United States and globally.

Sec. 2. *Establishment.* There is established within the Executive Office of the President the White House Task Force to Address Online Harassment and Abuse (Task Force).

Sec. 3. *Membership.* (a) The Director of the White House Gender Policy Council and the Assistant to the President for National Security Affairs, or their designees, shall serve as Co-Chairs of the Task Force.

(b) In addition to the Co-Chairs, the Task Force shall consist of the following members:

(i) the Secretary of State;

(ii) the Secretary of Defense;

(iii) the Attorney General;

(iv) the Secretary of Commerce;

(v) the Secretary of Health and Human Services;

(vi) the Secretary of Education;

(vii) the Secretary of Veterans Affairs;

(viii) the Secretary of Homeland Security;

(ix) the Director of the Office of Science and Technology Policy;

(x) the Assistant to the President and Director of the Domestic Policy Council;

(xi) the Assistant to the President for Economic Policy and Director of the National Economic Council;

(xii) the Administrator of the United States Agency for International Development;

(xiii) the Counsel to the President;

(xiv) the Counsel to the Vice President; and

(xv) the heads of such other executive departments, agencies, and offices as the Co-Chairs may, from time to time, designate.

(c) A member of the Task Force may designate, to perform the Task Force functions of the member, senior officials within the member's executive department, agency, or office who are full-time officers or employees of the Federal Government.

Sec. 4. *Mission and Function.* (a) The Task Force shall work across executive departments, agencies, and offices to assess and address online harassment and abuse that constitute technology-facilitated gender-based violence, including by:

(i) improving coordination among executive departments, agencies, and offices to maximize the Federal Government's effectiveness in preventing and addressing technology-facilitated gender-based violence in the United States and globally, including by developing policy solutions to enhance accountability for those who perpetrate online harms;

(ii) enhancing and expanding data collection and research across the Federal Government to measure the costs, prevalence, exposure to, and impact of technology-facilitated gender-based violence, including by studying the mental health effects of abuse on social media, particularly affecting adolescents;

(iii) increasing access to survivor-centered services, information, and support for victims, and increasing training and technical assistance for Federal, State, local, Tribal, and territorial governments as well as for global organizations and entities in the fields of criminal justice, health and mental health services, education, and victim services;

(iv) developing programs and policies to address online harassment, abuse, and disinformation campaigns targeting women and LGBTQI+ individuals

who are public and political figures, government and civic leaders, activists, and journalists in the United States and globally;

(v) examining existing Federal laws, regulations, and policies to evaluate the adequacy of the current legal framework to address technology-facilitated gender-based violence; and

(vi) identifying additional opportunities to improve efforts to prevent and address technology-facilitated gender-based violence in United States foreign policy and foreign assistance, including through the Global Partnership for Action on Gender-Based Online Harassment and Abuse.

(b) Consistent with the objectives of this memorandum and applicable law, the Task Force may consult with and gather relevant information from external stakeholders, including Federal, State, local, Tribal, and territorial government officials, as well as victim advocates, survivors, law enforcement personnel, researchers and academics, civil and human rights groups, philanthropic leaders, technology experts, legal and international policy experts, industry stakeholders, and other entities and persons the Task Force identifies that will assist the Task Force in accomplishing the objectives of this memorandum.

Sec. 5. *Reporting on the Work and Recommendations of the Task Force.* (a) Within 180 days of the date of this memorandum, the Co-Chairs of the Task Force shall submit to the President a blueprint (Initial Blueprint) outlining a whole-of-government approach to preventing and addressing technology-facilitated gender-based violence, including concrete actions that executive departments, agencies, and offices have committed to take to implement the Task Force's recommendations. The Initial Blueprint shall include a synopsis of key lessons from stakeholder consultations and preliminary recommendations for advancing strategies to improve efforts to prevent and address technology-facilitated gender-based violence. Following submission of the Initial Blueprint to the President, the Co-Chairs of the Task Force shall make an executive summary of the Initial Blueprint publicly available.

(b) Within 1 year of the date that the Initial Blueprint is submitted to the President, the Co-Chairs of the Task Force shall submit to the President and make publicly available an update and report (1-Year Report) with additional recommendations and actions that executive departments, agencies, and offices can take to advance how Federal, State, local, Tribal, and territorial governments; service providers; international organizations; technology platforms; schools; and other public and private entities can improve efforts to prevent and address technology-facilitated gender-based violence.

(c) Prior to issuing its Initial Blueprint and 1-Year Report, the Co-Chairs of the Task Force shall consolidate any input received and submit periodic recommendations to the President on policies, regulatory actions, and legislation on technology sector accountability to address systemic harms to people affected by online harassment and abuse.

(d) Following the submission of the 1-Year Report to the President, the Co-Chairs of the Task Force shall, on an annual basis, submit a follow-up report to the President on implementation of this memorandum.

Sec. 6. *Definition.* For the purposes of this memorandum, the term ''technology-facilitated gender-based violence'' shall refer to any form of gender-based violence, including harassment and abuse, which takes place through, or is aided by, the use of digital technologies and devices.

Sec. 7. *General Provisions.* (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

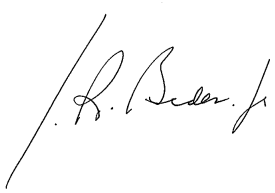
(b) This memorandum shall not apply to independent regulatory agencies as described in section 3502(5) of title 44, United States Code. Independent

regulatory agencies are nevertheless strongly encouraged to participate in the work of the Task Force.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(e) The Attorney General is authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, June 16, 2022

[FR Doc. 2022–13496
Filed 6–21–22; 11:15 am]
Billing code 4410–19–P

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Vol. 87, No. 119

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FEDERAL REGISTER PAGES AND DATE, JUNE

CFR PARTS AFFECTED DURING JUNE

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

14 CFR

39 .....32969, 32973, 32975, 32978, 33435, 33621, 33623, 33627, 33630, 33632, 34120, 34125, 34129, 34765, 34767, 34770, 34772, 35885, 35890, 35892, 36053, 36055, 36214, 36216, 36219, 36383, 36387, 36390, 37226, 37228
71 .....32980, 32981, 32982, 34573, 35083, 35383, 35384, 35385, 35386, 35387, 35643, 35644, 35645, 35895, 35896, 35897, 36392, 37231
95.....39394
97 (2 documents) 35646, 35650

Proposed Rules:

21.....36076
38.....36076
39 .....33071, 33076, 33451, 33454, 33457, 33658, 34221, 34587, 34591, 35118, 35122, 35125, 35128, 35465, 35684, 35686, 36266, 36269, 36272, 36274, 36276, 36415, 36418, 36773, 36775, 36778, 36781, 36783, 37247, 37249
71 .....33080, 33082, 33083, 33085, 33660, 34595, 34597, 35133, 35469, 35470, 35689, 35690, 35691, 35692, 36421, 36423, 36424, 37252
121.....36076
125.....36076

15 CFR

734.....34131
740.....32983, 34131
743.....32983
744 .....32987, 34131, 34154
746.....34131
748.....32983
766.....34131

Proposed Rules:

801.....36091

16 CFR

1225.....32988

Proposed Rules:

310.....33662, 33677

17 CFR

1.....36407
230.....35393
232.....35393
239.....35393
240.....35393
249.....35393

Proposed Rules:

200.....36654
229.....35938
230.....36594, 36654
232.....36594, 36654
239.....36594, 36654
240.....35938
249.....35938, 36654
270.....36594, 37254
274 .....35938, 36594, 36654
275.....37254
279.....36654

19 CFR

12.....34775

20 CFR

404.....35651
408.....35651
416.....35651
655.....34067

21 CFR

870.....32988, 34777
876.....34164
1141.....32990
1308 .....32991, 32996, 34166

Proposed Rules:

175.....36426
176.....36426
177.....36426
178.....36426
1162.....36786
1166.....36786

22 CFR

42.....35414

23 CFR

Proposed Rules:

680.....37262

24 CFR

Proposed Rules:

5.....36426
92.....36426
93.....36426
200.....36426
574.....36426
576.....36426
578.....36426
880.....36426
882.....36426
884.....36426
886.....36426
888.....36426
902.....36426
982.....36426
983.....36426
985.....36426

25 CFR

Proposed Rules:

514.....36279
518.....36280
522.....36280
537.....36281
559.....36281
571.....33091

26 CFR

Proposed Rules:

1.....34223

27 CFR

9 .....33634, 33638, 33642, 33646

Proposed Rules:

4.....35693
25.....34819

28 CFR

Proposed Rules:

0.....36786

29 CFR

1910.....32999
4044.....36058

31 CFR

515.....35088
587.....32999, 34169

Proposed Rules:

1010.....34224

32 CFR

199.....33001, 34779

33 CFR

100 .....33015, 34170, 34574, 34779, 36059, 36763
110.....36766
165 .....33018, 33019, 33020, 33649, 34171, 34173, 34574, 34576, 34781, 34784, 34786, 34788, 35092, 35094, 35654, 35656, 36059, 36221, 36768, 37232. 37234
187.....34175

Proposed Rules:

117 .....33460, 34598, 34601, 35472, 35939
165 .....33695, 34603, 34605, 34607, 34834, 35697, 36430
386.....35473

34 CFR

Ch. II.....34790
Ch. III.....35415

36 CFR

222.....35097

Proposed Rules:

242.....34228

37 CFR

220.....36060
222.....36060
225.....36060
226.....36060
228.....36060
230.....36060
231.....36060
232.....36060
233.....36060
360.....35898

Proposed Rules:

385.....33093

38 CFR

8.....35419
17.....33021
79.....33025

39 CFR

20.....36061
111 .....33047, 34197, 35658

Proposed Rules:

111.....35701, 36432

40 CFR

52 .....33438, 33650, 34577, 34579, 34795, 34797, 35104, 35421, 35423, 36222, 36769, 37235
81 .....34795, 34797, 35104
180 .....34203, 34206, 36063, 36068, 36071
271.....34579, 36074

Proposed Rules:

9.....36920
52 .....33095, 33461, 33464, 33697, 33699, 34609, 34612, 35701, 35705, 35709, 36096, 36433, 36436, 37280
60.....35608, 36796
63.....34614, 35608
70.....36436
80.....35711
82.....36282
98.....36920
121.....35318
122.....35318
124.....35318
174.....37387
180.....36438, 37287

42 CFR

410.....36409
414.....36409
488.....36409
493.....36409

45 CFR

1170.....36224

46 CFR

4.....35899

47 CFR

1.....34209
9.....37237
10.....34212
11.....34213
25.....33441
73 .....33441, 34799, 35426
76.....33441

Proposed Rules:

1.....36815
15.....33109
27.....33466
36.....36283
51.....36283
54.....36283, 36439
73.....34624
74.....36440

49 CFR

191.....35675
270.....35660
271.....35660
571.....34800
575.....34800

Proposed Rules:

367.....35940
525.....35718
531.....35718
563.....37289

50 CFR

17.....35431, 36225
300 .....34580, 34584, 35901
622.....34811, 36771
635.....33049, 33056
648.....35112, 36248
660.....33442
679.....34215

Proposed Rules:

17 .....34228, 34625, 37378
20.....35942
32.....35136
100.....34228
218.....33113
648.....34629

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *https://www.archives.gov/federal-register/laws*.

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S. 1097/P.L. 117–149
Federal Rotational Cyber Workforce Program Act of 2021 (June 21, 2022; 136 Stat. 1289)

S. 2520/P.L. 117–150
State and Local Government Cybersecurity Act of 2021 (June 21, 2022; 136 Stat. 1295)

S. 3823/P.L. 117–151
Bankruptcy Threshold Adjustment and Technical Corrections Act (June 21, 2022; 136 Stat. 1298)

Last List June 21, 2022

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