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Presidential Documents

Title 3—

The President

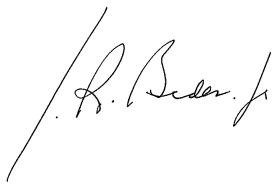
Memorandum of July 8, 2022

Delegation of Authority Under Section 506(a)(1) of the Foreign Assistance Act of 1961

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 621 of the Foreign Assistance Act of 1961 (FAA), I hereby delegate to the Secretary of State the authority under section 506(a)(1) of the FAA to direct the drawdown of up to $400 million in defense articles and services of the Department of Defense, and military education and training, to provide assistance to Ukraine and to make the determinations required under such section to direct such a drawdown.

You are authorized and directed to publish this memorandum in the *Federal Register*.



THE WHITE HOUSE,
Washington, July 8, 2022

[FR Doc. 2022–15183
Filed 7–13–22; 8:45 am]
Billing code 4710–10–P

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0461; Project Identifier MCAI–2021–01156–T; Amendment 39–22113; AD 2022–14–08]

RIN 2120–AA64

Airworthiness Directives; BAE Systems (Operations) Limited Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2008–16–06, which applied to all BAE Systems (Operations) Limited Model 4101 airplanes. AD 2008–16–06 required the installation of additional bonding leads, inspection of existing bonding leads for defects, inspection of fuel system pipe runs in the wings to ensure appropriate clearances are maintained, and corrective actions. This AD continues to require the actions in AD 2008–16–06, and adds a requirement to install additional bonding leads around the crossfeed valve and accomplish a resistance check. This AD was prompted by a report that there is insufficient bonding of the crossfeed valve in the fuel tank area. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of September 9, 2008 (73 FR 45346, August 5, 2008).

ADDRESSES: For service information identified in this final rule, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *https://www.baesystems.com/Businesses/RegionalAircraft/index.htm.* 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–2022–0461.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0461; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI) any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *todd.thompson@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Civil Aviation Authority (CAA), which is the aviation authority for the United Kingdom, has issued CAA AD G–2021–0013, dated October 21, 2021 (also referred to as the MCAI), to correct an unsafe condition for all BAE Systems (Operations) Limited Model 4101 airplanes. You may examine the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0461.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2008–16–06, Amendment 39–15624 (73 FR 45346, August 5, 2008) (AD 2008–16–06). AD 2008–16–06 applied to all BAE Systems (Operations) Limited Model 4101 airplanes. The NPRM published in the **Federal Register** on April 20, 2022 (87 FR 23474). The NPRM was prompted by a report that there is insufficient bonding of the crossfeed valve in the fuel tank area. The NPRM proposed to continue to require the actions in AD 2008–16–06, and add a requirement to install additional bonding leads around the crossfeed valve and accomplish a resistance check. The FAA is issuing this AD to address insufficient or defective bonding in the fuel tank area, which, if not corrected, could lead to ignition of fuel vapors and subsequent fuel tank explosion. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Related Service Information Under 1 CFR Part 51

BAE Systems (Operations) Limited has issued Service Bulletin J41–28–013, Revision 2, dated July 8, 2019. This service information describes procedures for installation of additional bonding leads on components within the dry bay at Rib 1 on the airplane centerline and below the fuselage (around the crossfeed valve), a resistance check, an inspection of existing bonding leads for defects, an inspection for clearance of all fuel system pipe runs in the wings, and corrective actions, as necessary. Corrective actions include replacing any defective bonding leads and adjusting clearances of the fuel system pipe runs.

This AD also requires BAE Systems (Operations) Limited Service Bulletin

J41–28–013, Revision 1, dated January 10, 2008, which the Director of the Federal Register approved for incorporation by reference as of September 9, 2008 (73 FR 45346, August 5, 2008).

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

Costs of Compliance

The FAA estimates that this AD affects 12 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from AD 2008–16–06	80 work-hours × $85 per hour = $6,800	$1,700	$8,500	$102,000
New actions	2 work-hours × $85 per hour = $170	1,700	1,870	22,440

ESTIMATED COSTS OF ON-CONDITION ACTIONS

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2008–16–06, Amendment 39–15624 (73 FR 45346, August 5, 2008); and

■ b. Adding the following new AD:

2022–14–08 BAE Systems (Operations) Limited: Amendment 39–22113; Docket No. FAA–2022–0461; Project Identifier MCAI–2021–01156–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 18, 2022.

(b) Affected ADs

This AD replaces AD 2008–16–06, Amendment 39–15624 (73 FR 45346, August 5, 2008) (AD 2008–16–06).

(c) Applicability

This AD applies to BAE Systems (Operations) Limited Model 4101 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 28, Fuel.

(e) Reason

This AD was prompted by a report that there is insufficient bonding of the crossfeed valve in the fuel tank area. The FAA is issuing this AD to address insufficient or defective bonding in the fuel tank area, which, if not corrected, could lead to ignition of fuel vapors and subsequent fuel tank explosion.

(f) Compliance

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

(g) Retained Actions, With Revised Service Information

This paragraph restates the requirements of paragraph (f) of AD 2008–16–06, with revised service information. Within 24 months after September 9, 2008 (the effective date of AD 2008–16–06), unless already done, do the actions specified in paragraphs (g)(1) through (3) of this AD.

(1) Inspect the bonding leads between ribs 1 and 9, and between ribs 16 and 19, in the left-hand (LH) and right-hand (RH) wings in accordance with paragraph 2.B.(2) of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 1, dated January 10, 2008; or BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019; and, before next flight, replace all defective bonding leads with airworthy parts in accordance with BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 1, dated January 10, 2008; or BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019. As of the effective date of this AD, BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019, must be used for the actions required by this paragraph.

(2) Inspect all fuel system pipe runs inside the LH and RH wings in accordance with paragraph 2.B.(3) of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–28–013,

Revision 1, dated January 10, 2008; or BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019; and, if incorrect clearances are found, before next flight, adjust clearances in accordance with BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 1, dated January 10, 2008; or BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019. As of the effective date of this AD, BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019, must be used for the actions required by this paragraph.

(3) Install additional electrical bonding of components within the LH and RH wings in accordance with paragraphs 2.B.(4) through 2.B.(15) of the Accomplishment Instructions of BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 1, dated January 10, 2008; or paragraphs 2.B.(4) and 2.B.(6) through 2.B.(16) inclusive of BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019. As of the effective date of this AD, BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019, must be used for the actions required by this paragraph.

(h) New Requirement of This AD: Replace Bolts and Washers Securing Crossfeed Valve

Within 24 months after the effective date of this AD, install additional bonding leads on components within the dry bay at Rib 1 on the airplane centerline and below the fuselage (around the crossfeed valve) and perform a resistance check in accordance with paragraph 2.B.(5) of BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019.

(i) Other FAA AD Provisions

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Large Aircraft Section, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the Large Aircraft Section, International Validation Branch, send it to the attention of the person identified in paragraph (j)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

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

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) CAA AD G–2021–0013, dated October 21, 2021, for related information. This MCAI may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0461.

(2) For more information about this AD, contact Todd Thompson, Aerospace Engineer, Large Aircraft Section, International Validation Branch, FAA, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3228; email *todd.thompson@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(5) and (6) of this AD.

(k) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on August 18, 2022.

(i) BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 2, dated July 8, 2019.

(ii) [Reserved]

(4) The following service information was approved for IBR on September 9, 2008 (73 FR 45346, August 5, 2008).

(i) BAE Systems (Operations) Limited Service Bulletin J41–28–013, Revision 1, dated January 10, 2008.

(ii) [Reserved]

(5) For service information identified in this AD, contact BAE Systems (Operations) Limited, Customer Information Department, Prestwick International Airport, Ayrshire, KA9 2RW, Scotland, United Kingdom; telephone +44 1292 675207; fax +44 1292 675704; email *RApublications@baesystems.com;* internet *https://www.baesystems.com/Businesses/RegionalAircraft/index.htm.*

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

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

Issued on June 27, 2022.

Christina Underwood,

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

[FR Doc. 2022–14971 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0454; Project Identifier MCAI–2021–01124–T; Amendment 39–22106; AD 2022–14–01]

RIN 2120–AA64

Airworthiness Directives; Airbus SAS Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is superseding Airworthiness Directive (AD) 2019–03–25, which applied to certain Airbus SAS Model Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. AD 2019–03–25 required repetitive inspections of the center and outer wing box lower stiffeners and panels at a certain junction on the left- and right-hand sides for any cracking, and repair if necessary. AD 2019–03–25 also provided an optional modification, which would terminate the repetitive inspections. This AD was prompted by a determination that, for certain airplanes, the compliance time for the initial inspection is inadequate and must be revised. This AD continues to require the actions specified in AD 2019–03–25 with revised compliance times for certain airplanes and additional actions for certain airplanes, and expands the applicability, as specified in a European Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 18, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South

216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0454.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0454; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Vladimir.Ulyanov@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0228, dated October 12, 2021 (EASA AD 2021–0228) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –215, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. Model A320–215 airplanes are not certificated by the FAA and are not included on the U.S. type certificate data sheet; this AD therefore does not include those airplanes in the applicability.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2019–03–25, Amendment 39–19577 (84 FR 8805, March 12, 2019) (AD 2019–03–25). AD 2019–03–25 applied to certain Airbus SAS Model A318 series airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes. The NPRM published in the **Federal Register** on April 11, 2022 (87 FR 21044). The NPRM was prompted by a determination that, for certain airplanes, the compliance time for the initial inspection is inadequate and must be revised and additional actions are required. The NPRM proposed to continue to require the actions specified in AD 2019–03–25 with revised compliance times for certain airplanes and additional actions for certain airplanes, and proposed to expand the applicability, as specified in EASA AD 2021–0228.

The FAA is issuing this AD to address the loss of pre-tension in the fasteners, which could affect the structural integrity of the airplane. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received a comment from United Airlines who supported the NPRM without change.

Additional Changes Made to This AD

The FAA has added paragraph (i) to this AD to specify that reporting is not required, and redesignated subsequent paragraphs accordingly. The FAA has also removed the Paperwork Reduction Act portion of this AD, as it is no longer relevant. The FAA did not intend to require reporting and these revisions clarify that intent.

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0228 specifies procedures for repetitive internal and external SDIs (ultrasonic inspections) of the center and outer wing box lower stiffeners and panels at the level of rib 1 junction on the left- and right-hand sides for any cracking, and repair if necessary; and additional actions (re-protection of the inspected area at the lower panel at rib1 junction at the left- and right-hand sides) for airplanes on which certain service information was used. EASA AD 2021–0228 also specifies procedures for an optional modification, which would terminate the repetitive inspections. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 765 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Retained actions from 2019–03–25	51 work-hours × $85 per hour = $4,335.	$0	$4,335	$25,860 (516 airplanes).
New additional actions	13 work-hours × $85 per hour = $1,105.	0	1,105	Up to $845,325 (Up to 765 airplanes).

The FAA has received no definitive data that enables the agency to provide cost estimates for the repair specified in this AD.

Authority for This Rulemaking

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

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by:

■ a. Removing Airworthiness Directive (AD) 2019–03–25, Amendment 39–19577 (84 FR 8805, March 12, 2019); and

■ b. Adding the following new AD:

2022–14–01 Airbus SAS: Amendment 39–22106; Docket No. FAA–2022–0454; Project Identifier MCAI–2021–01124–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 18, 2022.

(b) Affected ADs

This AD replaces AD 2019–03–25, Amendment 39–19577 (84 FR 8805, March 12, 2019) (AD 2019–03–25).

(c) Applicability

This AD applies to Airbus SAS Model A318–111, –112, –121, and –122 airplanes; Model A319–111, –112, –113, –114, –115, –131, –132, and –133 airplanes; Model A320–211, –212, –214, –216, –231, –232, and –233 airplanes; and Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes; certificated in any category; as identified in European Aviation Safety Agency (EASA) AD 2021–0228, dated October 12, 2021 (EASA AD 2021–0228).

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by a report that taperloks used in the wing-to-fuselage junction at rib 1 were found to be non-compliant with the applicable specification, resulting in a loss of pre-tension in the fasteners; and a determination that, for certain airplanes, the compliance time for the initial inspection is inadequate and must be revised and additional actions are required. The FAA is issuing this AD to address the loss of pre-tension in the fasteners, which could affect the structural integrity of the airplane.

(f) Compliance

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

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0228.

(h) Exceptions to EASA AD 2021–0228

(1) Where EASA AD 2021–0228 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where paragraph (3) of EASA AD 2021–0228 specifies to ''contact Airbus for approved repair instructions'' if any damage (cracking) is found, for this AD, if any cracking is found, the cracking must be repaired before further flight using a method approved by the Manager, Large Aircraft Section, International Validation Branch, FAA; or EASA; or Airbus SAS's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) The ''Remarks'' section of EASA AD 2021–0228 does not apply to this AD.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2021–0228 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Additional FAA AD Provisions

The following provisions also apply to this AD:

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

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

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

(k) Related Information

For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone and fax 206–231–3223; email *Vladimir.Ulyanov@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0228, dated October 12, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0228, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu*. You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu*.

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

(5) You may view this material that is incorporated by reference at the National

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

Issued on June 22, 2022.

Ross Landes,

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

[FR Doc. 2022–14969 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0385; Project Identifier MCAI–2021–00786–E; Amendment 39–22117; AD 2022–14–12]

RIN 2120–AA64

Airworthiness Directives; GE Aviation Czech s.r.o. (Type Certificate Previously Held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.) Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain GE Aviation Czech s.r.o. (GEAC) M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. This AD was prompted by the absence of life limits for propeller shaft part number (P/N) M601–6081.6 in the airworthiness limitations section (ALS) of the applicable GEAC M601 Engine Shop Manual. This AD was also prompted by a report that operators may not have been provided with enough data to determine the accumulated life of certain propeller shafts. For M601F model turboprop engines, this AD requires removal and replacement of the propeller shaft before the propeller shaft accumulates 12,000 flight hours (FHs) since first installation on an engine, or before accumulating 350 FHs after the effective date of this AD, whichever occurs later, with a part eligible for installation. For M601D–11, M601E–11, M601E–11A, M601E–11AS, and M601E–11S model turboprop engines, this AD requires calculation of the accumulated life of the propeller shaft and, depending on the number of accumulated FHs removal and replacement of the propeller shaft with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 18, 2022.

ADDRESSES: For service information identified in this final rule, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111. 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. It is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0385.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0385; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain GEAC M601D–11, M601E–11, M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines. The NPRM published in the **Federal Register** on April 01, 2022 (87 FR 19029). The NPRM was prompted by the absence of life limits for propeller shaft P/N M601–6081.6 in the ALS of the applicable GEAC M601 Engine Shop Manual. The NPRM was also prompted by a report that operators may not have been provided with enough data to determine the accumulated life of certain propeller shafts. For M601F model turboprop engines, the NPRM proposed to require removal and replacement of the propeller shaft with a part eligible for installation before the propeller shaft accumulates 12,000 FHs since first installation on an engine, or before accumulating 350 FHs after the effective date of this AD, whichever occurs later. For M601D–11, M601E–11, M601E–11A, M601E–11AS, and M601E–11S model turboprop engines, the NPRM proposed to require calculation of the accumulated life of the propeller shaft and, depending on the number of accumulated FHs, removal and replacement of the propeller shaft with a part eligible for installation. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0154, dated July 1, 2021 (referred to after this as ''the MCAI''), to address the unsafe condition on these products. The MCAI states:

> It has been determined that the life limit for the propeller shaft P/N M601–6081.6 is not published in the applicable ALS for M601 engines. In addition, it has also been reported that some data, which can be used to determine the accumulated life of certain propeller shafts, may have not been provided to operators, so the propeller shaft life limit may not have been implemented correctly.
>
> These conditions, if not corrected, may lead to failure of a propeller shaft, possibly resulting in detachment of the propeller and consequent damage to the engine and/or the aircraft, and reduced control of the aeroplane.
>
> To address this potential unsafe condition, GEAC issued the original issue of the ASB, providing applicable instructions, and EASA issued AD 2021–0052 to require implementation of the applicable life limit and replacing each propeller shaft with a serviceable propeller shaft.
>
> Since that [EASA] AD was issued, additional data, which can be used to determine the accumulated life of certain propeller shafts, and to support an extended compliance time for Group 1 engines, has been made available; GEAC revised accordingly the ASB (now at revision 02).
>
> For the reasons described above, this [EASA] AD partially retains the requirements of EASA AD 2021–0052, which is superseded, introducing updated affected population and different compliance times.

You may obtain further information by examining the MCAI in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0385.

Discussion of Final Airworthiness Directive

Comments

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

Conclusion

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

Related Service Information Under 1 CFR Part 51

The FAA reviewed GE Aviation Czech Alert Service Bulletin (ASB) ASB–M601F–72–10–00–0056 [02], ASB–M601D–72–10–00–0072 [02], ASB–M601E–72–10–00–0103 [02], and ASB–M601Z–72–10–00–0056 [02] (single document; formatted as service bulletin identifier [revision number]), dated May 31, 2021. This service information specifies procedures for calculating the accumulated life of certain propeller shafts and also specifies procedures for replacing certain propeller shafts. 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**.

Costs of Compliance

The FAA estimates that this AD affects 14 engines installed on airplanes of U.S. registry. The FAA estimates that 7 M601D–11 and 7 M601E–11 model turboprop engines installed on airplanes of U.S. registry require calculation of the time since new (TSN) of the propeller shaft and removal and replacement of the propeller shaft. The FAA estimates that zero M601E–11A, M601E–11AS, M601E–11S, and M601F model turboprop engines installed on airplanes of U.S. registry require replacement of the propeller shaft.

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

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Calculate the total TSN of the propeller shaft	1 work-hours × $85 per hour = $85	$0	$85	$1,190
Remove and replace the propeller shaft	105 work-hours × $85 per hour = $8,925	17,827	26,752	374,528

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 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:

2022–14–12 GE Aviation Czech s.r.o. (Type Certificate previously held by WALTER Engines a.s., Walter a.s., and MOTORLET a.s.): Docket No. FAA–2022–0385; Project Identifier MCAI–2021–00786–E.

(a) Effective Date

This airworthiness directive (AD) is effective August 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to:

(1) GE Aviation Czech s.r.o. (GEAC) M601F model turboprop engines with an engine serial number (ESN) listed in Attachment 1, List of Affected Engines—Group 1, of GE Aviation Czech Alert Service Bulletin (ASB) ASB–M601F–72–10–00–0056 [02], ASB–M601D–72–10–00–0072 [02], ASB–M601E–72–10–00–0103 [02], and ASB–M601Z–72–10–00–0056 [02] (single document; formatted as service bulletin identifier [revision number]), dated May 31, 2021 (the ASB);

(2) M601E–11 and M601E–11A model turboprop engines with an ESN listed in Attachment 2, List of Affected Parts—Group 2, of the ASB; and

(3) M601D–11, M601E–11AS, and M601E–11S model turboprop engines with propeller shaft part number (P/N) M601–6081.2 or P/N M601–6081.4.

(d) Subject

Joint Aircraft System Component (JASC) Code 7210, Turbine Engine Reduction Gear.

(e) Unsafe Condition

This AD was prompted by the absence of life limits for propeller shaft P/N M601–6081.6 in the airworthiness limitations section of the applicable GEAC M601 Engine Shop Manual. This AD was also prompted by

a report that operators may not have been provided with enough data to determine the accumulated life of certain propeller shafts. The FAA is issuing this AD to prevent the failure of the propeller shaft. The unsafe condition, if not addressed, could result in damage to the engine, damage to the airplane, and reduced control of the airplane.

(f) Compliance

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

(g) Required Actions

(1) For affected M601F model turboprop engines, before the propeller shaft accumulates 12,000 flight hours (FHs) since first installation on an engine, or before accumulating 350 FHs after the effective date of this AD, whichever occurs later, remove the propeller shaft and replace with a part eligible for installation.

(2) For affected M601D–11, M601E–11, M601E–11A, M601E–11AS, and M601E–11S model turboprop engines:

(i) Within 100 FHs after the effective date of this AD, calculate the total time since new of the propeller shaft in accordance with the Accomplishment Instructions, section 2.2 Group 2 Engines, paragraph 1., of the ASB.

(ii) Remove the propeller shaft prior to reaching its applicable life limit and replace with a part eligible for installation in accordance with the Accomplishment Instructions, section 2.2 Group 2 Engines, paragraph 2., of the ASB.

(h) Definitions

(1) For the purpose of this AD, a ''part eligible for installation'' on M601F, M601E–11, and M601E–11A model turboprop engines is a propeller shaft identified in the Configuration Description, paragraph 1.5, Table 1, of the ASB, as applicable to the engine model, with a calculated life that has not exceeded the applicable life limit.

(2) For the purpose of this AD, a ''part eligible for installation'' on M601D–11 model turboprop engines is a propeller shaft with P/N M601–6081.2, P/N M601–6081.4, or P/N M601–6081.5, with a calculated life that has not exceeded the applicable life limit.

(3) For the purpose of this AD, a ''part eligible for installation'' on M601E–11AS and M601E–11S model turboprop engines is a propeller shaft with P/N M601–6081.2, P/N M601–6081.5, or P/N M601–6081.6, with a calculated life that has not exceeded the applicable life limit.

(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)(1) 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

(1) For more information about this AD, contact Barbara Caufield, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238–7146; email: *barbara.caufield@faa.gov.*

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2021–0154, dated July 1, 2021, for more information. You may examine the EASA AD in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0385.

(k) Material Incorporated by Reference

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

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

(i) GE Aviation Czech Alert Service Bulletin (ASB) ASB–M601F–72–10–00–0056 [02], ASB–M601D–72–10–00–0072 [02], ASB–M601E–72–10–00–0103 [02], and ASB–M601Z–72–10–00–0056 [02] (single document; formatted as service bulletin identifier [revision number]), dated May 31, 2021.

(ii) [Reserved]

(3) For GE Aviation Czech service information identified in this AD, contact GE Aviation Czech s.r.o., Beranových 65, 199 02 Praha 9, Letňany, Czech Republic; phone: +420 222 538 111.

(4) You may view this service information at 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.

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

Issued on June 29, 2022.

Christina Underwood,

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

[FR Doc. 2022–15025 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0507; Project Identifier MCAI–2021–01372–T; Amendment 39–22114; AD 2022–14–09]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Saab AB, Support and Services Model 340A (SAAB/SF340A) and SAAB 340B airplanes. This AD was prompted by a report that there is no evidence that post-machining stress relief or de-embrittlement post-cadmium plating treatments were performed on certain torque arm center pins. This AD requires replacing each affected torque arm center pin on the main landing gear (MLG), as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. This AD also prohibits the installation of affected parts. The FAA is issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective August 18, 2022.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 18, 2022.

ADDRESSES: For material incorporated by reference (IBR) in this AD, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this IBR material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195. It is also available in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0507.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0507; or in person at Docket

Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0273, dated December 8, 2021 (EASA AD 2021–0273) (also referred to as the MCAI), to correct an unsafe condition for certain Saab AB, Support and Services Model 340A (SAAB/SF340A) and SAAB 340B airplanes.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Saab AB, Support and Services Model 340A (SAAB/SF340A) and SAAB 340B airplanes. The NPRM published in the **Federal Register** on May 6, 2022 (87 FR 27035). The NPRM was prompted by a report that there is no evidence that post-machining stress relief or de-embrittlement post-cadmium plating treatments were performed on certain torque arm center pins. The NPRM proposed to require replacing each affected torque arm center pin on the MLG, as specified in EASA AD 2021–0273. The NPRM also proposed to prohibit the installation of affected parts.

The FAA is issuing this AD to address untreated torque arm center pins installed on any MLG, which, if not corrected, could lead to failure of the torque arm center pin and free swinging of the MLG, possibly resulting in loss of control of the airplane on ground, or loss of the MLG hydraulic braking function. See the MCAI for additional background information.

Discussion of Final Airworthiness Directive

Comments

The FAA received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

Related Service Information Under 1 CFR Part 51

EASA AD 2021–0273 specifies procedures for replacing each affected torque arm center pin on the MLG. EASA AD 2021–0273 also prohibits the installation of affected parts. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

The FAA estimates that this AD affects 43 airplanes of U.S. registry. The FAA estimates the following costs to comply with this AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators *
8 work-hours × $85 per hour = $680	$2,839	$3,519	$151,317

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

(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:

2022–14–09 Saab AB, Support and Services (Formerly Known as Saab AB, Saab Aeronautics): Amendment 39–22114; Docket No. FAA–2022–0507; Project Identifier MCAI–2021–01372–T.

(a) Effective Date

This airworthiness directive (AD) is effective August 18, 2022.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Support and Services Model 340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, as identified in European Union Aviation Safety Agency (EASA) AD 2021–0273, dated December 8, 2021 (EASA AD 2021–0273).

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report that there is no evidence that post-machining stress relief or de-embrittlement post-cadmium plating treatments were performed on certain torque arm center pins. The FAA is issuing this AD to address untreated torque arm center pins installed on any main landing gear (MLG), which, if not corrected, could lead to failure of the torque arm center pin and free swinging of the MLG, possibly resulting in loss of control of the airplane on ground, or loss of the MLG hydraulic braking function.

(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 2021–0273.

(h) Exceptions to EASA AD 2021–0273

(1) Where EASA AD 2021–0273 refers to its effective date, this AD requires using the effective date of this AD.

(2) The ''Remarks'' section of EASA AD 2021–0273 does not apply to this AD.

(i) Additional AD Provisions

The following provisions also apply to this AD:

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

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

(j) Related Information

For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, Large Aircraft Section, FAA, International Validation Branch, 2200 South 216th St., Des Moines, WA 98198; telephone 206–231–3220; email *shahram.daneshmandi@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) European Union Aviation Safety Agency (EASA) AD 2021–0273, dated December 8, 2021.

(ii) [Reserved]

(3) For EASA AD 2021–0273, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find this EASA AD on the EASA website at *https://ad.easa.europa.eu.*

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

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

Issued on June 27, 2022.

Christina Underwood,

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

[FR Doc. 2022–14970 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2021–0856; Airspace Docket No. 19–AAL–50]

RIN 2120–AA66

Establishment of United States Area Navigation (RNAV) Route T–381; Big Lake, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes United States Area Navigation (RNAV) route T–381 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

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

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

FOR FURTHER INFORMATION CONTACT: Jesse Acevedo, Rules and Regulations Group, Office of Policy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it expands the availability of RNAV in Alaska and improve the efficient flow of air traffic

within the National Airspace System by lessening the dependency on ground based navigation.

History

The FAA published a notice of proposed rulemaking for Docket No. FAA–2021–0856 in the **Federal Register** (86 FR 58825; October 25, 2021), establishing United States Area Navigation (RNAV) route T–381 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska. Interested parties were invited to participate in this rulemaking effort by submitting comments on the proposal. There were no comments received.

United States Area Navigation Routes are published in paragraph 6011 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 RNAV route listed in this document would be published subsequently in FAA Order JO 7400.11F.

Availability and Summary of Documents for Incorporation by Reference

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

The Rule

This action amends 14 CFR part 71 by establishing RNAV route T–381 in the vicinity of Big Lake, AK in support of a large and comprehensive T-route modernization project for the state of Alaska.

The route is described below.

T–381: This action establishes T–381 extending between the Big Lake, AK, (BGQ) VHF Omnidirectional Range Tactical Air Navigation (VORTAC) system and the Fort Yukon, AK, (FYU) VORTAC.

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

Regulatory Notices and Analyses

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

Environmental Review

The FAA determined that this airspace action of establishing RNAV route T–381 in the vicinity of Big Lake, AK qualifies for categorical exclusion under the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a, which categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points), and paragraph 5–6.5i, which categorically excludes from further environmental review the establishment of new or revised air traffic control procedures conducted at 3,000 feet or more above ground level (AGL); procedures conducted below 3,000 feet AGL that do not cause traffic to be routinely routed over noise sensitive areas; modifications to currently approved procedures conducted below 3,000 feet AGL that do not significantly increase noise over noise sensitive areas; and increases in minimum altitudes and landing minima. As such, this action is not expected to result in any potentially significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. Accordingly, the FAA has determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–381 Big Lake, AK (BGQ) to Fort Yukon, AK (FYU) [New]

Big Lake, AK (BGQ)	VORTAC	(Lat. 61°34′09.96″ N, long. 149°58′01.77″ W)
Talkeetna, AK (TKA)	VOR/DME	(Lat. 62°17′54.16″ N, long. 150°06′18.90″ W)
HUMUB, AK	WP	(Lat. 62°25′20.31″ N, long. 150°13′49.23″ W)
WEGNO, AK	WP	(Lat. 62°35′21.42″ N, long. 150°18′30.73″ W)
ZALVI, AK	WP	(Lat. 62°43′18.92″ N, long. 150°12′13.59″ W)
ZEKLI, AK	WP	(Lat. 62°52′38.17″ N, long. 149°51′37.24″ W)
CEKED, AK	WP	(Lat. 63°00′54.03″ N, long. 149°40′57.24″ W)
EBIME, AK	WP	(Lat. 63°14′22.89″ N, long. 149°27′15.61″ W)
JOTSO, AK	WP	(Lat. 63°25′34.70″ N, long. 148°47′49.87″ W)
PAWKY, AK	WP	(Lat. 63°36′22.32″ N, long. 148°42′19.33″ W)
WIVEN, AK	WP	(Lat. 63°49′38.20″ N, long. 148°51′51.74″ W)
GLOWS, AK	WP	(Lat. 64°26′15.88″ N, long. 148°15′17.88″ W)
PERZO, AK	WP	(Lat. 64°40′22.99″ N, long. 148°07′20.15″ W)

Fairbanks, AK (FAI)	VORTAC	(Lat. 64°48′00.25″ N, long. 148°00′43.11″ W)
Fort Yukon, AK (FYU)	VORTAC	(Lat. 66°34′27.31″ N, long. 145°16′35.97″ W)

* * * * *

Issued in Washington, DC, on July 1, 2022.

Scott M. Rosenbloom,

Manager, Airspace Rules and Regulations.

[FR Doc. 2022–15064 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2022–0587]

RIN 1625–AA00

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

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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

DATES:

Effective dates: This rule is effective without actual notice from July 14, 2022 until 7 a.m. on September 30, 2022. For purposes of enforcement, actual notice will be used from 9 p.m. on July 8, 2022 until July 14, 2022.

Applicability dates: This rule is subject to enforcement on four occasions: from 9 p.m. on July 8, 2022 until 7 a.m. on July 9, 2022; 11 p.m. on September 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on September 29, 2022 until 7 a.m. on September 30, 2022.

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

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

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Spokane Street Bridge requires immediate action to respond to the potential safety hazards associated with emergency bridge inspection and repair work. It is impracticable to publish an NPRM because we had to establish this safety zone by July 8, 2022.

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

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70034 (previously 33 U.S.C. 1231). The Captain of the Port (COTP) Puget Sound has determined that potential hazards associated with bridge repairs continuing July 8, 2022, will be a safety concern for anyone navigating on the West Duwamish Waterway in the vicinity of the Spokane Street Bridge Light List Number 16870.1. This rule is needed to protect personnel, vessels, and the marine environment in the navigable waters within the safety zone while the bridge is being inspected and repaired.

IV. Discussion of the Rule

This rule establishes a safety zone from 9 p.m. on July 8, 2022 until 7 a.m. on September 30, 2022. It is subject to enforcement on three occasions, one of which has already passed: 9 p.m. on July 8, 2022 until 7 a.m. on July 9, 2022; 11 p.m. on Septemebr 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on September 29, 2022 until 7 a.m. on September 30, 2022. The safety zone will cover all navigable waters within a 100-yard radius of the Spokane Street Bridge Light List Number 16870.1. The duration of the zone is intended to protect personnel, vessels, and the marine environment in these navigable waters while the Spokane Street Bridge is being inspected and potentially repaired. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

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

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

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

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

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. Add § 165.T13–0587 to read as follows:

§ 165.T13–0587 Safety Zone; Spokane Street Bridge, Duwamish Waterway, Seattle, WA.

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

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

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

(d) *Enforcement periods.* This section will be subject to enforcement from 9 p.m. on July 8, 2022 until 7 a.m. on July

9, 2022; 11 p.m. on Septemebr 23, 2022 until 7 a.m. on September 24, 2022; and 11 p.m. on Septemebr 29, 2022 until 7 a.m. on September 30, 2022.

Dated: July 5, 2022

P.M. Hilbert,

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

[FR Doc. 2022–15014 Filed 7–13–22; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3065

[Docket No. RM2020–4; Order No. 6221]

RIN 3211–AA26

Market Dominant Products

AGENCY: Postal Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting rules that describe when the letter monopoly does not apply to a mailpiece.

DATES: Effective August 15, 2022.

ADDRESSES: For additional information, Order No. 6221 can be accessed electronically through the Commission's website at *https://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

The Postal Service has exclusive rights in the carriage and delivery of letters under certain circumstances. This letter monopoly is codified in the Private Express Statutes (PES), which are a group of civil and criminal statutes that make it unlawful for any entity other than the Postal Service to send or carry letters. *See* 18 U.S.C. 1693–1699; 39 U.S.C. 601–606.[1]

Section 601 provides specific instances (exceptions) where letters may be carried out of the mail (*i.e.,* not subject to the letter monopoly). These statutory exceptions include letters charged more than six times the current rate for the first ounce of a single-piece first class letter and letters weighing more than 12.5 ounces. *See* 39 U.S.C. 601(b)(1), (b)(2). A ''grandfather clause'' in Section 601(b)(3) also references exceptions from prior Postal Service policies and regulations. The statute also directs the Commission to promulgate any regulations necessary to carry out this section. *See* 39 U.S.C. 601(c).

II. Basis and Purpose of Final Rules

The Commission initiated this proceeding to determine whether regulations promulgated by the Commission may be necessary to carry out the requirements of 39 U.S.C. 601.[2] The Commission received a wide range of comments in response to Order No. 5422, but found it necessary to gather more information before promulgating regulations under Section 601. Thus, the Commission held this docket in abeyance and initiated a public inquiry seeking further input from the public.[3]

Based on the comments received in this docket and the comments received in Docket No. PI2021–2, the Commission filed a notice of proposed rulemaking proposing new regulations necessary to carry out Section 601.[4] Having received adequate input from the public in order to propose regulations in this docket, the Commission issued an order closing the public inquiry docket.[5]

Based on input from commenters and to maintain stability in the mailing industry, the Commission found that no substantive regulations were necessary at that time. Nonetheless, the Commission found it necessary to issue regulations that provide some clarity on the Section 601, and its relationship with the Postal Service's regulations. The Commission also found it necessary to provide a process for the public to seek clarification of the statute or the letter monopoly should the need arise in the future.

The final rules incorporate many of the suggestions identified by commenters, as well as additional clarifying language added by the Commission; however, the substance of the rules remains unchanged.

To clarify the rule proposed § 3065.1(a), the Commission accepts the Postal Service's suggested modifications and amends § 3065.1(a).

The Commission adopts proposed § 3065.1(b) without any modification, explaining that the rule will track the language of the statute in the rule.

The Commission finds that the text of proposed § 3065.2 may unintentionally limit the Postal Service's ability to perform its ordinary operations and introduce confusion where the Commissions wishes to maintain stability.[6] Based on concerns from TBC and the Postal Service, the Commission removes the words ''issue guidance'' from the text of the rules.

Finally, no commenter proposed changes to proposed § 3065.3, which provides procedures for parties seeking clarification or interpretation of the statute or regulations concerning Section 601, and thus, the Commission adopts the proposed rule without modification.

III. Final Rules

The Commission adopts regulations necessary to carry out 39 U.S.C. 601 and places them in a new section in 39 CFR part 3065.

List of Subjects for 39 CFR Part 3020

Administrative practice and procedure, Postal Service.

■ For the reasons stated in the preamble, the Commission amends chapter III of title 39 of the Code of Federal Regulations by adding part 3065 to read as follows:

PART 3065—RULES FOR LETTERS CARRIED OUT OF THE MAIL

Sec.
3065.1 Applicability and scope.
3065.2 Prohibition on new regulations.
3065.3 Procedure for seeking clarification or interpretation.

Authority: 39 U.S.C. 503, 601.

§ 3065.1 Applicability and scope.

(a) The rules in this part implement 39 U.S.C. 601, which describes certain circumstances in which letters may be carried out of the mail.

(b) Notwithstanding placement in Postal Service chapter I of this title, the following provisions in parts 310 and 320 of this title are within the scope of this part and the Commission has the authority to interpret them:

(1) Section 310.1 of this title;

(2) Sections 310.2(b)(1) and (2) of this title; and

(3) Sections 320.1 through 320.8 of this title.

(c) In the event of a conflict between 39 U.S.C. 601 and applicable regulations

[1] Although these provisions of the U.S. Code are customarily referred to collectively as the ''Private Express Statutes,'' they do not all relate to private expresses or prohibit carriage of letters out of the mails.

[2] Advance Notice of Proposed Rulemaking to Consider Regulations to Carry Out the Statutory Requirements of 39 U.S.C. 601, February 7, 2020 (Order No. 5422).

[3] *See* Order Holding Rulemaking in Abeyance, July 2, 2021 (Order No. 5929); Docket No. PI2021–2, Notice and Order Providing an Opportunity to Comment on Regulations Pertaining to 39 U.S.C. 601, July 2, 2021 (Order No. 5930).

[4] Notice of Proposed Rulemaking for Regulations Pertaining to Section 601, November 24, 2021 (Order No. 6047).

[5] *See* Docket No. PI2021–2, Order Closing Docket, November 24, 2021 (Order No. 6046).

[6] *See* Order No. 6047 at 16 (describing commenter concern about substantive changes and expressing an intention to maintain stability).

under parts 310 and 320 of this title, 39 U.S.C. 601 shall supersede any other generally applicable requirements.

§ 3065.2 Prohibition on new regulations.

(a) The Postal Service may not promulgate any new regulations or enter into agreements purporting to suspend or otherwise define the scope of the letter monopoly.

(b) The Postal Service may not promulgate any new regulations purporting to interpret 39 U.S.C. 601.

(c) The Commission has the sole authority to promulgate new regulations necessary to carry out 39 U.S.C. 601.

§ 3065.3 Procedure for seeking clarification or interpretation.

(a) The Commission may, on its own motion, initiate a proceeding under this subpart pursuant to § 3010.201(a) of this chapter.

(b) The Commission may provide interpretation of these regulations or 39 U.S.C. 601 upon:

(1) A party's request to initiate a rulemaking proceeding with the Commission pursuant to the requirements of § 3010.201(b) of this chapter; or

(2) A party's request for an advisory opinion from the General Counsel.

By the Commission.

Erica A. Barker,

Secretary.

[FR Doc. 2022–14959 Filed 7–13–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R01–UST–2022–0204; FRL–9581–02–R1]

Vermont: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Vermont's Underground Storage Tank (UST) program submitted by the Vermont Department of Environmental Conservation (VT DEC). This action also codifies EPA's approval of Vermont State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective September 12, 2022, unless EPA receives adverse comment by August 15, 2022. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 12, 2022, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: coyle.joan@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R01–UST–2022–0204. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the notice for assistance.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, might be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy.

IBR and supporting material: The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Joan Coyle to schedule an appointment to view the documents at the Region 1 Office, 5 Post Office Square, 1st Floor, Boston, MA 02109–3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 1 requires all visitors to adhere to the COVID–19 protocol. Please contact Joan Coyle for the COVID–19 protocol requirements for your appointment. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Joan Coyle, (617) 918–1303, *coyle.joan@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Vermont's Underground Storage Tank Program

A. Why are revisions to state programs necessary?

States that have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal UST program. Either EPA or the approved state may initiate program revision. When EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated

regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or state statutory or regulatory authority is modified or when responsibility for the state program is shifted to a new agency or agencies.

B. What decisions has the EPA made in this rule?

On December 23, 2020, in accordance with 40 CFR 281.51(a), Vermont submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Vermont's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 State program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant State statutes and regulations. We have reviewed the State Application and determined that the revisions to Vermont's UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Vermont program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Vermont final approval to operate its UST program with the changes described in the program revision application, and as outlined below in section I.G. of this document.

C. What is the effect of this approval decision?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Vermont, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

EPA is publishing this direct final rule concurrent with a proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA is providing an opportunity for public comment now.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is publishing a separate document in the ''Proposed Rules'' section of this issue of the **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Vermont previously been approved?

On January 3, 1992, the EPA finalized a rule approving the UST program, effective February 3, 1992, to operate in lieu of the Federal program. On September 12, 1995, effective November 13, 1995, the EPA codified the approved Vermont program, incorporating by reference the State statutes and regulatory provisions that are subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.

G. What changes are we approving with this action?

On December 23, 2020, in accordance with 40 CFR 281.51(a), Vermont submitted a complete application for final approval of its UST program revisions, adopted on October 26, 2020. The EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Vermont's UST program revisions satisfy all the requirements necessary to qualify for final approval. Therefore, EPA grants Vermont final approval for the following program changes:

Required federal element	Implementing state authority
40 CFR 281.30, New UST Systems and Notification	CVR 12–032–004 Chapter 8–302; 8–303(a)(1) and (a)(2); 8–403(b) and (c); 8–404; 8–405(a) and (f); 8–406(a) and (b); 8–410; 8–506(a)(1); 8–507(a)(1); 8–512.
40 CFR 281.31, Upgrading Existing UST Systems	CVR 12–032–004 Chapter 8–404; 8–405; 8–406; 8–410; 8–512.
40 CFR 281.32, General Operating Requirements	CVR 12–032–004 Chapter 8–403(a); 8–502(c) and (d); 8–503(d); 8–504; 8–508; 8–509(a), (c) and (f); 8–510(b); 8–511.
40 CFR 281.33, Release Detection	CVR 12–032–004 Chapter 8–404(c); 405(f); 8–505; 8–506(a); 8–507; 8–509(b)(2).
40 CFR 281.34, Release Reporting, Investigation, and Confirmation	CVR 12–032–004 Chapter 8–103(a) through (e).
40 CFR 281.35, Release Response and Corrective Action	CVR 12–032–004 Chapter 8–103(a), 8–103(c) through (e); CVR 12–032–008 Chapter 35–301; 35–305; 35- 604(d)(10); 35–606(b)(3); 35–607(b).
40 CFR 281.36, Out-of-service Systems and Closure	CVR 12–032–004 Chapter 8–602(a), (b)(1) through (4), (6);8–604.
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	CVR 12–032–004 Chapter 8–305(a), (b), (c), (d), (e), (g), (j).
40 CFR 281.38, Lender Liability	CVR 12–032–004 Chapter 8–303(a)(2); 10 VSA 1926(c); 10 VSA 6615(g).
40 CFR 281.39, Operator Training	CVR 12–032–004 Chapter 8–307; 8–308.
40 CFR 281.40, Legal Authorities for Compliance Monitoring	CVR 12–032–004 Chapter 8–303(i)(2); 8–305; 8–502(c) and (d); 10 VSA 1924; 10 VSA 1931; 10 VSA 1934.
40 CFR 281.41, Legal Authorities for Enforcement Response	10 VSA 1927(d); 10 VSA 1932; 10 VSA 1934; 10 VSA 1935; 10 VSA 8007; 10 VSA 8008; 10 VSA 8009; 10 VSA 8010.
40 CFR 281.42, Public Participation in Enforcement Proceedings	10 VSA 8007(c); 10 VSA 8020; VRCP 24.

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. The VT DEC has broad statutory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and to the issuance of orders. These statutory authorities are found in: Vermont Statutes Annotated, Title 10: Conservation and Development, Chapter 59: Underground and Aboveground Liquid Storage Tanks, and Vermont Statutes Annotated, Title 10: Conservation and Development, Chapter 159: Waste Management.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

The following statutory and regulatory provisions are considered broader in scope than the Federal program, and are therefore not enforceable as a matter of Federal law:

Tank owners shall record the existence and location of USTs in local land records.

After June 30, 1986, no owner or operator shall operate or maintain any UST, except for fuel oil storage tanks used for on-premises heating purposes, or farm or residential tanks used for storing motor fuel, without first obtaining a permit from the Secretary.

No person shall deliver a regulated substance to any UST, except for fuel oil storage tanks used for on-premises heating purposes, or farm or residential tanks used for storing motor fuel, that is visibly designated by the Agency as not meeting standards adopted by the Secretary related to corrosion protection, spill prevention, leak detection, financial responsibility, or overfill protection.

The Secretary shall establish tank registration requirements for farm or residential USTs greater than 1,100 gallons (category three tanks) that are or have been used to contain fuel oil for on-premises heating purposes, and for USTs greater than 1,100 gallons that are or have been used to contain fuel oil of on-premises heating purposes at a public building (category three tanks).

The Secretary shall adopt rules addressing the design and proper installation of aboveground storage tanks.

The Secretary may establish a process for licensing persons to perform tank integrity demonstrations.

A fund was created in the State Treasury, known as the Underground Storage Tank Trust Fund, to be expended by the Secretary as allowed by federal law, who may accept and use funds available through the federal underground storage tank trust fund.

The owners of a retail gasoline outlet that sells less than 20,000 gallons of gasoline per month and who want assistance to replace USTs, and municipalities with less than 2,500 people, may apply to the Secretary for such assistance, which may be in the form of grants of up to $5,000 or the cost of complying with the requirements in Chapter 59, whichever is less.

Vermont UST rules also apply to persons who install, remove, repair, or test underground storage tank systems.

All permit applications, notifications, and requested or required reports shall be signed by the applicant or permitee, or by a duly authorized representative of the same.

Any person may be granted a variance for one or more of a specific provision of the rules, provided that the request demonstrates that the proposed new or alternative technology, method, or application will be as protective to human health or the environment as the original provision.

Monitoring wells, recovery wells, and observation wells must be constructed with a liquid-tight cap and maintained in a condition that will prevent contamination of the groundwater resulting from a spill of regulated substance on the ground surface.

USTs used to store fuel oil for on-premises heating that have a capacity greater than 1,100 gallons and those located at public buildings are subject to requirements for registration, site assessment at closure, and release reporting.

USTs of any size storing fuel oil for on-premises industrial use, not just space heating, are subject to all requirements.

All USTs are subject to requirements for reporting releases and spills.

Owners of the land on which UST systems are located, as well as transporters of fuel, to both UST facilities and to disposal and treatment facilities, are subject to releases and spills reporting requirements.

Owners and operators of all underground storage tank systems must record their existence and location in municipal land records and pay a recording fee to the municipality, except for those UST's equal to or less than 1,100 gallons that are farm or residential motor fuel tanks or fuel oil tanks used for on-premises heating.

The Petroleum Cleanup Fund was established as a financial assurance mechanism for the cleanup and restoration of contaminated soil and groundwater caused by petroleum releases from USTs, and for compensation of third parties for injuries and damages caused by a release.

The State established a licensing fee of one cent per gallon of motor fuel sold by a distributor or dealer or used by a user in the State and will be assessed against every distributor, dealer, or user. The fee will be deposited into the Petroleum Cleanup Fund.

Each owner of all USTs, except for those equal to or less than 1,100 gallons that are farm or residential motor fuel tanks or fuel oil tanks used for on-premises heating, that store petroleum products must annually remit to the Secretary $100 per double-wall tank system; $250 per combination tank system, if the single-wall tank has been lined; $500 for all other combination systems; and $1,000 per single-wall tank system. Fees will be deposited into the Petroleum Cleanup Fund.

A Loan Assistance Program is established from which the Secretary may make individual loans up to $150,000 for the replacement or removal of petroleum tank systems. Loans will be made from the Motor Fuel Account.

Permits are required for construction, replacement, and operation of all UST's, except for fuel oil storage tanks used for on-premises heating and for farm or residential tanks used for storing motor fuel. Permits are not transferrable and do not run with the land. New owners or operators of UST facilities must apply for new operating permits. Operating permits are good for five years but permit fees must be submitted to the Secretary annually. Fees for UST permits are established at $125 per tank per year.

No portion of any new permitted underground storage tank system (installed after July 1, 2007) shall be located within the Source Protection Area of a public community water system or public non-transient, non-community (NTNC) water system using a groundwater source; within Zone 1 or 2 of a Source Water Area of a public community water system or NTNC water system using a surface water source (unless the Secretary determines on a case-by-case basis, that an UST may be sited in zone 2 of this same area); within 200 feet of a public transient, non-community (TNC) water system source; within 100 feet of any private water supply source; within 25 feet of any public water distribution line; or in any designated Class I or Class II groundwater zone area.

For all new facilities, and new UST's being installed at existing facilities, no portion of the tank system shall be

located within five feet from any wall, foundation, or property line.

All fill pipes, pump-out pipes, or other tank-top fittings shall be connected to the tank using vapor-proof fittings and shall be equipped with vapor-proof caps that remain closed whenever the pipe or fitting is not in use.

All pressurized piping shall be equipped with a shear valve in the supply line to the dispenser, that is located at the inlet to the dispenser, and is securely anchored to a structural member of the dispensing island. Shear valves shall be tested according to the manufacturer's recommendations at the time of installation and at least annually thereafter.

Any size motor fuel and commercial fuel oil underground storage tank located at an elevation that produces a gravity head on the dispenser shall be equipped with a device (*e.g.,* a solenoid-operated anti-siphon valve) that prevents the flow of regulated substance by gravity from the tank when the dispenser is not in use, or in the event of a piping or hose failure.

A facility diagram must always be displayed in a location that is protected from the weather and visible to any carrier delivering regulated substances to all USTs, except fuel oil storage tanks used for on-premises heating purposes, or farm or residential tanks greater than 1,100 gallons used for storing motor fuel. It must include the location of each tank and fill pipe, regulated substance stored, and the capacity and diameter of each tank.

The fill pipe of each UST must be marked or labelled to identify the material stored. The fill pipe and pump-out pipe of any used oil UST must be marked or labelled to identify the contents of the tank as used oil. When the material stored in a tank is changed, the labeling or marking on the fill pipe and pump-out pipe shall be updated to reflect that change.

Following the repair of a tank, and before using it, the owner must obtain a written warranty from the person who repaired the tank that warrants against structural failure for at least 10 years after the repair, and for steel tanks, warrants against failure due to external corrosion for at least 10 years following the repair. Copies of warranties for internal inspections of tank linings shall be maintained for the operating life of the tank. Copies of all warranties shall be made available to the Secretary within 24 hours of a request.

Any time a vent riser is exposed for maintenance or repair, any Stage II vapor recovery piping connected to that vent riser shall be disconnected and capped securely.

Any waste liquids produced by the testing procedures required for sump and spill containment device inspections shall be managed in accordance with procedures established by the Secretary.

Requirements for registration, reporting of releases and spills, release assessments at closure and removal, and recordkeeping of closure activities apply to fuel oil tanks used for on-premises heating that are greater than 1,100 gallons or are located at commercial and public buildings.

Requirements for permanent closure apply to farm or residential motor fuel tanks and fuel oil storage tanks used for on-premises heating that are less than or equal to 1,100 gallons. However, the requirements for providing notice of closure and recording to the Secretary do not apply for these tank systems.

When the Secretary receives a site assessment report for closing any UST system, the Secretary will send the owner either an amended Notification Form or an UST Closure Form. Within 30 days of receipt of the form, the owner will complete and sign the form and return to the Secretary with the municipal recording fee. The Secretary will issue an amended permit for any category one UST systems that remain in-service at the facility where an UST system has been closed.

More Stringent Provisions

Any release of petroleum product that exceeds two gallons, or a release of petroleum product that is less than or equal to two gallons and poses a potential or actual threat to human health or the environment, must be immediately reported to the state.

A release of any amount of hazardous material other than petroleum must be immediately reported to the state.

Upon transfer of ownership of an underground tank system, the seller shall provide written notification to the new owner of the existence of these rules.

For any change-in-service, the owner or permittee must notify the Secretary of the anticipated change at least 14 days prior to making the change.

Any piping that is removed from the ground shall not be reinstalled as part of an underground storage tank system used to contain a regulated substance.

During all hours of normal operation hours, a staffed facility shall have a Class C operator present at the facility, or at least a person who has been trained in all appropriate emergency actions to be taken in response to a spill or overfill of regulated substance, automatic tank gauge system alarms, and phone numbers to call to report spills, overfills, or other emergencies.

Class A, B, and C operators must renew their certifications at least every two years.

An operator training test must be approved, in writing, by the Secretary as satisfying the minimum criteria of areas of competence for Class A, B, and C operators.

Remote fill pipes and manifolds that contain hazardous materials must be equipped with secondary containment.

All dispenser sumps shall be monitored for releases, except those with pumps that operate under suction and the pipe connecting the tank to the dispenser rises directly vertically from the tank.

Any point where different types of new piping are joined underground, or any point between a tank and dispenser where liquid would likely accumulate in the interstitial space of the piping system, shall be contained within an intermediary sump that is monitored for releases.

All tanks containing regulated substances, including farm or residential motor fuel tanks greater than 1,100 gallons used for non-commercial purposes, must have spill containment.

Spill containment devices installed or replaced after July 1, 2007, must have a minimum capacity of 15 gallons and not be equipped with a drain valve.

Overfill prevention equipment is not required for any tank that receives less than 25 gallons of regulated substances at one time and is never more than 90 percent full, provided the owner/operator performs manual volume measurements at least once per week, following procedures in the regulations, and maintains records of the results.

Field-installed galvanic anodes must be tested at least annually.

Systems using impressed current shall be inspected and tested at least annually to evaluate all components.

A copy of a passing cathodic test report shall be submitted to the Secretary within 30 days of the test. The Secretary must be notified within one business day of the failed test. A copy of a failed test report must be submitted to the Secretary within five business days of the test. The cause of the failure must be determined within 120 days of the test, and, if necessary, the failed system must be repaired or replaced. Within 30 days of repairing a cathodic protection system, a written report must be submitted to the Secretary describing the cause and the measures taken to correct the failure. If repairs to the cathodic protection system are not completed within120 days of the date of

the failed test, the UST system must be taken out-of-service or be closed. On a case-by-case basis, the Secretary may allow the UST system to remain in service for more than 120 days after the date of the failed test.

All UST systems in operation, except for fuel oil storage tanks used for on-premises heating purposes, and farm or residential motor fuel tanks less than 1,100 gallons, or those that are out of service but still contain product, must be monitored at least weekly for releases.

Inventory monitoring must be performed on all operating UST systems, except for fuel oil storage tanks used for on-premises heating purposes, farm, or residential motor fuel tanks less than 1,100 gallons, and tanks that contain used oil or do not dispense product through a metered dispenser. Suspected releases must be reported to the Secretary when the monitoring indicates a release has occurred according to specified criteria.

The owner of any existing flexible thermoplastic piping that is ten years old or older and does not meet the standards established by Underwriters Laboratories Standard 971–2005: ''Standard for Nonmetallic Underground Piping for Flammable Liquids,'' shall conduct a visual inspection of that piping at least annually. The results of that inspection shall be reported and submitted to the Secretary within 30 days of completing the inspection.

Copies of each passing annual automatic line leak detector test report must be sent to the Secretary within 30 days of the date of the test.

Within 90 days of completing a repair of any cathodically-protected tank, the permittee or tank owner shall test the cathodic protection system.

The results of each walkthrough inspection report which shall be maintained at the facility or a facility corporate office within the State of Vermont for a period of at least three years.

Permittees shall annually inspect each underground storage tank system, except for fuel oil storage tanks used for on-premises heating purposes or farm or residential tanks used for storing motor fuel, for compliance with these rules and shall self-certify the results of that inspection on specified certification forms, to the Secretary no later than December 31 of each year.

Walkthrough inspections will include visually examining tank pads for stains or other indications of a spill or leak in a sump or other tank-top appurtenance. Dispensers, dispensing islands, and fueling pads shall be visually examined for stains or other indications of a spill or leak in a dispenser.

Walkthrough inspections of unstaffed facilities shall be conducted weekly, except that the inner workings of dispensers can be examined monthly.

Failed results of sump, spill containment, and overfill protection test results must be immediately reported to the Secretary. Permittees shall submit to the Secretary passing test results and a summary of any actions taken within 30 days of the completion of the tests.

If an UST system is out of service for 90 days or less, owners/permittees must notify the Secretary that the tank system is out-of-service; ensure the liquid level has been lowered to or below the lowest draw-off point, ensure that vent lines are left open and functioning, that all other lines, gauge openings, manways, pumps and other ancillary equipment are capped or secured to prevent unauthorized use or access; indicate by signage to notify customers and suppliers that the system is out-of-service; and secure the fill pipe to prevent a carrier from adding regulated substance to the tank system. In addition to these requirements, owners/permittees must ensure that the tank is empty if taken out of service for greater than 90 days.

Single-walled tanks and pressurized single-walled piping must be closed by January 1, 2016. Combination systems (single-wall unlined tanks, with either double wall pressurized piping or intrinsically safe single-wall suction piping) must be removed by January 1, 2018. Lined single wall tanks with double-wall pressurized piping must cease operation 10 years after lining, except that if an internal inspection is conducted and the lining is still in good condition and no leak has occurred, owners can request a five-year extension, after which the tank must be closed, even if the lining is still good. Damaged lining cannot be repaired.

No person shall line a single-wall tank or combination tank system after January 1, 2014.

II. Codification

A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable state provisions. The incorporation by reference of state authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Vermont's UST program?

EPA incorporated by reference the Vermont DEC approved UST program effective November 13, 1995 (60 FR 47300; September 12, 1995). In this document, EPA is revising 40 CFR 282.95 to include the approved revisions.

C. What codification decisions have we made in this rule?

Incorporation by reference: In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the federally approved Vermont UST program described in section I.G. of this preamble and set forth below in the amendments to 40 CFR part 282. The EPA has made, and will continue to make, this document generally available through *www.regulations.gov* and at the EPA Region 1 office (see the **ADDRESSES** Section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Vermont's approved UST program. The codification reflects the State program that would be in effect at the time EPA's approved revisions to the Vermont UST program addressed in this direct final rule become final. The document incorporates by reference Vermont's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By codifying the approved Vermont program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Vermont program.

EPA is incorporating by reference the Vermont approved UST program in 40 CFR 282.95. Section 282.95(d)(1)(i)(A) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.95 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of

Agreement, which are approved as part of the UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

D. What is the effect of Vermont's codification on enforcement?

The EPA retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in approved States. With respect to these actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Vermont procedural and enforcement authorities. Section 282.95(d)(1)(ii) of 40 CFR lists those approved Vermont authorities that would fall into this category.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. Section 281.12(a)(3)(ii) of 40 CFR states that where an approved state program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.95(d)(1)(iii) lists for reference and clarity the Vermont statutory and regulatory provisions which are broader in scope than the Federal program and which are not, therefore, part of the approved program being codified in this document. Provisions that are broader in scope cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order Reviews

This action only applies to Vermont's UST Program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive Orders (EOs) and statutory provisions as follows:

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

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not a regulatory action subject to Executive Order 13771 (82 FR 9339, February 3, 2017) because actions such as this final approval of Vermont's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). As discussed above, EPA is not acting on approval to operate the State's UST program as it applies to Tribal lands in the State. Therefore, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

D. Executive Order 13132: Federalism

This action will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

E. Executive Order 13045: Services of Children From Environmental Health and Safety Risks

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order.

J. Paperwork Reduction Act

This rule does not impose an information collection burden under the

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule approves pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). However, this action will be effective September 12, 2022 because it is a direct final rule.

Authority: This rule is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Underground storage tanks, Water supply.

David W. Cash,

Regional Administrator, EPA Region 1.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Amend § 282.2 by revising the second sentence of paragraphs (b) introductory text and paragraph (b)(1) to read as follows:

§ 282.2 Incorporation by reference.

* * * * *

(b) * * * For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* * * *

(1) Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): 5 Post Office Square, 1st floor, Boston, MA 02109–3912; Phone Number: (617) 918–1303.

* * * * *

■ 3. Revise § 282.95 to read as follows:

§ 282.95 Vermont State-Administered Program.

(a) The State of Vermont is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Vermont Department of Environmental Conservation (VT DEC), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Vermont program on January 3, 1992, which was effective on February 3, 1992.

(b) Vermont has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Vermont must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR part 281, subpart E. If Vermont obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notification of any change will be published in the **Federal Register**.

(d) Vermont has final approval for the following elements of its program application originally submitted to EPA and approved effective February 3, 1992, and the program revision application approved by EPA, effective on September 12, 2022.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph, and listed in Appendix A to this part, is incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Vermont regulations and statutes that are incorporated by reference in this paragraph from Ted Unkles, UST Program Manager, Vermont Department of Environment Conservation, 1 National Life Drive; Davis 1 Montpelier VT 05620–3704; Phone number: 802–522–0488; *ted.unkles@vermont.gov;* Hours: Monday to Friday, 8:00 a.m. to 4:30 p.m.; link to statutes and regulations: *https://legislature.vermont.gov/statutes/chapter/10/059; https://legislature.vermont.gov/statutes/chapter/10/159; https://dec.vermont.gov/sites/dec/files/wmp/UST/UST-Rules.pdf; https://dec.vermont.gov/sites/dec/files/wmp/Sites/0706.IRULE_.pdf.*

(A) EPA-Approved Vermont Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, October 2021.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which are part of the approved program, but they are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(*1*) *Title 10 Vermont Statutes Annotated, Chapter 201, Administrative Environmental Law Enforcement;* Sections 8001, 8002, 8003(a)(8) and (a)(12), 8004 through 8008, 8009 through 8016, 8019 through 8021.

(2) *Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks,* Sections 1931 through 1935.

(3) *Title 10 Vermont Statutes Annotated, Chapter 159, Waste Management,* Sections 6609, 6610a, and 6612, 6615c, 6615d.

(B) The regulatory provisions include:

(1) *Code of Vermont Regulations, Chapter 20, Environmental Administrative Penalty Rules.*

(2) *Code of Vermont Regulations, Chapter 25, Environmental Citations.*

(3) *Code of Vermont Rules, 12–032–004. Chapter 8—Vermont Underground Storage Tank Rules,* Section 8–502(d).

(iii) *Provisions not incorporated by reference.* The following specifically identified statutory and regulatory provisions applicable to the Vermont's UST program are broader in scope than the Federal program, are not part of the approved program, and are not incorporated by reference in this section for enforcement purposes:

(A) *Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks,* Subchapter 1: Underground Storage Tank Regulation. Section 1925, Notice in land records; Section 1927. Regulation of category one tanks, 1927(a), 1927(d); Section 1929. Regulation of large heating oil tanks; Section 1929a. Standards for aboveground storage tanks; Section 1929b. Regulation of heating oil tanks at public buildings; Section 1930. Implementation; coordination, Section 1930(b) and (c); Section 1936. Licensure of tank inspectors; Subchapter 2: Underground Storage Tank Assistance Program. Sections 1938 through 1944; *Title 10 Vermont Statutes* Annotated, *Chapter 159, Waste Management,* Subchapter 1: General Provisions, except Sections 6601, 6602(16)(A)(i), (ii) and (iv), 6615, 6615a, 6615b, 6616, and 6617.

(B) *Code of Vermont Rules, 12–032–004. Chapter 8—Vermont Underground Storage Tank Rules,* Subchapter 1: General Provisions, Section 8–102. Purpose and Applicability, as it applies to ''install, remove, repair, or test;'' Section 8–103. Release Prohibition, Reporting, Emergency Response, the wording in 8–103(b), ''owner of the land on which the underground storage tank system is located, transporter of fuel, etc.'' as it applies to any person being responsible for immediately reporting a release, and 8–103(g); Section 8–106. Fees; Section 8–107. Severability; Section 8–108. Variances; Section 8–109. Transfer of Ownership, Operation; Permits, Notification of Rules, Section 8–109(a); Subchapter 3: Registration (Notification), Permits, and Operator Training, Section 8–301. Applicability, 8–301(a)(1)(A), (a)(1)(B), (a)(2)(B), 8–301(b)(2), 8–301(c); Section 8–302. Registration, 8–302(a)(1)(C) and 8–302(c); Section 8–303, Permits for Category One Underground Storage Tank Systems, except 8–303(f); Section 8–304. Recording Underground Storage Tank Systems in Municipal Land Records; Subchapter 4: Design, Manufacturing, And Installation Standards for Underground Storage Tank Systems, Section 8–402. Prohibitions, 8–402(a) and (b); Section 8–405. Piping Standards, 8–405(b), (d)(2), and (e); Section 8–406. Spill Containment & Overfill Prevention Measures and Equipment, 8–406(c) and (d); Section 8–407. Scheduling Installations of Underground Storage Tank Systems, 8–407(a)(1); Subchapter 5: Operating Standards for Underground Storage Tanks, Section 8–503. Spill and Overfill Prevention; Monitoring of Deliveries, 8–503(a) and (b); Section 8–506. Release Detection Requirements for Tanks, 8–506(c)(1)(F); Section 8–508. Underground Storage Tank System Repairs, 8–508(c)(9)(B), (C) and (D); 8–508(g); Section 8–511. Testing of Sumps, Spill Containment, and Overfill Prevention Devices, 8–511(c); Subchapter 6: Out-Of-Service, Continued Use, And Closure Standards for Underground Storage Tank Systems, Section 8–601. Applicability, 8–601(c) and (d); Section 8–604. Closure of Underground Storage Tank Systems, the words ''or three'' in 8–604(g) as it applies to category three systems, 8–604(h)(3), and 8–604(i), with respect to the Secretary's issuance of an amended permit; *Code of Vermont Rules 12–032–008. Chapter 35—Investigation and Remediation of Contaminated Properties Rule,* Subchapter 1: General Provisions, Section 35–103. Severability; Section 35–107. Historical Fill Exemption; Subchapter 5: Response Actions; Releases of Heating Fuels; Subchapter 8: Contaminated Soil, Section 35–805. Development Soils; Subchapter 11. Requests for Reimbursement for Municipal Water Line Extensions from the Petroleum Cleanup or Environmental Contingency Funds; and other provisions of Chapter 35, insofar as they do not relate to underground storage tanks and with respect to underground storage tanks insofar as they are broader in scope than the federal requirements.

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Attorney General of Vermont on April 11, 1991, and October 30, 2020, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application in May 1991, and as part of the program revision application for approval on December 22, 2020, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in May 1991, and as part of the program revision application on December 22, 2020, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 1 and the Vermont Department of Environmental Conservation, signed by the EPA Regional Administrator on October 10, 2018, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 4. Appendix A to part 282 is amended by revising the entry for Vermont to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Vermont

(a) The statutory provisions include:

1. Title 10 Vermont Statutes Annotated, Chapter 59, Underground and Aboveground Liquid Storage Tanks

Section 1921. Purpose; Section 1922. Definitions; Section 1923. Notice of new or existing underground storage tanks; Section 1924. Integrity report; Section 1926. Unused and abandoned tanks; Section 1927. Regulation of category one tanks, except (a) and (d); Section 1928. Regulation of farm and residential large motor fuel tanks; Section 1930. Implementation; coordination, except (b) and (c).

2. Title 10 Vermont Statutes Annotated, Chapter 159, Waste Management

Section 6602. Definitions, 6602(1), (6), (16)(A)(i), (ii) and (iv), (17), (23), (34); Section 6615. Liability, 6615(g); Section 6615a. Diligent and appropriate investigation for hazardous materials; Section 6615b. Corrective action procedures; Section 6616. Release prohibition; Section 6617. Person responsible for release; notice to Agency.

(b) The regulatory provisions include:

1. Code of Vermont Rules 12–032–004. CHAPTER 8—Vermont Underground Storage Tank Rules (Effective October 26, 2020)

Subchapter 1: General Provisions, Section 8–101. Authority; Section 8–102. Purpose and Applicability, except ''install, remove, repair, or test''; Section 8–103. Release Prohibition, Reporting, Emergency Response, except (b) ''owner of the land on which the underground storage tank system is located, transporter of fuel, etc.'' and (g); Section 8–104. Signatories to Permits and Reports; Section 8–105. Incorporation by Reference; Section 8–109. Transfer of Ownership, Operation; Permits, Notification of Rules, Section 8–109(b); Subchapter 2: Definitions; Subchapter 3: Registration (Notification), Permits, And Operator Training, Section 8–301. Applicability, 8–301(a)(1)(C) and (D); 8–301(a)(2)(A), (C), and (D); 8–301(b)(1), (b)(3) and (b)(4); Section 8–302. Registration, except 8–302(a)(1)(C) and 8–302(c); Section 8–303. Permits for Category One Underground Storage Tank Systems, 8–303(f); Section 8–305. Financial Responsibility Requirements; Section 8–306. Change-in-Service; Section 8–307. Operator Training Requirements; Section 8–308. Approval of Operator Training Test; Subchapter 4: Design, Manufacturing, and Installation Standards for Underground Storage Tank Systems, Section 8–402. Prohibitions, 8–402(c), (d) and (e); Section 8–403. General Requirements; Section 8–404. Tank Installation Standards; Section 8–405. Piping Standards, except 8–405(b), (d)(2), and (e); Section 8–406. Spill Containment & Overfill Prevention Measures and Equipment, except 8–406(c) and (d); Section 8–407. Scheduling Installations of Underground Storage Tank Systems, except 8–407(a)(1); Section 8–408. Reuse of Tanks; Section 8–409 Underground Storage Tank Systems Located at Marinas; Section 8–410. Field Constructed Tanks and Airport Hydrant Systems; Subchapter 5: Operating Standards for Underground Storage Tanks, Section 8–501. Applicability; Section 8–502. General and Recordkeeping Requirements; Section 8–503. Spill and Overfill Prevention; Monitoring of Deliveries, except 8–503(a) and (b); Section 8–504. Cathodic Protection Systems; Section 8–505. General Requirements for Release Detection; Section 8–506. Release Detection Requirements for Tanks, except 8–506(c)(1)(F); Section 8–507. Release Detection Requirements for Piping, Sumps, and Spill Containment; Section 8–508. Underground Storage Tank System Repairs, except 8–508(c)(9)(B), (C), and (D), and 8–508(g); Section 8–509. Periodic Inspections and Self-Certifications; Section 8–510. Unstaffed Facilities; Section 8–511. Testing of Sumps, Spill Containment, and Overfill Prevention Devices, except 8–511(c); Section 8–512. Field Constructed Tanks and Airport Hydrant Systems; Subchapter 6: Out-Of-Service, Continued Use, And Closure Standards for Underground Storage Tank Systems, Section 8–601. Applicability, except 8–601(c) and (d); Section 8–602. Out-of-Service Underground Storage Tank Systems; Section 8–603. Continued Use of Underground Storage Tank Systems; Section 8–604: Closure of Underground Storage Tank Systems, except the words ''or three'' in 8–604(g), 8–604(h)(3), and 8–604(i) with respect to the Secretary's issuance of an amended permit; Section 8–605. Release Assessment at the Time of Closure or a Change-In-Service; and 8–606. Closure Records.

2. *Code of Vermont Rules 12–032–008. Chapter 35—Investigation and Remediation of Contaminated Properties Rule (Effective July 6, 2019)* only insofar as they pertain to the regulation of underground storage tanks in Vermont and only insofar as they are incorporated by reference and are not broader in scope than the federal requirements.

Subchapter 1. General Provisions, except Section 35–103, Severability, and Section 35–107, Historical Fill Exemption; Subchapter 2. Definitions; Subchapter 3. Site Investigation; Subchapter 4. Data Evaluations; Subchapter 6. Corrective Action; Subchapter 7. Long Term Monitoring; Subchapter 8. Contaminated Soil, except Section 35–805. Development Soils ; Subchapter 9. Institutional Controls; Subchapter 10. Site Closure.

* * * * *

[FR Doc. 2022–14981 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R01–UST–2022–0269; FRL–9580–02–R1]

Connecticut: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Connecticut's Underground Storage Tank (UST) program submitted by the Connecticut Department of Energy and Environmental Protection (''DEEP''). This action also codifies EPA's approval of Connecticut State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective September 12, 2022 unless EPA receives adverse comment by August 15, 2022. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 12, 2022, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: beland.andrea@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R01–UST–2022–0269. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the notice for assistance.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material,

might be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy.

IBR and supporting material: The EPA encourages electronic reviewing of these documents, but if you are unable to review these documents electronically, please contact Andrea Beland to schedule an appointment to view the documents at the Region 1 Office, 5 Post Office Square, 1st floor, Boston, MA 02109–3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Interested persons wanting to examine these documents should make an appointment at least two weeks in advance. EPA Region 1 requires all visitors to adhere to the COVID–19 protocol. Please contact Andrea Beland for the COVID–19 protocol requirements for your appointment. The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention (CDC), local area health departments, and our federal partners so that we can respond rapidly as conditions change regarding COVID–19. For further information on EPA Docket Center services and the current status, please visit us online at *https://www.epa.gov/dockets*.

FOR FURTHER INFORMATION CONTACT: Andrea Beland, (617) 918–1313, *beland.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Connecticut's Underground Storage Tank Program

A. Why are revisions to state programs necessary?

States that have received final approval from the EPA under RCRA section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is equivalent to, consistent with, and no less stringent than the Federal UST program. Either EPA or the approved state may initiate program revision. When EPA makes revisions to the regulations that govern the UST program, states must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or state statutory or regulatory authority is modified or when responsibility for the state program is shifted to a new agency or agencies.

B. What decisions has the EPA made in this rule?

On December 22, 2021, in accordance with 40 CFR 281.51(a), Connecticut submitted a complete program revision application seeking the EPA approval for its UST program revisions (State Application). Connecticut's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations (2015 Federal Revisions). As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting approval, a description of the program and operating procedures, a demonstration of the State's procedures to ensure adequate enforcement, a Memorandum of Agreement outlining the roles and responsibilities of the EPA and the implementing agency, a statement of certification from the Attorney General, and copies of all relevant state statutes and regulations. We have reviewed the State Application and determined that the revisions to Connecticut's UST program are equivalent to, consistent with, and no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that the Connecticut program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, the EPA grants Connecticut final approval to operate its UST program with the changes described in the program revision application, and as outlined below in section I.G. of this document.

C. What is the effect of this approval decision?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Connecticut, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

EPA is publishing this direct final rule concurrent with a proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. EPA is providing an opportunity for public comment now.

E. What happens if the EPA receives comments that oppose this action?

Along with this direct final rule, the EPA is publishing a separate document in the ''Proposed Rules'' section of this issue of the **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives comments that oppose this approval, EPA will withdraw the direct final rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the approval of the State program changes after considering all comments received during the comment period. EPA will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Connecticut previously been approved?

On July 5, 1995, the EPA finalized a rule approving the UST program, effective August 4, 1995, to operate in lieu of the Federal program. On August 9, 1996, effective October 8, 1996, the EPA codified the approved Connecticut program, incorporating by reference the State statutes and regulatory provisions that are subject to EPA's inspection and enforcement authorities under RCRA sections 9005 and 9006, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions.

G. What changes are we approving with this action?

On December 22, 2021, in accordance with 40 CFR 281.51(a), Connecticut submitted a complete application for final approval of its UST program revisions, adopted on November 30, 2021. The EPA now makes an immediate final decision, subject to receipt of written comments that oppose this action, that Connecticut's UST program revisions satisfy all the requirements necessary to qualify for final approval. Therefore, EPA grants Connecticut final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification.	RCSA Section 22a–449(d)–101(a)(3)(B); 22a–449(d)–101(b); 22a–449(d)–102(a); 22a–449(d)–102(a)(3), (6) through (8), and (11) through (18); 22a–449(d)–102(a)(5); 22a–449(d)–102(b); 22a–449(d)–103(a) and (e); 22a–449(d)–109; CGS Section 22a–449(e); 22a–449o.
40 CFR 281.31, Upgrading Existing UST Systems.	RCSA Section 22a–449(d)–101(a)(3) and (b); 22a–449(d)–110(a), (b) and (c); 22a–449(d)–110; 22a–449(d)–111; CGS Section 22a–449 (e); 22a–449o.
40 CFR 281.32, General Operating Requirements.	RCSA Section 22a–449(d)–102(a)(15); 22a–449(d)–102(b)(11); 22a–449(d)–103(a); 22a–449(d)–103(a)(4); (b); (c)(1), (c)(2) and (c)(2)(B); 22a–449(d)–103(d); (d)(9); (e); (e)(2); (e)(4); 22a–449(d)–104(g); 22a–449(d)–108(c)(2); (c)(2)(B); 22a–449(d)–110(a); CGS § 22a–449(e).
40 CFR 281.33, Release Detection	RCSA Section 22a–449(d)–104(a) 22a–449(d)–101(b); 22a–449(d)–104(a), (c), through (f); 22a–449(d)–108(c)(2), (c)(2)(C)(viii); CGS Section 22a–449o.
40 CFR 281.34, Release Reporting, Investigation, and Confirmation.	RCSA Section 22a–449(d)–103(a) 22a–449(d)–105(a) through (d); CGS Section 22a–450.
40 CFR 281.35, Release Response and Corrective Action.	RCSA Section 22a–449(d)–106(c)through (g); 22a–449(d)–106(h)(1) through (4); 22a–449(d)–106(i).
40 CFR 281.36, Out–of–service Systems and Closure.	RCSA Section 22a–449(d)–107(a) through (d).
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	RCSA Section 22a–449(d)–109; 22a–449(d)–109(d), (e) through (n), (p), (r), and (v).
40 CFR 281.39, Operator Training	RCSA Section 22a–449(d)–108.
40 CFR 281.40, Legal Authorities for Compliance Monitoring.	RCSA Section 22a–449(d)–103(e); 22a–449(d)–104(g); 22a–449(d)–105(c); and CGS Section 22a–6; CGS Section 22a–449q; CGS Section 22a–449(f) and (g).
40 CFR 281.41, Legal Authorities for Enforcement Response.	CGS Section 22a–6; CGS Section 22a–7; CGS Section 22a–428; CGS Section 22a–432; CGS Section 22a–433; CGS Section 22a–435; CGS Section 22a–438.
40 CFR 281.42, Public Participation in Enforcement Proceedings.	Connecticut Practice Book § 9–18; RCSA Section 22a–3a–6(k); CGS Section 52–107; CGS Section 4–177a; CGS Section 22a–19.

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. The CT DEEP has broad statutory authority with respect to USTs to regulate installation, operation, maintenance, closure, and UST releases, and to the issuance of orders. These statutory authorities are found in: Connecticut General Statutes Title 4. Management of State Agencies, Section 22a–177a. Contested cases. Party Intervenor Status; Connecticut General Statutes Title 52. Civil Actions, Section 52–107. Additional parties may be summoned in; Connecticut General Statutes Title 22A. Environmental Protection Chapter 439. Department of Energy and Environmental Protection. State Policy Part II. General Provisions, Section 22a–6. Commissioner to establish environmental standards, regulations, and fees, to make contracts and studies and to issue permits. Complaints. Hearings. Bonds. Notice of contested cases. Fee waivers. Public notices on department's internet website, Section 22a–7. Cease and desist orders. Service. Hearings. Injunctions, and Section 22a–19. Administrative proceedings; (4) Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control, Section 22a–428. Orders to municipalities to abate pollution, Section 22a–432. Order to correct potential sources of pollution, Section 22a–433. Order to landowner, Section 22a–435. Injunction, and Section 22a–438. Forfeiture for violations. Penalties.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

The following statutory and regulatory provisions are considered broader in scope than the Federal program, and are therefore not enforceable as a matter of Federal law:

The State of Connecticut regulates federally exempt on premise use heating oil UST systems.

By May 8, 1986, the owner or operator of each existing facility and within thirty days of a new installation's completion, an owner or operator shall notify the Commissioner and the office of the local fire marshal of the life expectancy determinations made for all underground components at the facility.

The Commissioner may grant a variance or partial variance from one or more provisions of Sec. 22–a–449(d)–1 provided such variance will not endanger the public health, safety, or welfare or allow pollution of the air, land, or waters of the state.

On and after October 10, 2009, the fee for the notification of each nonresidential underground storage facility submitted to the commissioner shall be one hundred dollars per tank. Such notification shall be submitted annually on a form prescribed by the commissioner on or before October tenth and shall be accompanied by such fee.

No person shall deliver a regulated substance to any UST, except for fuel oil storage tanks used for on-premises heating purposes, or farm or residential tanks used for storing motor fuel, that is visibly designated by the Agency as not meeting standards adopted by the Secretary related to corrosion protection, spill prevention, leak detection, financial responsibility, or overfill protection.

If the commissioner determines that there is a release from a nonresidential underground storage tank system or that such system is not designed, constructed, installed and operated in accordance with all applicable statutes and regulations, fails to have or operate proper release detection equipment in accordance with the applicable regulations, or fails to have or operate proper overfill and spill protection measures or equipment in accordance with the applicable regulations, then the commissioner may require the owner or operator of the nonresidential underground storage tank system to pump out the contents of its system, and the commissioner may place a notice on a system that is plainly visible, indicating that the system is not in compliance with the requirements applicable to nonresidential underground storage tank systems and that such system cannot be used and deliveries to such system cannot be accepted, or the commissioner may disable the use of such system by

placing a disabling device on the system that prohibits deliveries to such system.

More Stringent Provisions

Airport hydrant fuel distribution systems (AHS) and field constructed underground storage tanks (USTs) are prohibited. Existing AHS and field constructed USTS shall be permanently closed.

No person or municipality shall install an UST system on or after October 1, 2003, unless the UST system is double-walled.

On and after August 8, 2012, a new double-walled under dispenser containment (UDC) sump must be installed if a dispenser and greater than 50% of the flex-joint or flexible piping is replaced or if greater than 50% of the dispensers at a facility are being replaced.

An annual notification of each non-residential UST is required to be submitted to the Commissioner.

All cathodic protection systems shall be tested within six months of installation and at least annually thereafter.

Suction piping shall either have a line tightness test conducted at least every three years until thirty-six to thirty-three months prior to the end of their life expectancy, on which date and annually thereafter line tightness tests shall be conducted or use an approved monthly monitoring method.

For safe suction piping a line tightness test shall be conducted thirty-six to thirty-three months prior to the end of their life expectancy and annually.

An owner or operator shall report any failure of an UST system immediately to the Commissioner.

Owners and operators shall keep and maintain records for at least five years beyond the operational life of the UST system.

Continued use of an UST system to store a non-regulated substance is prohibited. Regulated UST systems no longer in use shall be temporarily or permanently closed. At the end of twelve months, temporarily closed thanks shall be permanently closed unless they meet the upgrading requirements or the standards for a new tank.

Class A, B, and C operators must attend a refresher training every two years following initial training.

II. Codification

A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved UST program into the CFR. Section 9004(b) of RCRA, as amended, allows the EPA to approve State UST programs to operate in lieu of the Federal program. The EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that the EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable state provisions. The incorporation by reference of state authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Connecticut's UST program?

EPA incorporated by reference the Connecticut DEEP approved UST program effective October 8, 1996 (61 FR 41509; August 9, 1996). In this document, EPA is revising 40 CFR 282.56 to include the approved revisions.

C. What codification decisions have we made in this rule?

Incorporation by reference: In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are finalizing the incorporation by reference of the federally approved Connecticut UST program described in section I.G. of this preamble and set forth below in the amendments to 40 CFR part 282. The EPA has made, and will continue to make, this document generally available through *www.regulations.gov* and at the EPA Region 1 office (see the **ADDRESSES** Section of this preamble for more information).

The purpose of this **Federal Register** document is to codify Connecticut's approved UST program. The codification reflects the State program that would be in effect at the time EPA's approved revisions to the Connecticut UST program addressed in this direct final rule become final. The document incorporates by reference Connecticut's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally enforceable program. By codifying the approved Connecticut program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Connecticut program.

EPA is incorporating by reference the Connecticut approved UST program in 40 CFR 282.56. Section 282.56(d)(1)(i)(A) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.56 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

D. What is the effect of Connecticut's codification on enforcement?

The EPA retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in approved States. With respect to these actions, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state authorized analogues to these provisions. Therefore, the EPA is not incorporating by reference such particular, approved Connecticut procedural and enforcement authorities. Section 282.56(d)(1)(ii) of 40 CFR lists those approved Connecticut authorities that would fall into this category.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. Section 281.12(a)(3)(ii) of 40 CFR states that where an approved state program has provisions that are broader in scope than the Federal program, those provisions are not a part of the federally approved program. As a result, State provisions which are broader in scope than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.56(d)(1)(iii) lists for reference and clarity the Connecticut statutory and regulatory provisions which are broader in scope than the Federal program and which are not, therefore, part of the approved program being codified in this document. Provisions that are broader in scope cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order Reviews

This action only applies to Connecticut's UST Program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive orders (EOs) and statutory provisions as follows:

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

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not a regulatory action subject to Executive Order 13771 (82 FR 9339, February 3, 2017) because actions such as this final approval of Connecticut's revised underground storage tank program under RCRA are exempted under Executive Order 12866. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

C. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). As discussed above, EPA is not acting on approval to operate the State's UST program as it applies to Tribal lands in the State. Therefore, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

D. Executive Order 13132: Federalism

This action will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

E. Executive Order 13045: Services of Children From Environmental Health and Safety Risks

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

G. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

H. Executive Order 12988: Civil Justice Reform

As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

I. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive order.

J. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule approves pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

L. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). However, this action will be effective September 12, 2022 because it is a direct final rule.

Authority: This rule is issued under the authority of sections 2002(a), 7004(b), and 9004 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Penalties, Petroleum, Reporting and recordkeeping requirements, Surety bonds, Underground storage tanks, Water supply.

Dated: June 30, 2022.

David W. Cash,

Regional Administrator, EPA Region 1.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Amend § 282.2 by revising the second sentence of paragraph (b) introductory text and paragraph (b)(1) to read as follows:

§ 282.2 Incorporation by reference.

* * * * *

(b) * * * For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* * * *

(1) Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont): 5 Post Office Square, 1st floor, Boston, MA 02109–3912; Phone Number: (617) 918–1313.

* * * * *

■ 3. Revise § 282.56 to read as follows:

§ 282.56 Connecticut State-Administered Program.

(a) The State of Connecticut is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by the Connecticut Department of Energy and Environment Protection (''DEEP''), was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281. EPA approved the Connecticut program on July 5, 1995, which was effective on August 4, 1995.

(b) Connecticut has primary responsibility for administering and enforcing its federally approved underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Connecticut must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with section 9004 of RCRA, 42 U.S.C. 6991c and 40 CFR part 281, subpart E. If Connecticut obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notification of any change will be published in the **Federal Register**.

(d) Connecticut has final approval for the following elements of its program application originally submitted to EPA and approved effective August 4, 1995, and the program revision application approved by EPA, effective on September 12, 2022.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The material cited in this paragraph, and listed in Appendix A to this part, is incorporated by reference as part of the underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* (See § 282.2 for incorporation by reference approval and inspection information.) You may obtain copies of the Connecticut regulations and statutes that are incorporated by reference in this paragraph from Mark Latham, Supervising Environmental Analyst, Licensing and Enforcement Unit, Emergency Response and Spill Prevention Division, Connecticut Department of Energy and Environmental Protection, 79 Elm Street; Hartford, CT 06106–5127; Phone number: 860–418–5930; *Mark.Latham@ct.gov*; Hours: Monday to Friday, 8:00 a.m. to 4:30 p.m.; link to statutes and regulations: Connecticut General Assembly's website: *https://www.cga.ct.gov/current/pub/chap_446k.htm#sec_22a-449*; state's e-regulation portal: *https://eregulations.ct.gov/eRegsPortal/Search/getDocument?guid=%7b3048737D-0000-CD35-9265-186385876C76%7d.*

(A) EPA-Approved Connecticut Statutory and Regulatory Requirements Applicable to the Underground Storage Tank Program, December 2021.

(B) [Reserved]

(ii) *Legal basis.* EPA evaluated the following statutes and regulations which are part of the approved program, but they are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(1) *Connecticut General Statutes Title 4. Management of State Agencies,* Section 22a–177a. Contested cases. Party Intervenor Status.

(2) *Connecticut General Statutes Title 52. Civil Actions,* Section 52–107. Additional parties may be summoned in.

(3) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 439. Department of Energy and Environmental Protection. State Policy Part II. General Provisions,* Section 22a–6. Commissioner to establish environmental standards, regulations, and fees, to make contracts and studies and to issue permits. Complaints. Hearings. Bonds. Notice of contested cases. Fee waivers. Public notices on department's internet website, Section 22a–7. Cease and desist orders. Service. Hearings. Injunctions, and Section 22a–19. Administrative proceedings.

(4) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–428. Orders to municipalities to abate pollution, Section 22a–432. Order to correct potential sources of pollution, Section 22a–433. Order to landowner, Section 22a–435. Injunction, and Section 22a–438. Forfeiture for violations. Penalties.

(B) The regulatory provisions include:

(1) *2021 Connecticut Practice Book,* Chapter 9 Parties, Sec. 9–18. Addition or Substitution of Parties; Additional Parties Summoned in by Court.

(2) *Regulations of Connecticut State Agencies (RSCA) Title 22a. Environmental Protection* Section 22a—3a–6(k) Intervention.

(iii) *Provisions not incorporated by reference.* The following specifically identified statutory and regulatory provisions applicable to the Connecticut's UST program are broader in scope than the Federal program, are not part of the approved program, and are not incorporated by reference in this section for enforcement purposes:

(A) *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–449. Duties and powers of commissioner resources of potential pollution or damages. Licenses, regulations. Nonresidential underground storage tank systems, (g), delivery prohibition.

(B) *RCSA, Title 22a. Environmental Protection,* Section 22a–449(d)–1, Control of the nonresidential underground storage and handling of oil and petroleum liquids

RCSA, Title 22a. Environmental Protection, Section 22a–449(d)–1(d)(1) and (2), Reporting of life expectancy determination.

RCSA, Title 22a. Environmental Protection, Section 22a–449(d)–1(l), Variances.

RCSA, Title 22a. Environmental Protection, Section 22a–449(d)–111. Life expectancy.

(2) *Statement of legal authority.* The Attorney General's Statements, signed by the Attorney General of Connecticut on December 21, 1994, and December 20, 2021, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Procedures for Adequate Enforcement'' submitted as part of the original application in December 1994, and as part of the program revision application for approval on December 22, 2021, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the original application in December 1994, and as part of the program revision application on December 22, 2021, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 1 and the Connecticut Department of Energy and Environmental Protection, signed by the EPA Regional Administrator on December 20, 2021, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 4. Appendix A to part 282 is amended by revising the entry for Connecticut to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Connecticut

(a) The statutory provisions include:

1. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–449. Duties and powers of commissioner resources of potential pollution or damages. Licenses, regulations. Nonresidential underground storage tank systems. (a); (d); (e) except annual tank fee; and (f).

2. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–449o. Requirement for double-walled underground storage tanks.

3. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–449q. Storage of underground storage tank system records.

4. *Connecticut General Statutes Title 22A. Environmental Protection Chapter 446K. Water Pollution Control,* Section 22a–450. Report of discharge, spill, loss, seepage or filtration. Regulations.

(b) The regulatory provisions include:

1. *RCSA, Title 22a. Environmental Protection,* Section 22a–449(d) Underground Storage Tank System Management *(effective December 1, 2021).*

Section 1 Control of the nonresidential underground storage and handling of oil and petroleum liquids, except (d)(1) and (2) notification of life expectancy determination, life expectancy (h)(1)—(3), and (l) variances.

Section 100 Reserved.

Section 101 Technical standards and corrective action for owners and operators of underground storage tank systems-program scope and interim prohibition.

Section 102 UST systems: design, construction installation and notification.

Section 103 General operating requirements.

Section 104 Release Detection.

Section 105 Release reporting, investigation, and confirmation.

Section 106 Release response and corrective action for UST systems containing petroleum or hazardous substances.

Section 107 Out-of-service UST systems and closure.

Section 108 Operator training required.

Section 109 Financial responsibility.

Section 110 UST system upgrading, abandonment and removal date.

Section 112 UST system location transfer.

Section 113 Transfer of UST system ownership, possession or control.

* * * * *

[FR Doc. 2022–14978 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R03–UST–2021–0862; FRL–9625–02–R3]

Delaware: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Solid Waste Disposal Act of 1965, as amended (commonly known as the Resource Conservation and Recovery Act (RCRA)), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to Delaware's Underground Storage Tank (UST) program submitted by Delaware (Delaware or State). This action also codifies EPA's approval of Delaware's State program and incorporates by reference (IBR) those provisions of Delaware's regulations and statutes that EPA has determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: This rule is effective September 12, 2022, unless EPA receives significant negative comments opposing this action by August 15, 2022. If EPA receives significant negative comments opposing this action, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of September 12, 2022, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: Cato.Diashinae@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R03–UST–2021–0862.

EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal website, *https://www.regulations.gov,* is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://*

www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the notice for assistance. If you need assistance in a language other than English, or you are a person with disabilities who needs a reasonable accommodation at no cost to you, please reach out to the EPA contact person by email or phone.

Docket: All documents in the docket are listed in the *https://www.regulations.gov* index. Although listed in the index, some information might not be publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Publicly available materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Diashinae Cato, (215) 814–2738, *cato.diashinae@epa.gov,* RCRA Programs Branch; Land, Chemicals, and Redevelopment Division; EPA Region 3, Four Penn Center, 1600 John F. Kennedy Blvd. (Mailcode 3LD30), Philadelphia, PA 19103–2852.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Delaware's Underground Storage Tank Program

A. Why are revisions to state programs necessary?

Section 9004 of RCRA authorizes EPA to approve state underground storage tank (UST) programs to operate in lieu of the Federal UST program. EPA may approve a state program if the state demonstrates, pursuant to section 9004(a), 42 U.S.C. 6991c(a), that the state program includes the elements set forth at section 9004(a)(1) through (9), 42 U.S.C. 6991c(a)(1) through (9), and provides for adequate enforcement of compliance with UST standards (section 9004(a), 42 U.S.C. 6991c(a)). Additionally, EPA must find, pursuant to section 9004(b), 42 U.S.C. 6991c(b), that the state program is ''no less stringent'' than the Federal program in the elements set forth at section 9004(a)(1) through (7), 42 U.S.C. 6991c(a)(1) through (7). States such as Delaware that have received final UST program approval from EPA under section 9004 of RCRA must, in order to retain such approval, revise their approved programs when the controlling Federal or state statutory or regulatory authority is changed and EPA determines a revision is required. In 2015, EPA revised the Federal UST regulations and determined that states must revise their UST programs accordingly.

B. What decisions has EPA made in this rule?

On November 22, 2021, in accordance with 40 CFR 281.51, Delaware submitted a complete program revision application seeking EPA approval for its UST program revisions (State Application). Delaware's revisions correspond to the EPA final rule published on July 15, 2015 (80 FR 41566), which revised the 1988 UST regulations and the 1988 state program approval (SPA) regulations. As required by 40 CFR 281.20, the State Application contains the following: a transmittal letter requesting program approval; a description of the program and operating procedures; a demonstration of the State's procedures to ensure adequate enforcement; a Memorandum of Agreement outlining the roles and responsibilities of EPA and the implementing agency; an Attorney General's statement in accordance with 40 CFR 281.24 certifying to applicable State authorities; and copies of all relevant State statutes and regulations. EPA has reviewed the State Application and determined that the revisions to Delaware's UST program are no less stringent than the corresponding Federal requirements in subpart C of 40 CFR part 281, and that Delaware's program provides for adequate enforcement of compliance (40 CFR 281.11(b)). Therefore, EPA grants Delaware final approval to operate its UST program with the changes described in the State Application, and as outlined below in section I.G. of this preamble.

C. What is the effect of this approval decision?

This action does not impose additional requirements on the regulated community because the regulations being approved by this rule are already effective in Delaware, and they are not changed by this action. This action merely approves the existing State regulations as meeting the Federal requirements and renders them federally enforceable.

D. Why is EPA using a direct final rule?

EPA is publishing this direct final rule concurrently with a proposed rulemaking because EPA views this as a noncontroversial action and anticipates no significant negative comment. EPA is providing an opportunity for public comment now.

E. What happens if EPA receives comments that oppose this action?

Along with this direct final rule, EPA is publishing a separate document in the ''Proposed Rules'' section of this issue of the **Federal Register** that serves as the proposal to approve the State's UST program revisions, providing opportunity for public comment. If EPA receives significant negative comments that oppose this approval, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will not make any further decision on the approval of the State program changes until it considers any significant negative comment received during the comment period. EPA will address any significant negative comment in a later final rule. You may not have another opportunity to comment. If you want to comment on this approval, you must do so at this time.

F. For what has Delaware previously been approved?

On September 27, 1996, the EPA finalized a rule approving Delaware's UST program, effective October 28, 1996 (61 FR 50720), to operate in lieu of the Federal program. EPA has not codified Delaware's approved program prior to this action.

G. What changes is EPA approving with this action?

On November 22, 2021, in accordance with 40 CFR 281.51, Delaware submitted a complete application for final approval of its UST program revisions adopted on December 12, 2019, effective January 11, 2020, and then amended on January 4, 2021, effective February 21, 2021. EPA has reviewed Delaware's UST program requirements and determined that such requirements are no less stringent than the Federal regulations and that the criteria set forth in 40 CFR part 281 subpart C are met. As part of the State Application, the Attorney General for Delaware certified that the laws and regulations of Delaware provide adequate authority to carry out a program that is ''no less stringent'' than the Federal requirements in 40 CFR part 281. EPA is relying on this certification in addition to the analysis submitted by

Delaware in making our determination. EPA now makes an immediate final decision, subject to receipt of any significant negative written comments that oppose this action, that Delaware's UST program revisions satisfy all of the requirements necessary to qualify for final approval. Therefore, EPA grants Delaware final approval for the following program changes:

Required Federal element	Implementing State authority
40 CFR 281.30, New UST Systems and Notification.	7 Del. Admin. Code 1351 Part A §§ 1.3, 4.1.1, 4.4, 4.6.2, Part B §§ 1.1, 1.3, 1.4, 1.6–1.9, 1.19.2, 1.22, 1.21, 1.25, 1.26, 2.1, 2.22, 2.23, Part D §§ 1.1, 1.3, 1.4, 1.6–1.8, 1.9.2, 1.19.2, 1.21, 1.22, 1.25, 1.26, Part H §§ 1.1.2.1, 1.1.2.2, 2.1.1, 2.2.3, Part I §§ 1.1.2.1, 1.1.2.2, 2.2.3.
40 CFR 281.31, Upgrading Existing UST Systems.	7 Del. Admin. Code 1351 Part B §§ 2.15.1, 2.22–2.25, 2.27.1, 2.29.1, 2.34, Part D § 1, Part H §§ 1.1.1, 2.2, Part I §§ 1.1.1, 2.2
40 CFR 281.32, General Operating Requirements.	7 Del. Admin. Code 1351 Part A §§ 1.3.1.3, 5.1, 13.0, Part B §§ 1.1.2, 1.21, 1.22, 1.24, 1.25, 1.28, 1.29.6, 1.29.7, 1.31, 2.1.1, 2.1.2, 2.22, 2.23, 2.25, 2.26, 2.29, 2.30.6, 2.30.7, 2.32, Part D §§ 1.1.2, 1.21, 1.22, 1.24, 1.25, 1.28, 1.29, Part H §§ 1.1.2.2, 2.2, 2.3, Part I §§ 1.1.2.2., 2.2, 2.3.
40 CFR 281.33, Release Detection	7 Del. Admin. Code 1351 Part B §§ 1.9.1, 1.9.2, 1.9.4.5, 1.9.5.2, 1.17–1.20, 2.9.1, 2.9.2, 2.9.4.5, 2.9.5.2, 2.18–2.21, Part D §§ 1.9, 1.18–1.20, Part H § 2.4, Part I § 2.4.
40 CFR 281.34, Release Reporting, Investigation, and Confirmation.	7 Del. Admin. Code 1351 Part E §§ 1.0, 2.0, 4.0.
40 CFR 281.35, Release Response and Corrective Action.	7 Del. Admin. Code 1351 Part E §§ 1.6, 3.2, 3.3, 4.0, 5.1–5.6.
40 CFR 281.36, Out-of-service Systems and Closure.	7 Del. Admin. Code 1351 Part A §§ 4.1.6, 4.8, Part B §§ 3.1, 3.2.1–3.2.4, 3.4.1, 3.4.2.7, 4.2, 4.6, 6.2, Part D 2.1, 2.2, 2.4.1, 3.6, 5.2, Part E, Part H § 2.5, Part I § 2.5.
40 CFR 281.37, Financial Responsibility for USTs Containing Petroleum.	7 Del. Admin. Code 1351 Part F §§ 1.1.6–1.1.8, 1.3.1, 1.3.2, 2.0.
40 CFR 281.38, Lender Liability	7 Del. Admin. Code 1351 Part A § 2.0.
40 CFR 281.39, Operator Training	7 Del. Admin. Code 1351 Part A § 10.0.

The State also demonstrates that its program provides adequate enforcement of compliance as described in 40 CFR 281.11(b) and part 281, subpart D. Delaware's lead implementing agency, the Department of Natural Resources and Environmental Control (DNREC), has broad statutory and regulatory authority with respect to USTs to regulate installation, operation, maintenance, closure and UST releases, and to issue orders. The statutory and regulatory authority is found in the Delaware Code (Del. C.) at Title 7, Chapter 60, Sections 6001–6039 and Chapter 74, Sections 7401–7425 and in the Delaware Administrative Code (Del. Admin. Code) Title 7, Chapter 1351.

H. Where are the revised rules different from the Federal rules?

Broader in Scope Provisions

Where an approved state program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally-approved program and is not federally enforceable (40 CFR 281.12(a)(3)(ii)). The following Delaware requirements are considered ''broader in scope'' than the Federal program:

- Delaware charges fees for UST registration. 7 Del. Code §§ 7409(c), 7418, 7 Del. Admin. Code 1351–A–4.1.4, –4.2.
- Delaware regulates agricultural and residential USTs of 1,100 gallons or less used for storing motor fuel for noncommercial purposes. 7 Del. Code § 7404(1), 7 Del. Admin. Code 1351–A–1.2.1.1. Such USTs are excluded from the Federal definition of UST.
- Delaware regulates UST systems holding Solid Waste Disposal Act Subtitle C hazardous wastes or a mixture of such hazardous wastes and other regulated substances, wastewater treatment tank systems that are part of a wastewater treatment facility regulated under section 402 or 307(b) of the Clean Water Act, 42 U.S.C. 1342 and 1317(b), equipment and machinery that contain regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks, UST systems whose capacity is 110 gallons or less, and any emergency spill or overflow containment UST systems that are expeditiously emptied after use. 7 Del. Admin. Code 1351–A–1.2.1.3 to .7. Such tanks and tank systems are excluded from the requirements of the Federal regulations.
- Delaware does not explicitly exempt from regulation UST systems that contain de minimis concentrations of regulated substances as it does for other tanks at 7 Del. Admin. Code 1351–A–1.2.1.
- Delaware has a licensure/certification program for various UST handling activities and requires the use of certified persons for certain UST handling activities (the requirement to use a certified person for installation is not considered broader in scope). 7 Del. Code § 7425, 7 Del. Admin. Code 1351 Part G, see also 1351–A–11.0.
- Delaware regulates a broader class of persons than owners or operators of USTs. Specifically, Delaware applies release investigation, response, and corrective action requirements to a ''responsible party'' or ''person,'' and certain spill and overfill prevention requirements to a ''person.'' 7 Del. Code §§ 7401, 7402, 7406(a)–(d), (e) introductory paragraph, 7 Del. Admin. Code 1351–A–2.0, 1351–B–1.21.1, –1.22.1 and .2, –1.29.7.1, –2.22.1, –2.23.1 and .2, –2.30.7.1, 1351–D–1.21.1, –1.22.1 and .2, 1351–E–1.2, –1.3, –2.1, –2.2, –2.4, –3.2, –3.3, –4.0, –5.0, –6.0.
- Delaware regulates substances not regulated under the Federal program. Definition of ''regulated substance'' at 7 Del. Admin. Code 1351–A–2.0.
- Delaware regulates USTs that contain heating fuel for consumptive use on the premises where stored. 7 Del. Code §§ 7404(2), 7405(a)(2) and (3), 7 Del. Admin. Code 1351 Part C, see also A–1.2.1.2, –4.5.2, –4.6.2, –10.1.1, –11.0, –12.0, 1351–E–6.2.3, 1351–H–1.1.2.2, 1351–I–1.1.2.2. Such USTs are excluded from the Federal definition of UST.
- Delaware's definition of ''consumptive use'' is limited to activities that do not result in monetary gain. 7 Del. Admin. Code 1351–A–2.0.
- Delaware requires all appropriate inquiry during the purchase of residential property. 7 Del. Admin. Code 1351–E–7.0.
- Delaware requires owners and operators to follow Occupational Safety and Health Administration (OSHA)

standards and certain OSHA permitting requirements. 7 Del. Admin. Code 1351–A–3.1.10, –3.3.8, 1351–B–1.3.2.4, –4.2.1.3, –5.2.1.3, 1351–D–1.3.2.4, –3.2.1.3, –4.2.1.3.

- Delaware requires DNREC to approve or deny construction work within fourteen days of receipt of construction plans and notification form for repairs, retrofits, or upgrades that require post-construction testing or site assessment. 7 Del. Admin. Code 1351–A–4.7.1 and .2.
- Delaware requires the posting of permits to be kept at the UST site during construction. 7 Del. Admin. Code 1351–A–4.9.1.
- Delaware imposes requirements on dispenser system hoses such as maximum dispenser hose lengths. 7 Del. Admin. Code 1351–B–1.1.8, –2.1.8.

In accordance with 40 CFR 281.12(a)(3)(ii), the additional coverage listed above is not part of the federally-approved program and is not federally enforceable.

II. Codification

A. What is codification?

Codification is the process of placing a state's statutes and regulations that comprise the state's approved program into the Code of Federal Regulations (CFR). Section 9004(b) of RCRA, as amended, allows EPA to approve state UST programs to operate in lieu of the Federal program. EPA codifies its authorization of state programs in 40 CFR part 282 and incorporates by reference state statutes and regulations that EPA will enforce under sections 9005 and 9006 of RCRA and any other applicable statutory provisions. The incorporation by reference of state authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the approved state program and state requirements that can be federally enforced. This effort provides clear notice to the public of the scope of the approved program in each state.

B. What is the history of codification of Delaware's UST program?

EPA has not previously incorporated by reference Delaware's UST program. In this document, EPA is amending 40 CFR 282.57 to include the approved revised program.

C. What codification decisions has EPA made in this rule?

Incorporation by reference: In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of Delaware statutes and regulations described in section I.G. of this preamble except for any requirements that are broader in scope or serve as state enforcement authority. The specific requirements to be incorporated are set forth below in the amendments to 40 CFR part 282. EPA has made, and will continue to make, these documents generally available through *https://www.regulations.gov* and at the EPA Region 3 office (see the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

One purpose of this rule is to codify Delaware's approved UST program. The codification reflects the State program that will be in effect at the time EPA's approved revisions to Delaware's UST program addressed in this direct final rule become final. If, however, EPA receives any significant negative comment opposing the proposed rulemaking then this codification will not take effect, and the State rules that are approved after EPA considers public comment will be codified instead. This rule incorporates by reference Delaware's UST statutes and regulations and clarifies which of these provisions are included in the approved and federally-enforceable program. By codifying the approved Delaware program and by amending the CFR, the public will more easily be able to discern the status of the federally-approved requirements of the Delaware program.

EPA is incorporating by reference the Delaware approved UST program in 40 CFR 282.57. Section 282.57(d)(1)(i)(A) and (B) incorporates by reference for enforcement purposes the State's statutes and regulations.

Section 282.57 also references the Attorney General's Statement, Demonstration of Adequate Enforcement Procedures, the Program Description, and the Memorandum of Agreement, which are approved as part of the UST program under Subtitle I of RCRA. These documents are not incorporated by reference.

D. What is the effect of Delaware's codification on enforcement?

The EPA retains the authority under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in approved States. If EPA determines it will take such actions in Delaware, EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the State's authorized analogs to these provisions. Therefore, EPA is not incorporating by reference such approved Delaware's procedural and enforcement authorities. Section 282.57(d)(1)(ii) of 40 CFR lists those approved Delaware authorities that would fall into this category.

E. What State provisions are not part of the codification?

The public also needs to be aware that some provisions of the State's UST program are not part of the federally-approved State program. Such provisions are not part of the RCRA Subtitle I program because they are ''broader in scope'' than Subtitle I of RCRA. 40 CFR 281.12(a)(3)(ii) states that where an approved state program has a greater scope of coverage than required by Federal law, the additional coverage is not a part of the federally-approved program. As a result, State provisions that are ''broader in scope'' than the Federal program are not incorporated by reference for purposes of enforcement in part 282. Section 282.57(d)(1)(iii) lists for reference and clarity Delaware's statutory and regulatory provisions that are ''broader in scope'' than the Federal program and which are not, therefore, part of the approved program being codified in this action. Provisions that are ''broader in scope'' cannot be enforced by EPA; the State, however, will continue to implement and enforce such provisions under State law.

III. Statutory and Executive Order Reviews

This action only applies to Delaware's UST Program requirements pursuant to RCRA section 9004 and imposes no requirements other than those imposed by State law. It complies with applicable Executive Orders (EOs) and statutory provisions as follows:

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

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). This action approves and codifies State requirements for the purpose of RCRA section 9004 and imposes no additional requirements beyond those imposed by State law. Therefore, this action is not subject to review by OMB.

B. Unfunded Mandates Reform Act and Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Because this action approves and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538). Currently there are no federally recognized tribes in Delaware. Therefore, this action also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

C. Executive Order 13132: Federalism

This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves and codifies State requirements as part of the State RCRA underground storage tank program without altering the relationship or the distribution of power and responsibilities established by RCRA.

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

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks.

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

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a ''significant regulatory action'' as defined under Executive Order 12866.

F. National Technology Transfer and Advancement Act

Under RCRA section 9004(b), EPA grants a State's application for approval as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State approval application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

G. Executive Order 12988: Civil Justice Reform

As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

H. Executive Order 12630: Governmental Actions and Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

I. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). ''Burden'' is defined at 5 CFR 1320.3(b).

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

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, because it approves pre-existing State rules that are no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law. For these reasons, this rule is not subject to Executive Order 12898.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801–808, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). However, this action will be effective September 12, 2022 because it is a direct final rule.

Authority: This rule is issued under the authority of section 9004 of the Solid Waste Disposal Act of 1965, as amended, 42 U.S.C. 6991c.

List of Subjects in 40 CFR Part 282

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Incorporation by reference, Insurance, Intergovernmental relations, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, State program approval, Surety bonds, Underground storage tanks, Water pollution control, Water supply.

Adam Ortiz,

Regional Administrator, EPA Region 3.

For the reasons set forth in the preamble, EPA is amending 40 CFR part 282 as follows:

PART 282—APPROVED UNDERGROUND STORAGE TANK PROGRAMS

■ 1. The authority citation for part 282 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

■ 2. Amend § 282.2 by revising the second sentence in paragraph (b) introductory text and paragraph (b)(3) to read as follows:

§ 282.2 Incorporation by reference.

* * * * *

(b) * * * For information on the availability of this material at NARA, email: *fr.inspection@nara.gov,* or go to: *www.archives.gov/federal-register/cfr/ibr-locations.html.* * * *

(3) Region 3 (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia): Four Penn

Center, 1600 John F. Kennedy Blvd., Philadelphia, PA 19103–2852; Phone Number: (215) 814–2738.

* * * * *

■ 3. Add § 282.57 to read as follows:

§ 282.57 Delaware State-Administered Program.

(a) Delaware is approved to administer and enforce an underground storage tank program in lieu of the Federal program under Subtitle I of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6991 *et seq.* The State's program, as administered by Delaware's Department of Natural Resources and Environmental Control, was approved by EPA pursuant to 42 U.S.C. 6991c and 40 CFR part 281 of this chapter. EPA approved the Delaware underground storage tank program on September 27, 1996, and approval was effective on October 28, 1996. A subsequent program revision application was approved by EPA and became effective on September 12, 2022.

(b) Delaware has primary responsibility for administering and enforcing its federally-approved underground storage tank program. However, EPA retains the authority to exercise its inspection and enforcement authorities under sections 9005 and 9006 of Subtitle I of RCRA, 42 U.S.C. 6991d and 6991e, regardless of whether the State has taken its own actions, as well as under any other applicable statutory and regulatory provisions.

(c) To retain program approval, Delaware must revise its approved program to adopt new changes to the Federal Subtitle I program which makes it more stringent, in accordance with Section 9004 of RCRA, 42 U.S.C. 6991c, and 40 CFR part 281, subpart E. If Delaware obtains approval for the revised requirements pursuant to section 9004 of RCRA, 42 U.S.C. 6991c, the newly approved statutory and regulatory provisions will be added to this subpart and notice of any change will be published in the **Federal Register**.

(d) Delaware has final approval for the following elements of its program application originally submitted to EPA and approved on September 27, 1996, and effective October 28, 1996, and the program revision application approved by EPA, effective on September 12, 2022.

(1) *State statutes and regulations*—(i) *Incorporation by reference.* The provisions cited in this paragraph, and listed in Appendix A to Part 282, with the exception of the provisions cited in paragraphs (d)(1)(ii) and (iii) of this section, are incorporated by reference as part of the approved underground storage tank program in accordance with Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.* The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of Delaware's regulations and statutes that are incorporated by reference in this paragraph from DNREC Tanks Compliance Branch, 391 Lukens Sr. New Castle, DE 19720 or DNREC W&HS Compliance and Permitting Section, Richardson and Robbins Building, 89 Kings Highway, Dover, DE 19901.

(A) Delaware Statutory Requirements Applicable to the Underground Storage Tank Program, July 2019.

(B) Delaware Regulatory Requirements Applicable to the Underground Storage Tank Program, February 2021.

(ii) *Legal basis.* EPA evaluated the following statutes and regulations, which are part of the approved program, but which are not being incorporated by reference for enforcement purposes, and do not replace Federal authorities:

(A) The statutory provisions include:

(*1*) Delaware Code, Title 7, Chapter 60, Sections: 6005; 6008; 6009; 6014; 6017; 6018; 6024.

(*2*) Delaware Code, Title 7, Chapter 74, Sections: 7406(e)(1)–(3), (f)–(j); 7408; 7411; 7412; 7419.

(*3*) Delaware Code, Title 29, Chapter 100, Sections: 10001–10007.

(B) The regulatory provisions include:

(*1*) Delaware Administrative Code, Title 7, Chapter 1351, Sections A–1.4; A–1.6; A–7.0; A–8.1.1; A–8.1.2; A–8.1.4; A–9.0; E–3.1.

(*2*) Delaware Rules of Court, Superior Court Rules of Civil Procedure, Del. Super. Ct. Civ. Rule 24 Intervention; Court of Chancery Rules, Del. Ct. Ch. Rule 24 Intervention.

(iii) *Provisions not incorporated by reference.* The following statutory and regulatory provisions are ''broader in scope'' than the Federal program, are not part of the approved program, and are not incorporated by reference herein. These provisions are not federally enforceable:

(A) Delaware Code, Title 7, Chapter 74 Underground Storage Tank Act, Sections: 7401 insofar as regulates persons who are not owners or operators; 7402 definition of ''responsible party'' insofar as regulates persons who are not owners or operators of USTs; 7404 insofar as regulates agricultural and residential tanks of 1,100 gallons or less used for storing motor fuel for noncommercial purposes and tanks containing heating fuel for consumptive use on the premises where stored; 7405(a)(2) and (3) insofar as requires registration of tanks containing heating fuel for consumptive use on the premises where stored; 7406(a) through introductory paragraph of (e) insofar as regulates persons who are not owners or operators of USTs; 7409(c) insofar as requires registration fees; 7418; 7425(a), (b), (d), and (e); 7425(c) insofar as the use of certified individuals is required for activities other than installation and insofar as establishes a certification program.

(B) Delaware Administrative Code, Title 7, Chapter 1351 Underground Storage Tank Systems, Sections: A–1.2.1 insofar as regulates persons other than owners or operators, and insofar as regulates agricultural/farm and residential UST systems of 1,100 gallons or less used for storing motor fuels for non-commercial purposes, UST systems containing heating fuel of 1,100 gallons or less for consumptive use on the premises where stored, UST systems holding hazardous wastes listed or identified under Subtitle C of the SWDA or a mixture of such hazardous waste and other regulated substances, wastewater treatment tank systems that are part of a wastewater treatment facility regulated under Section 402 or 307(b) of the Clean Water Act, equipment and machinery containing regulated substances for operational purposes such as hydraulic lift tanks and electrical equipment tanks, UST systems with a capacity of 110 gallons or less, any emergency spill or overflow containment system expeditiously emptied after use, and insofar as provides no exception for USTs containing de minimis amounts of regulated substances; A–2.0 definition of ''consumptive use'' insofar as the term is limited to activities that do not result in monetary gain, ''regulated substance'' insofar as includes substances not regulated under the Federal program, and ''responsible party'' insofar as regulates persons other than owners or operators; A–3.1.10; A–3.3.8; A–4.1.4 insofar as requires fees; A–4.2; A–4.5.2 and –4.6.2 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; A–4.7.1 and .2 insofar as requires Delaware to approve or deny construction work within fourteen days of receipt of notification form and construction plans; A–4.9.1 insofar as requires the posting of permits at the UST/construction site; A–10.1.1 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; A–11.0 insofar as requires the presence of a certified individual for activities other than installation and insofar as regulates

USTs containing heating fuel for consumptive use on the premises where stored; A–12.0 insofar as regulates USTs containing heating fuel for consumptive use on the premises where stored; B–1.1.8; B–1.3.2.4; B–1.21.1 insofar as regulates persons other than owners or operators; B–1.22.1 and .2 insofar as regulates persons other than owners or operators; B–1.29.7.1 insofar as regulates persons other than owners or operators; B–2.1.8; B–2.22.1 insofar as regulates persons other than owners or operators; B–2.23.1 and .2 insofar as regulates persons other than owners or operators; B–2.30.7.1 insofar as regulates persons other than owners or operators; B–4.2.1.3; B–5.2.1.3; Part C; D–1.3.2.4; D–1.21.1 insofar as regulates persons other than owners or operators; D–1.22.1 and .2 insofar as regulates persons other than owners or operators; D–3.2.1.3; D–4.2.1.3; E–1.2, –1.3, –2.1, –2.2, and –2.4 insofar as regulates persons other than owners or operators; E–2.3.1 and –2.4.1.1 insofar as regulates consumptive use heating fuel UST systems for use on the premises; E–3.2, –3.3, –4.0, –5.0, and –6.0 insofar as regulates persons other than owners or operators; E–6.2.3 insofar as regulates consumptive use heating fuel UST systems for use on the premises; E–7.0; Part G; H–1.1.2.2 insofar as regulates consumptive use heating fuel UST systems for use on the premises; I–1.1.2.2 insofar as regulates consumptive use heating fuel UST systems for use on the premises.

(2) *Statement of legal authority.* ''Attorney General's Statement'' signed by the Attorney General on October 12, 2021, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(3) *Demonstration of procedures for adequate enforcement.* The ''Demonstration of Adequate Enforcement Procedures'' submitted as part of the program revision application for approval on November 22, 2021, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(4) *Program description.* The program description and any other material submitted as part of the program revision application for approval on November 22, 2021, though not incorporated by reference, are referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 3 and Delaware Department of Natural Resources and Environmental Control, signed by the EPA Regional Administrator on March 22, 2019, though not incorporated by reference, is referenced as part of the approved underground storage tank program under Subtitle I of RCRA, 42 U.S.C. 6991 *et seq.*

■ 4. Amend Appendix A to part 282 by adding an entry in alphabetical order for Delaware to read as follows:

Appendix A to Part 282—State Requirements Incorporated by Reference in Part 282 of the Code of Federal Regulations

* * * * *

Delaware

(a) The statutory provisions include:

(1) Code of Delaware, Title 7, Chapter 74, Delaware Underground Storage Tank Act

Section 7401 Declaration of Purpose, *except as to persons who are not owners or operators of USTs*

Section 7402 Definitions, *except* ''*responsible party*'' *as to persons who are not owners or operators of USTs*

Section 7403 Referenced standards

Section 7404 Exemptions, *except as to agricultural and residential USTs of 1,100 gallons or less used for storing motor fuel for noncommercial purposes and USTs containing heating fuel for consumptive use on the premises where stored*

Section 7405 Registration by owner, *except (a)(2) and (3) as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 7406 Release of substances prohibited; correction of substance release; Department intervention, *except (a) through the introductory paragraph of (e) as to persons who are not owners or operators of USTs; except (e)(1)–(3) and (f)–(j)*

Section 7407 Release detection, prevention and correction regulations

Section 7409 Delaware Underground Petroleum Storage Tank Response Fund, *except (c) as to registration fees*

Section 7410 Financial Responsibility

Section 7413 Variances

Section 7414 Leaking Underground Storage Tank Committee

Section 7415 Implementation and reporting requirements

Section 7416 Groundwater risk assessment

Section 7417 Use of Hazardous Substance Cleanup Act funding

Section 7425 Certification of underground storage tank contractors, *except (a), (b), (d), and (e); (c) insofar as requires activities other than installation be completed by or in the presence of a certified individual*

(2) [Reserved]

(b) The regulatory provisions include:

(1) Delaware Administrative Code, Title 7, Chapter 1351, Underground Storage Tank Systems

Part A: General Requirements for Underground Storage Tank Systems

Section 1351–A–1.0 General Provisions, *except 1.2.1 as to persons who are not owners or operators of USTs, insofar as regulates UST systems not regulated under the federal regulations, and insofar as UST systems that contain de minimis concentrations of regulated substances are not explicitly exempt from regulation; 1.4; 1.6*

Section 1351–A–2.0 Definitions, *except* ''*consumptive use*'' *insofar as the term is limited to activities that do not result in monetary gain;* ''*regulated substance*'' *insofar as includes substances not regulated under the federal program;* ''*responsible party*'' *as to persons who are not owners or operators of USTs*

Section 1351–A–3.0 Referenced Standards, *except 3.1.10; 3.3.8*

Section 1351–A–4.0 Registration and Notification Requirements, *except 4.1.4 as to fees; 4.2; 4.5.2 and 4.6.2 as to USTs containing heating fuel for consumptive use on the premises where stored; 4.7.1 and 4.7.2 insofar as they require the Department to approve or deny construction work within fourteen days of receipt of notification form and construction plans; 4.9.1 insofar as requires permits be kept at the UST/construction site*

Section 1351–A–5.0 Recordkeeping

Section 1351–A–6.0 Alternative Procedures Approval Requirements

Section 1351–A–8.0 Submittal of Confidential Information, *except 8.1.1; 8.1.2; 8.1.4*

Section 1351–A–10.0 Requirements for Operator Training, *except 10.1.1 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–A–11.0 Use of Certified Contractors, *except insofar as requires a certified individual to be present for activities other than installation, and as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–A–12.0 Request for No Further Action Determination, *except as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–A–13.0 Additional Compatibility Requirements for Regulated Substances Containing Ethanol and Biodiesel

Section 1351–A–14.0 Conditions Required for Product Piping Slope Exemption

Part B: Requirements for Installation, Operation and Maintenance of Underground Storage Tank Systems Storing Regulated Substance Excluding Consumptive Use Heating Fuel or Hazardous Substance UST Systems

Section 1351–B–1.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Regulated Substance Excluding Consumptive Use Heating Fuel or Hazardous Substance Installed on or After January 11, 2008, *except 1.1.8; 1.3.2.4; 1.21.1, 1.22.1, 1.22.2, and 1.29.7.1*

as to persons who are not owners or operators of USTs

Section 1351–B–2.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Regulated Substance Installed Prior to January 11, 2008, Excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 2.1.8; 2.22.1, 2.23.1, 2.23.2, 2.30.7.1 as to persons who are not owners or operators of USTs*

Section 1351–B–3.0 Change in Service Requirements for UST Systems Storing Regulated Substance Excluding Consumptive Use Heating Fuel or Hazardous Substance

Section 1351–B–4.0 Removal or Closure in Place Requirements for UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 4.2.1.3*

Section 1351–B–5.0 Change In Substance Stored Requirements for UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance, *except 5.2.1.3*

Section 1351–B–6.0 Requirements for Empty UST Systems Storing Regulated Substance excluding Consumptive Use Heating Fuel or Hazardous Substance

Part D: Requirements for Installation, Operation and Maintenance of Underground Storage Tank Systems Storing Hazardous Substance

Section 1351–D–1.0 Installation, Operation and Maintenance Requirements for UST Systems Storing Hazardous Substance, *except 1.3.2.4; 1.21.1, 1.22.1 and 1.22.2 as to persons who are not owners or operators of USTs*

Section 1351–D–2.0 Change In Service Requirements for UST Systems Storing Hazardous Substance

Section 1351–D–3.0 Removal or Closure in Place Requirements for UST Systems Storing Hazardous Substance, *except 3.2.1.3*

Section 1351–D–4.0 Change In Substance Stored Requirements for UST Systems Storing Hazardous Substance, *except 4.2.1.3*

Section 1351–D–5.0 Requirements for Empty UST Systems Storing Hazardous Substance

Part E: Requirements for Reporting, Release Investigation, Remedial Action and No Further Action Determinations for Underground Storage Tank Systems

Section 1351–E–1.0 Reporting Requirements, *except 1.2 and 1.3 as to persons who are not owners or operators of USTs*

Section 1351–E–2.0 Indicated Release Investigation Requirements, *except 2.1, 2.2, and 2.4 as to persons who are not owners or operators of USTs; 2.3.1 and 2.4.1.1 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–E–3.0 Release Response Requirements, *except 3.1; 3.2 and 3.3 as to persons who are not owners or operators of USTs*

Section 1351–E–4.0 Hydrogeologic Investigation Requirements, *except as to persons who are not owners or operators of USTs*

Section 1351–E–5.0 Remedial Action Requirements, *except as to persons who are not owners or operators of USTs*

Section 1351–E–6.0 No Further Action Requirements, *except as to persons who are not owners or operators of USTs; 6.2.3 as to USTs containing heating fuel for consumptive use on the premises where stored*

Part F: Financial Responsibility Requirements for UST Systems

Section 1351–F–1.0 Financial Responsibility Requirements for UST Systems

Section 1351–F–2.0 Financial Responsibility Mechanisms

Sections 1351–F–3.1 to –3.18 Forms A through R

Part H: Requirements for Installation, Operation and Maintenance of Field-Constructed Underground Storage Tank Systems

Section 1351–H–1.0 General Requirements, *except 1.1.2.2 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–H–2.0 Additions, Exceptions, and Alternatives for UST systems with Field-Constructed Tanks

Part I: Requirements for Installation, Operation and Maintenance of Airport Hydrant Fuel Systems

Section 1351–I–1.0 General Requirements, *except 1.1.2.2 as to USTs containing heating fuel for consumptive use on the premises where stored*

Section 1351–I–2.0 Additions, Exceptions, and Alternatives for Airport Hydrant Fuel Systems

(2) [Reserved]

* * * * *

[FR Doc. 2022–15097 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 414

[CMS–5536–N]

Medicare Program; MIPS Payment Adjustment Exception Applicable for Enhancing Oncology Model Monthly Enhanced Oncology Services (MEOS) Payments

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: Payment advisory.

SUMMARY: This advisory is to inform potential Enhancing Oncology Model (EOM) applicants and participants that the Merit-based Incentive Payment System (MIPS) payment adjustment factors will not apply to Monthly Enhanced Oncology Services (MEOS) payments in EOM.

DATES: This action is effective on August 15, 2022.

FOR FURTHER INFORMATION CONTACT: Alexandra Chong, (410) 786–8988.

SUPPLEMENTARY INFORMATION:

I. Background

In the calendar year (CY) 2019 Physician Fee Schedule (PFS) final rule (83 FR 59887), we finalized amendments to 42 CFR 414.1405(e) effective January 1, 2019 such that Merit-based Incentive Payment System (MIPS) payment adjustment factors would apply to Part B payments for covered professional services as defined in section 1848(k)(3)(A) of the Social Security Act (the Act).

In the CY 2019 PFS final rule, per the authority in section 1115A(d)(1) of the Act to waive the requirement to apply the MIPS payment adjustment factors under section 1848(q)(6)(E) of the Act and § 414.1405(e) because the waiver is necessary solely for purposes of testing models that involve such payments, we also finalized an exception to § 414.1405(e) at § 414.1405(f), such that the MIPS payment adjustment factors do not apply to model-specific payments that meet all the following conditions:

- Are made only to participants in a model tested under section 1115A of the Act.
- Would otherwise be subject to the requirement to apply the MIPS payment adjustment factors if the payment is made with respect to a MIPS eligible clinician participating in a section 1115A model.
- Either have a specified payment amount or are paid according to a methodology for calculating a model-specific payment that is applied in a consistent manner to all model participants, such that application of the MIPS payment adjustment factors would potentially interfere with CMS's ability to effectively evaluate the impact of the APM.

In the CY 2019 PFS final rule, we also finalized that we would provide public notice of the applicability of this waiver for a particular model by: (1) updating the Quality Payment Program website (*www.qpp.cms.gov*) when new model-specific payments subject to this waiver are announced; and (2) providing notification in the **Federal Register** to update the public on any new model-specific payments to which this waiver will apply.

The Enhancing Oncology Model (EOM) and associated Request for

Application (RFA) was announced on [June 27, 2022]. Under EOM, which builds on lessons learned to date from the Oncology Care Model (OCM), participating physician practices will take on financial and performance accountability for episodes of care surrounding systemic chemotherapy administration to cancer patients who are EOM beneficiaries, by way of a potential lump-sum performance-based payment or performance-based recoupment, and will have the opportunity to submit claims for an EOM Monthly Enhanced Oncology Services (MEOS) payment for Enhanced Services furnished to EOM beneficiaries. EOM is a 5-year voluntary model tested per the authority under section 1115A of the Act that aims to improve quality and reduce costs through its payment methodology being aligned with care quality, and through EOM participants' opportunities to redesign care and improve the quality of care furnished to beneficiaries receiving care for certain cancers, including requirements to implement participant redesign activities and to engage in activities that promote health equity. More information regarding EOM, and a link the EOM RFA, can be found at *https://innovation.cms.gov/innovation-models/enhancing-oncology-model.*

EOM will include an EOM MEOS payment for non-dually eligible beneficiaries and an EOM MEOS payment for dually-eligible beneficiaries, and each will be a per beneficiary per month (PBPM) payment under EOM only with a model-specific Healthcare Common Procedure Coding System (HCPCS) code paid through the Medicare fee-for-service claims system for the provision of Enhanced Services, as outlined in the section V.C.ii. of the EOM RFA.

II. Applicability to EOM MEOS Payments

This payment advisory serves to notify potential EOM applicants and participants that the MIPS payment adjustment factors will not apply to the EOM MEOS payments. The EOM MEOS payments meet the criteria described in § 414.1405(f)(1) through (3) for the following reasons:

- The EOM MEOS payments will only be made to EOM participants and EOM is a model tested under section 1115A of the Act.
- The EOM MEOS payments may be subject to the requirement to apply the MIPS payment adjustment factors as the EOM MEOS payments would be made to MIPS eligible clinicians participating in EOM.
- The EOM MEOS payments will be one of two specified payment amounts that will be offered in a consistent manner to all EOM participants, a fixed PBPM payment for non-dually eligible beneficiaries (currently planned to be $70 PBPM) and a fixed PBPM payment for dually eligible beneficiaries (currently planned to be $100 PBPM), to support the provision of Enhanced Services to EOM beneficiaries.

As such, the application of the MIPS payment adjustment factors to the EOM MEOS payments would introduce variation in the EOM MEOS amounts paid to different EOM participants which could potentially interfere with our ability to effectively evaluate the impact of EOM and therefore potentially compromise the model test.

This waiver would begin at the beginning of EOM and continue for the duration of EOM. In addition to this **Federal Register** document, we will also provide public notice that 42 CFR 414.1405(e) will not apply to the EOM MEOS payment on the Quality Payment Program website, at *www.qpp.cms.gov.*

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Chiquita Brooks-LaSure, having reviewed and approved this document, authorizes Trenesha Fultz-Mimms, who is the **Federal Register** Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Trenesha Fultz-Mimms,

Federal Register Liaison, Centers for Medicare & Medicaid Services.

[FR Doc. 2022–15062 Filed 7–13–22; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 2

[DOI–2021–0002; DS67010000, DWSNF0000.XD0000, DP67012, 22XD4523WS]

RIN 1090–AB24

Social Security Number Fraud Prevention Act of 2017 Implementation

AGENCY: Office of the Secretary, Interior.

ACTION: Direct final rule.

SUMMARY: The Department of the Interior (DOI) is publishing a direct final rule to promulgate regulations to implement the provisions of the Social Security Number Fraud Prevention Act of 2017. The new regulations will prohibit the inclusion of an individual's Social Security account number (SSN) on any document sent through the mail unless the Secretary of the Interior deems it necessary and precautions are taken to protect the SSN. The regulations also include requirements for the safeguarding of SSNs sent through the mail by partially redacting SSNs where feasible and prohibiting the display of SSNs on the outside of any package or envelope sent by mail. This rule is being published as a direct final rule as DOI does not expect any adverse comments. If adverse comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published.

DATES: This rule is effective September 12, 2022 without further action unless adverse comment is received by August 15, 2022. If adverse comment is received, DOI will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: Send written comments identified by docket number [DOI–2021–0002] or [Regulatory Information Number (RIN) 1090–AB24], by any of the following methods:

- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments to docket number [DOI–2021–0002].
- *Email: DOI_Privacy@ios.doi.gov.* Include docket number [DOI–2021–0002] or RIN 1090–AB24 in the subject line of the message.
- *U.S. mail or hand-delivery:* Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240.

Instructions: All submissions received must include the agency name and docket number [DOI–2021–0002] or RIN 1090–AB24 for this rulemaking. All comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Teri Barnett, Departmental Privacy Officer, U.S. Department of the Interior, 1849 C Street NW, Room 7112, Washington, DC 20240, *DOI_Privacy@ios.doi.gov* or (202) 208–1605.

SUPPLEMENTARY INFORMATION:

I. Background

The Social Security Number Fraud Prevention Act of 2017 (the Act), Public Law 115–59, 42 U.S.C. 405 note, was signed on September 15, 2017. The Act restricts the inclusion of SSNs on any documents sent by mail unless the head

of the agency determines that the inclusion of the SSN on the document is necessary. The Act also directs agencies to issue regulations that specify when inclusion of an SSN is necessary, include requirements for the safeguarding of SSNs by partially redacting SSNs where feasible and prohibiting the display of SSNs on the outside of any package or envelope sent by mail.

In this direct final rule, DOI is adding a new subpart M, Social Security Number Fraud Prevention Act Requirements, to 43 CFR part 2, to implement the provisions of the Act. To comply with the Act, the new regulations in subpart M prohibit the inclusion of SSNs on any document sent through the mail by DOI bureaus and offices unless the Secretary of the Interior (Secretary) deems it necessary and precautions are taken to protect the SSNs. To safeguard SSNs and protect individual privacy, subpart M includes requirements for DOI bureaus and offices to partially redact SSNs where feasible, and specifically prohibits the display of complete or partial SSNs on the outside of any package or envelope sent by mail or through the window of an envelope or package. Subpart M applies to all DOI bureau and office activities and describes the scope of the regulations to include all documents written or printed that DOI sends by mail that include the complete or partial SSN of an individual as defined by the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

II. Direct Final Rulemaking

This rule is being published as a direct final rule as DOI does not expect to receive any significant adverse comments. If such comments are received, this direct final rule will be withdrawn and a proposed rule for comments will be published. If no such comments are received, this direct final rule will become effective after the comment period expires. A significant adverse comment is one that explains (1) why the rule is inappropriate, including challenges to the rule's underlying premise or approach; or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a significant adverse comment necessitates withdrawal of this direct final rule, DOI will consider whether the comment raises an issue serious enough to warrant a substantive response had it been submitted in a standard notice and comment process. A comment recommending an addition to the rule will not be considered significant and adverse unless the comment explains how this direct final rule would be ineffective without the addition.

An agency typically uses direct final rulemaking when it anticipates the rule will be non-controversial. DOI has determined that this rule is suitable for direct final rulemaking. The purpose of this rule is to implement the provisions of the Act to apply restrictions and safeguards for the inclusion of SSNs in documents that are mailed to prevent unauthorized disclosure of SSNs and protect individual privacy. This rule should not be controversial and is consistent with Federal law and policy regarding the appropriate handling and protection of personally identifiable information. Accordingly, pursuant to 5 U.S.C. 553(b), DOI has for good cause determined that the notice and comment requirements are unnecessary. This action is taken pursuant to delegated authority.

III. Compliance With Other Laws, Executive Orders, and Department Policy

1. Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget (OMB) will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of Executive Order 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. Executive Order 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

2. Regulatory Flexibility Act

DOI certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*). This rule does not impose a requirement for small businesses to report or keep records on any of the requirements contained in this rule.

3. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments in the aggregate, or on the private sector, of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. The rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531, *et seq.*) is not required.

5. Takings (Executive Order 12630)

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. This rule is not a government action capable of interfering with constitutionally protected property rights. The rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail. A takings implication assessment is not required.

6. Federalism (Executive Order 13132)

Under the criteria of section 1 of Executive Order 13132, this rule does not have any federalism implications to warrant the preparation of a Federalism Assessment. The rule is not associated with, nor will it have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. A Federalism Assessment is not required.

7. Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

8. Consultation and Coordination With Indian Tribal Governments (Executive Order 13175).

In accordance with Executive Order 13175, DOI has evaluated this proposed rule and determined that it would have no substantial effects on federally recognized Indian Tribes. This proposed rule does not have tribal implications that impose substantial direct compliance costs on Indian Tribal governments.

9. Paperwork Reduction Act of 1995

This rule does not contain information collection requirements and a submission under the Paperwork Reduction Act is not required.

10. National Environmental Policy Act of 1969

The proposed rule implements the Act in order to restrict the use of complete SSNs in documents sent via mail, and does not constitute a major Federal action and would not have a significant effect on the quality of the human environment. Therefore, this rule does not require the preparation of an environmental assessment or environmental impact statement under the requirements of the National Environmental Policy Act.

11. Data Quality Act

In developing this rule, there was no need to conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554, section 515).

12. Effects on Energy Supply (Executive Order 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. DOI has determined that this proposed rule will not have substantial direct effects on energy supply, distribution, or use, including a shortfall in supply or price increase. The rule has no bearing on energy development and will have no effect on the volume or consumption of energy supplies. A Statement of Energy Effects is not required.

13. Clarity of This Regulation

DOI is required by Executive Orders 12866 (section 1(b)(12)), 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), the Plain Writing Act of 2010 (Pub. L. 111–274), and the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and table wherever possible.

List of Subjects in 43 CFR Part 2

Administrative practice and procedure, Classified information, Confidential business information, Courts, Freedom of Information, Government employees, Privacy, and Social Security Number Fraud Prevention.

For reasons stated in the preamble, DOI amends part 2 of title 43 of the CFR as set forth below:

PART 2—FREEDOM OF INFORMATION ACT; RECORDS AND TESTIMONY

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

Authority: 5 U.S.C. 301, 552, 552a, 553, 31 U.S.C. 3717, 43 U.S.C. 1460, 1461, the Social Security Number Fraud Prevention Act of 2017, Pub. L. 115–59, September 15, 2017.

■ 2. Add subpart M to read as follows:

Subpart M—Social Security Number Fraud Prevention Act Requirements

Sec.

Subpart M—Social Security Number Fraud Prevention Act Requirements

§ 2.300 What is the purpose of this subpart?

(a) The purpose of this subpart is to implement the requirements of the Social Security Number Fraud Prevention Act of 2017 (the Act), Public Law 115–59, 42 U.S.C. 405 note, September 15, 2017.

(b) The Act:

(1) Prohibits Federal agencies from including any individual's Social Security account number (SSN) on any document sent by mail unless the head of the agency determines that such inclusion is necessary; and

(2) Requires agencies to issue regulations that specify the circumstances under which such inclusion is necessary.

§ 2.301 What does this subpart cover?

(a) This subpart describes how DOI, including all its bureaus and offices, handles the use and protection of individuals' SSNs in documents that are mailed. SSNs may only be included in documents that are mailed when authorized and necessary, and where appropriate safeguards are employed to protect individual privacy in accordance with the Act.

(b) This subpart includes the circumstances under which inclusion of an individual's SSN on a document is authorized to be mailed;

(c) This subpart requires SSNs to be safeguarded when mailed by:

(1) Requiring the partial redaction of SSNs where feasible; and

(2) Prohibiting the display of SSNs on the outside of any package or mailing envelope sent by mail or through the window of an envelope or package.

§ 2.302 What terms are used in this subpart?

Act means the Social Security Number Fraud Prevention Act of 2017, Public Law 115–59.

Bureau is any component or constituent bureau or office of DOI, including the Office of the Secretary and any other Departmental office.

Department or *DOI* means the Department of the Interior.

Document means a piece of written or printed matter that provides information or evidence or that serves as an official record.

Individual means a natural person who is a citizen of the United States or an alien lawfully admitted for permanent residence as defined by the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

Mail means artifacts used to assemble letters and packages that are sent or delivered by means of an authorized carrier of postal delivery or United States Postal Service (USPS) postal system. (For purposes of the subpart, the postal system that is managed by the U.S. Postal Service.)

Social Security number or *Social Security account number* means the nine-digit number issued by the Social Security Administration to U.S. citizens, permanent residents, and temporary (working) residents under section 205(c)(2) of the Social Security Act, codified as 42 U.S.C. 405(c)(2).

Truncated or partial SSN means the shortened or partial Social Security account number.

§ 2.303 What are DOI's requirements for protecting SSNs in document sent by mail?

(a) DOI bureaus and offices may not include the full or partial SSN of an individual on any document sent via mail unless:

(1) The inclusion of an SSN on a document sent by mail is required or authorized by law;

(2) The responsible program office has conducted the proper assessment and taken steps to mitigate the use of the SSN and any impacts to individual privacy; and

(3) The Secretary of the Interior has determined that the inclusion of the SSN on the document is necessary and appropriate to meet legal and mission requirements in accordance with this subpart.

(b) Bureaus and offices shall partially redact or truncate SSNs in documents sent by mail where feasible to reduce the unnecessary use of SSNs and mitigate risk to individuals' privacy.

(c) In no case shall any complete or partial SSN be visible on the outside of any envelope or package sent by mail or displayed on correspondence that is visible through the window of an envelope or package.

Joan M. Mooney,

Principal Deputy Assistant Secretary, Policy, Management and Budget.

[FR Doc. 2022–14847 Filed 7–13–22; 8:45 am]

BILLING CODE 4334–63–P

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 830

[Docket No.: NTSB–2021–0004]

RIN 3147–AA20

Amendment to the Definition of Unmanned Aircraft Accident

AGENCY: National Transportation Safety Board (NTSB).

ACTION: Final rule.

SUMMARY: The National Transportation Safety Board (NTSB) is issuing a final rule, amending the definition of ''Unmanned aircraft accident'' by removing the weight-based requirement and replacing it with an airworthiness certificate requirement. The weight threshold is no longer an appropriate criterion because unmanned aircraft systems (UAS) under 300 lbs. are operating in high-risk environments, such as beyond line-of-sight and over populated areas. The amended definition will allow the NTSB to be notified of and quickly respond to UAS events with safety significance. Since the notice of proposed rulemaking (NPRM), the agency considered comments and as a result eliminated the ''airworthiness approval,'' while keeping ''airworthiness certification.''

DATES: This rule is effective August 15, 2022.

FOR FURTHER INFORMATION CONTACT: Kathleen Silbaugh, General Counsel, (202) 314–6080, *rulemaking@ntsb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The NTSB prescribes regulations governing the notification and reporting of accidents involving civil aircraft. As an independent Federal agency charged with investigating and establishing the facts, circumstances, and probable cause of every civil aviation accident in the United States, the NTSB has an interest in redefining a UAS accident in light of recent developments in the industry.

For NTSB purposes, ''unmanned aircraft accident'' means an occurrence associated with the operation of an unmanned aircraft that takes place between the time that the system is activated with the purpose of flight and the time that the system is deactivated at the conclusion of its mission, and in which any person suffers death or serious injury, or in which the aircraft has a maximum gross takeoff weight of 300 lbs. or greater and receives substantial damage.

At the time this definition was contemplated, the weight-based requirement was necessary because defining an accident solely on ''substantial damage'' would have required investigations of numerous small UAS (sUAS) crashes with no significant safety issues. *See* final rule, 75 FR 51953, 51954 (Aug. 24, 2010). Consequently, there is no legal requirement to report or for the NTSB to investigate events involving substantial damage to UAS weighing less than 300 lbs. because these are not recognized ''unmanned aircraft accidents'' under the NTSB's regulations. While this definition ensured that the NTSB expended resources on UAS events involving the most significant risk to public safety, the advent of higher capability UAS applications—such as commercial drone delivery flights operating in a higher risk environment (*e.g.,* populated areas, beyond line-of-sight operations, etc.)—has prompted the agency to propose an updated definition of ''unmanned aircraft accident.'' Moreover, in the August 24, 2010, final rule, the NTSB anticipated future updates of the definition given the evolving nature of UAS technology and operations. *Id.*

On May 21, 2021, the NTSB issued an NPRM announcing its intent to issue a rule amending the definition of ''Unmanned aircraft accident'' by removing the weight-based requirement and replacing it with an airworthiness certificate or airworthiness approval requirement. 86 FR 27550 (May 21, 2021). The weight threshold is no longer an appropriate criterion because UAS under 300 lbs. are operating in high-risk environments, such as beyond line-of-sight and over populated areas. The NTSB explained that proposed definition will allow the NTSB to be notified of and quickly respond to UAS events with safety significance. During the comment period, the NTSB received 11 timely public comments that are addressed by subject matter below.

II. Airworthiness Certification/ Approval

The NTSB believes that an updated definition is necessary given the changing UAS industry. Section 44807 of the Federal Aviation Administration (FAA) Reauthorization Act of 2018 (Reauthorization Act) directed the Department of Transportation to use a risk-based approach to determine if certain UAS may operate safely in the national airspace. A number of drone delivery operations, among other applications, which need to operate beyond the provisions of the existing regulation, 14 CFR part 107, have begun using: (1) FAA Special Airworthiness Certificates—Experimental, or (2) approvals under the exemption processes per section 44807 of the Reauthorization Act that allows the FAA to grant exemptions on an individual basis. Because airworthiness certification is necessary for operation of civil aircraft outside of 14 CFR part 107 or without an exemption, as drone delivery and other applications develop, airworthiness certification will become more prevalent for certain unmanned aircraft of any size or weight.

A substantially damaged delivery drone may uncover significant safety issues, the investigation of which may enhance aviation safety through the independent and established NTSB process. This amended definition will treat a UAS with airworthiness certification in the same manner as a manned aircraft with airworthiness certification, thereby enabling the NTSB to immediately investigate, influence corrective actions, and propose safety recommendations.

Accordingly, the definition will be flexible to account for changes in the UAS industry and will allow the NTSB to respond quickly to UAS events with safety significance, while not burdening the agency or public with unnecessary responses.

III. Responses to Comments

The NTSB received 11 timely comments with some in support of the proposed definition as amended, and others who have raised various issues that the NTSB has addressed by subject further below. Although the agency received one late-filed comment, the NTSB notes that the commenter reiterated the comments received from those in opposition, which are addressed below.

Those in support included Sheri Pippin, a private citizen, who commented: ''The FAA is being put under enormous pressure to authorize commercial UAS operations in reduced timeframes. Therefore, these commercial UAS operations should be subject to the same scrutiny as commercial manned operations. Allowing the NTSB to investigate accidents involving commercial UAS operations will provide an independent review of these operations which will hopefully improve the safety of these operations.''

Another in support of the proposed amendment to the definition included Airlines for America (A4A), which stated that it ''endorses the NTSB extending the scope of the data being collected on UAS related incidents because it will improve safety of operations by identifying potential safety risks and providing safety improvement recommendations and provide relevant data that can enhance security initiatives. In addition, the proposed definition change would give the public confidence that the criteria and standard used for UAS investigation are no different than manned aircraft, which is essential to define future safety controls and mitigations to the operation and design of UAS. The reporting and investigating of UAS accidents and incidents can assist in preventing future UAS encounter by providing informing and increasing awareness about actual UAS collision risks. Given the increased security threats posed by UAS, A4A believes that the data collection will also help identify issues that affect security at airports.''

An anonymous commenter stated that the agency ''should have the authority to inspect, investigate, and provide safety recommendations to owners and operators of small unmanned aircraft under the current weight limit. It is a timely rule change that is in the best interest of public safety.''

Jullian Lucas, another private citizen, agreed ''that UAS should be regulated through a certification process depending on the mission the aircraft would be performing. . . . UAS aircraft although generally small can still be very dangerous if flown in a high[-] risk area and that needs to be monitored consistently when possible and the change to what can be investigated by the NTSB would help with that.''

The remaining comments are addressed by subject matter below:

A. Public Safety Operators

A commenter who identified themselves as Public Safety Flight argued: ''There is no mandatory reporting system for UAS pilots operating as commercial pilots under [14] CFR part 107 or in public aircraft operations without NTSB awareness and attention. Without including the reporting of all craft considered aircraft by the FAA, it seems logically impossible to determine the risk trends of problems of any particular UAS flying in the National Airspace System. The lack of reporting creates a safety hazard, with the least safe aircraft not being on the NTSB radar. This would leave the NTSB at odds with its statement of its intention to be able to 'respond quickly to UAS events with safety significance.' '' The commenter continued: ''The proposed change also appears to miss a technical issue that applies to all organizations operating UAS as public aircraft. Under a Certificate of Waiver or Authorization (COA), the government organization, operation, or entity must certify the UAS are airworthy, even without an Airworthiness Certificate. Since these UAS operated under a COA are certified airworthy and flown as airworthy, any UAS operated under a COA should be subject to the exact requirements as if it holds an Airworthiness Certificate.''

NTSB Response. This comment pertains to increasing the scope to capture sUAS that are operated by police and fire departments and other similar governmental first response agencies. It appears that the commenter requests that the rule include substantial damage events that occur to first response operations, typically conducted under 14 CFR part 107 or as Public Aircraft under the provisions of a COA. The amended definition is intended to exclude the majority of part 107 events that do not result in injury or fatality. Otherwise, increasing the scope of this rulemaking to capture public safety operators would create complexity, confusion, and an excessive burden on the agency's resources with little benefit to safety.

B. Public Certificate of Authority ''Airworthiness''

A number of commenters mentioned that public COA operators self-certify their aircraft. Specifically, Keith C. Raley, Chief of Aviation Safety, Training, Program Evaluations & Quality Management of the Office of Aviation Services at the Department of the Interior, queried: ''whether it would apply to [F]ederal agencies already performing this function or if it would be limited in its applicability to sUAS that have received an FAA certification or approval and operating in a civil capacity. If this new rule were to apply to [F]ederal agencies already meeting the intended outcomes of the proposed regulation, it could create needless duplicity in that [Federal Management Regulation] FMR 102–33 compliant agencies are already managing sUAS in a similar manner. Additionally, the NTSB is often challenged with their ability to process their existing workload in the manned environment and adding this requirement will significantly increase their caseload resulting in even greater delays.''

NTSB Response. The NTSB does not intend to capture these aircraft and clarifies that ''airworthiness certificate'' has the same meaning as that in 14 CFR part 21.

C. Section 44807 Approvals

A number of commenters noted that the section 44807 exemption process is applied very broadly. Entitled ''Special authority for certain unmanned aircraft systems,'' section 44807(b)(1) provides that ''the Secretary shall determine, at a minimum—which types of unmanned aircraft systems, if any, as a result of their of their size, weight, speed, operational capability, proximity to airports and populated areas, operation over people, and operation within or beyond the visual line of sight or operation during the day or night, do not create a hazard to users of the national airspace system of the public.''

The Small UAV Coalition (Coalition) requested ''clarification that the NTSB's use of the term 'airworthiness approvals' means exceptions under section 44807.'' The Coalition explained that ''Operations under [p]art 107, even pursuant to a part 107 waiver, are not considered flights in a high[-]risk environment, which we believe is the NTSB's focus of this proposed rule.'' The Coalition continued, ''Operations of a UAS that weighs over 55 lbs. may be authorized only by exemption under

section 44807, and thus we believe that they would be covered by the proposed definition if an exemption under section 44807 is considered an 'airworthiness approval' as the preamble suggests.'' The Coalition recommended ''limiting the proposed definition, with respect to substantial damage (revised to relate to property other than the drone) where there is no death or serious injury, to exemptions issued under section 44807, thus *excluding* any part 107 operation (including an operation conducted under a part 107 waiver), unless that aircraft is being operated under a section 44807 exemption.''

NTSB Response. The NTSB agrees and to keep the focus on the operations most likely to be widespread in the National Airspace System (NAS), the phrase ''or approval'' will be removed from the proposed definition that was reflected in the NPRM, thereby clarifying that the definition only applies to aircraft which hold an airworthiness certificate under 14 CFR part 21.

D. Experimental Airworthiness Certificates

A number of commenters noted that Special Airworthiness Certificates (SAC)—Experimental (or other categories of SAC) would be captured by this rule, and that many of these such aircraft are operated in remote test ranges posing low risk.

The Coalition, for example, argued that the ''term 'holds an airworthiness certificate' would cover experimental category airworthiness certificates. Operations in the experimental category are for research and development purposes; commercial operations are not permitted. Thus, these operations are not conducted in a high[-] risk environment. Therefore, the Coalition supports including any aircraft that holds an airworthiness certificate other than in the experimental category.''

NTSB Response. The NTSB acknowledges that Experimental test aircraft pose little risk to the public in an immediate sense. However, many of these aircraft are working toward certification to carry passengers in the so-called Urban Air Mobility segment, or other significant operations. Notification and investigation of such events can uncover safety issues prior to widespread commercial use. The NTSB notes this is in accordance with the practice for conventional manned aircraft as well, in which test aircraft accidents are investigated.

E. Hobby/Modeler Operations

A number of commenters requested that the NTSB investigate hobbyist/modeler events resulting in injury or death. The Coalition noted that ''[m]any hobbyist/modeler operations under part 101 are conducted by drones that are also used in commercial operations under part 107. Given the language of the preamble, the Coalition seeks confirmation from the Board that it will investigate hobbyist/modeler aircraft accidents involving death or serious injury to a person.''

Another commenter who referenced themselves as ''Agricola Publius'' expressed his belief that modelers and hobbyists should be included because a ''man in a garage could easily construct a drone that fits the criteria for an airworthiness certificate would not be a concern if it crashed. The notion that one could accidentally put a miniature bomber through a car window and not be scrutinized by the NTSB is absurd.''

NTSB Response. The NTSB does not now, nor does it plan to include model aircraft events in the definition. This is also in accordance with International Civil Aviation Organization (ICAO) Circular 328: ''Model aircraft, generally recognized as intended for recreational purposes only, fall outside the provisions of the Chicago Convention . . . .''

The NTSB notes that it may optionally investigate any occurrence which poses a threat to air safety, but requiring investigations of model aircraft events is beyond the scope of this rulemaking.

F. Application to Part 107 and Harmonization With 14 CFR 107.9

A number of commenters discussed the applicability and harmonization with UAS operated under the provisions of 14 CFR part 107 (Small Unmanned Aircraft Systems) and the FAA's notification requirement in § 107.9 for accident reporting of sUAS. Section 107.9, in pertinent part, requires a remote pilot to report any sUAS operation involving property damage—other than the sUAS—unless the cost of repair does not exceed $500, or the fair market value does not exceed $500 in the event of total loss.

The Cargo Airline Association (CAA) ''proposes aligning the current accident reporting threshold which provides a takeoff weight of 55 lbs. and a minimum cost of repair and fair market value of any property loss. (See 14 [CFR] 107.9). Doing so would align the [p]art 107 accident reporting requirements with NTSB's authority under [p]art 830.''

The Coalition ''urges the Board to adapt the FAA's definition that refers to damage not to the drone but to property other than the drone. 'Substantial damage' in the NTSB's current and proposed definition refers to damage to the aircraft, whereas the FAA's definition of 'unmanned aircraft accident' in 14 CFR 107.9 . . . refers to damage to property 'other than to the small unmanned aircraft.''' The Coalition recommended that ''the NTSB adapt the $500 threshold in the FAA's definition in 14 CFR 107.9 . . . .'' The Coalition asserted that ''UAS that will hold an airworthiness certificate or section 44807 approval are often small, lightweight, and designed with materials and features that substantially absorb the energy and resultant damage of a potential collision. The NTSB's proposed change would de-incentivize the incorporation of such features by focusing on the level of damage to the airframe instead of the much more relevant level of damage to persons or property.'' In its footnote, the Coalition stated that it ''recognizes that 49 CFR 830.5 requires reporting of any incident in which an aircraft causes $25,000 in damages to property other than aircraft. This provision was likely drafted with legacy aircraft in mind. While not in the scope of this rulemaking, the Coalition wishes to refute the notion that because [the] NTSB already has a definition of accident that includes damage to property in [§]830.5, the definition of unmanned aircraft accident in section 830.2 must focus on the damage to the aircraft.''

NTSB Response. The NTSB believes there is some misunderstanding of language in the NPRM preamble, which may have caused confusion and concern. The mention of part 107 in the NPRM is in the preamble section entitled ''Unaffected Regulations.'' Except for a small segment of part 107 (subpart D, Operations Over Human Beings, § 107.140 Category 4 operations), no small UAS operated under part 107 holds, or will hold, airworthiness certifications, and therefore will not be affected by this rule.

Thus, there is no reason to harmonize the NTSB regulation with § 107.9 as far as a non-injury event because they apply to different aircraft and operations. The amendment applies to UAS of any size, which operate under other parts of 14 CFR, such as 91 or 135, and do so with airworthiness certification under 14 CFR part 21. Commenters mentioned that some certified aircraft may be of small size or weight and pose little risk. The NTSB does not intend to evaluate and determine the risk level, and defers to the FAA requirement for airworthiness certification for a given vehicle or operation, which the NTSB believes is a more relevant harmonization. The

NTSB does not agree with comments which claim that sUAS with very low risk exposure, but nonetheless receive airworthiness certification should be exempted. The existing Category 1, 2, and 3 provisions—in part 107 subpart D—capture many of the low-energy or physically-protected aircraft and do not require airworthiness certification; therefore, they are outside the scope of this rulemaking. This is also in keeping with the definitions for manned aircraft. The end result of the amendment will treat manned and unmanned aircraft identically for accident notification and investigation purposes.

Similarly, some commenters mentioned the FAA § 107.9 criteria of $500 of damage to objects other than the UAS. Although NTSB does have a notification requirement related to other damage, the current definition of accidents of any kind of aircraft is not cost-based. The NTSB believes the cost of other damage is an arbitrary outcome of a particular event, which may not have any relation to safety issues.

Under § 830.2, substantial damage is defined as ''damage or failure which adversely affects the structural strength, performance, or flight characteristics of the aircraft, and which would normally require major repair or replacement of the affected component.'' Asking the NTSB to revise its definition of ''substantial damage'' is beyond the scope of this rulemaking; however, the following comment and response partially covers this concern.

G. Frangible Components

A number of commenters requested that the NTSB not consider frangible components or other features that by design may result in damage to the aircraft, but do not pose a significant risk, *e.g.,* parachute deployments.

The Association for Unmanned Vehicle Systems International (AUVSI) noted that ''[n]ew technologies and construction materials, including light-weight and frangible materials, ensure that small UAS are purposefully built to lessen any impact and damage to the public, other aircraft, or to property. Accordingly, AUVSI advises the NTSB to take into consideration the FAA's risk-based requirements of aircraft that receive an airworthiness certificate or approval and the extreme low-risk categories that many of these aircraft fall into. For example, the complete elimination of the weight standard may not be the best way to achieve NTSB's intent. Instead, AUVSI suggests maintaining a maximum takeoff weigh tied to the 'substantial damage' clause, such as what the . . . [FAA] defines as the . . . [sUAS] category, consisting of UAS of less than 55 pounds. AUVSI also suggests refining the proposed language to align with the FAA's [p]art 107 Rule (14 CFR [part] 107) accident reporting language. Specifically, we propose the condition to specify that these accident investigations are only undertaken if the cost of repairs exceeds $500 and/or the fair market value of property damage exceeds $500, as is this case in . . . § 107.9. This will ensure that the NTSB's authority is targeted in a cost effective manner that yields true benefits to aviation safety.''

The CAA noted that ''[b]ecause of their small size and light weight, most [sUAS] are made by frangible material, designed to break down in the event of an accident, presenting little safety risk to the general public. Requiring reporting of accidents of small UAS, solely because they hold an airworthiness certificate or approval, could lead to [the] NTSB being inundated with investigations that do not present a high safety risk to the public. It could lead to further resource constraints and divert essential resources with the agency.''

NTSB Response. The NTSB agrees with this concept and has operated in this manner since the initial UAS definition in 2010. The NTSB notes that damage to intentionally frangible components or other by-design damage does not qualify as ''substantial damage'' for the purpose of this rule.

H. Gender Neutral Terminology

Several commenters referenced recommendations by the FAA's Drone Advisory Committee's (DAC) to revise drone terminology/language in gender-neutral terms. Specifically, the Air Line Pilots Association, International (ALPA) requested that the NTSB change the term ''Unmanned Aircraft System'' to ''Remotely Piloted Aircraft System (RPAS)'' as recommended by DAC. ALPA noted that using RPAS will align with ICAO's standards and is a term also used by Transport Canada. ALPA noted that DAC also recommended using ''uncrewed'' instead of ''unmanned''; ALPA further recommended that the NTSB use such language in part 830. By footnote, the CAA noted that on June 23, 2021, the FAA DAC presented recommendations to the FAA for gender-neutral language, which included using ''uncrewed'' in lieu of ''unmanned.''

NTSB Response. This proposal is beyond the scope of this rulemaking,

I. Lead Agency

The Small UAV Coalition ''recommends the NTSB and FAA agree on criteria to determine whether the NTSB or FAA should be the lead agency of an UAS accident investigation, consistent with FAA Order 8020.11D.''

NTSB Response. Based on statutory authority, the NTSB is the ''lead'' agency for civil aviation accident investigations, which covers UAS. Under 49 U.S.C. 1131(a)(1)(A), the NTSB shall investigate or have investigated the facts, circumstances, and cause or probable cause of an aircraft accident. Under section 1132(c), the NTSB provides for FAA participation when necessary. FAA Order 8020.11D describes the FAA's investigation procedures and responsibilities for aircraft accident and incident notification, investigation, and reporting.

J. Intentional Crashing of the Drone

The Coalition argued, ''a remote pilot who intentionally decides to crash the drone to avoid the risk of collision with a person or property . . . . should not be reportable.''

NTSB Response. The NTSB agrees that in a similar manner to the frangible component section above, a UAS that has been crashed or sacrificed intentionally for safety purposes (as opposed to a nefarious act) does not meet the definition of ''accident.'' However, operators should be reminded that if the reason for the sacrifice is a listed event in § 830.5, a notification may still be required.

IV. Regulatory Analysis

Because the NTSB is an independent agency, this rule does not require an assessment of its potential costs and benefits under section 6(a)(3) of Executive Order (E.O.) 12866, Regulatory Planning and Review, 58 FR 51735 (Sept. 30, 1993). In addition, the NTSB has considered whether this rule would have a significant economic impact on a substantial number of small entities, under the Regulatory Flexibility Act (5 U.S.C. 601–612). The NTSB certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

The NTSB does not anticipate this rule will have a substantial, direct effect on state or local governments or will preempt state law; as such, this rule does not have implications for federalism under E.O. 13132, Federalism, 64 FR 43255 (Aug. 4, 1999).

This rule complies with all applicable standards in sections 3(a) and 3(b)(2) of E.O. 12988, Civil Justice Reform, 61 FR 4729 (Feb. 5, 1996), to minimize litigation, eliminate ambiguity, and reduce burden. The NTSB has evaluated this rule under: E.O. 12898, Federal

Actions to Address Environmental Judice in Minority Populations and Low-Income Populations, 59 FR 7629 (Feb. 16, 1994); E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks, 62 FR 19885 (Apr. 21, 1997); E.O. 13175, Consultation and Coordination with Indian Tribal Governments, 65 FR 67249 (Nov. 6, 2000); E.O. 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use, 66 FR 28355 (May 18, 2001); and the National Environmental Policy Act, 42 U.S.C. 4321–47. Pursuant to the Paperwork Reduction Act, the NTSB has determined that there is no new requirement for information collection associated with this final rule. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a ''major rule,'' as defined by 5 U.S.C. 804(2).

The NTSB has concluded that this final rule neither violates nor requires further consideration under those orders and statutes.

List of Subjects in 49 CFR Part 830

Air transportation, Aircraft accidents, Aircraft incidents, Airworthiness directives and standards, Aviation safety, Drones, Investigations, Reporting and recordkeeping requirements, Safety, Unmanned aircraft systems.

Accordingly, for the reasons stated in the preamble, the NTSB amends 49 CFR part 830 as follows:

PART 830—NOTIFICATION AND REPORTING OF AIRCRAFT ACCIDENTS OR INCIDENTS AND OVERDUE AIRCRAFT, AND PRESERVATION OF AIRCRAFT WRECKAGE, MAIL, CARGO, AND RECORDS

■ 1. The authority citation for part 830 continues to read as follows:

Authority: 49 U.S.C. 1101–1155; Pub. L. 85–726, 72 Stat. 731 (codified as amended at 49 U.S.C. 40101).

§ 830.2 [Amended]

■ 2. Amend § 830.2 in paragraph (2) of the definition of ''Unmanned aircraft accident'' by removing the phrase ''has a maximum gross takeoff weight of 300 pounds or greater'' and adding in its place ''holds an airworthiness certificate''.

Jennifer Homendy,

Chair.

[FR Doc. 2022–14872 Filed 7–13–22; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 210901–0173]

Swim With and Approach Regulation for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act; Ratification of Regulation

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

ACTION: Ratification.

SUMMARY: NOAA is publishing notification of the NOAA Administrator's ratification of a rule.

DATES: The ratification was signed on July 8, 2022.

FOR FURTHER INFORMATION CONTACT: Kevin Brindock, NMFS, Pacific Islands Region, Deputy Assistant Regional Administrator, Protected Resources Division, (808) 725–5146; or Trevor Spradlin, NMFS, Office of Protected Resources, Deputy Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, (301) 427–8402.

SUPPLEMENTARY INFORMATION: On July 8, 2022, the Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator, Dr. Richard W. Spinrad, ratified a final rule issued by NMFS on September 28, 2021, that restricts swimming with and approaching Hawaiian spinner dolphins within 50 yards (45.7 m) in designated waters of Hawaii, subject to certain exceptions. See Swim With and Approach Regulation for Hawaiian Spinner Dolphins under the Marine Mammal Protection Act, 86 FR 53818 (Sept. 28, 2021) (Approach Rule). NOAA is now publishing the ratification in the **Federal Register** out of an abundance of caution. Neither the ratification nor the publication is a statement that the ratified action would be invalid absent the ratification, whether published or otherwise.

Appendix

Ratification

I, Richard W. Spinrad, hereby declare as follows:

As the Under Secretary of Commerce for Oceans and Atmosphere and the National Oceanic and Atmospheric Administration (NOAA) Administrator, I am affirming and ratifying a prior action by the Assistant Administrator for NOAA Fisheries, Janet Coit. On September 28, 2021, the National Marine Fisheries Service (NMFS or NOAA Fisheries) published in the **Federal Register** a final rule that restricts swimming with and approaching Hawaiian spinner dolphins within 50 yards (45.7 m) in designated coastal waters of Hawaii, subject to designated exceptions. See Swim With and Approach Regulation for Hawaiian Spinner Dolphins Under the Marine Mammal Protection Act, 86 FR 53818 (Sept. 28, 2021) (Approach Rule). The Approach Rule was approved by the Assistant Administrator for NOAA Fisheries, Janet Coit, and signed by the Deputy Assistant Administrator for NOAA Fisheries, Samuel Rauch. Questions have been raised in litigation concerning the authority of these officials to issue the Approach Rule.

I have the authority to ratify the Approach Rule. President Biden appointed me to the position of Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator on April 22, 2021, and the Senate confirmed my appointment on June 17, 2021. I was sworn in to office on June 22, 2021. In my capacity as NOAA Administrator, I oversee NOAA, a bureau within the Department of Commerce. Among other duties, NOAA is responsible for implementing various Federal laws that provide for the conservation and management of protected species and their habitats, including the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1371, *et seq.,* through NMFS, a subunit within NOAA. I possess the requisite statutory authority under sections 103 and 112 of the MMPA, and Department of Commerce Department Organization Order 10–15, to promulgate the Approach Rule as described below. Pursuant to the NOAA Organization Handbook Transmittal No. 61, the authority to perform functions under the MMPA has been redelegated to the Assistant Administrator for NOAA Fisheries; however, I retain the authority to take any action that is redelegated.

Out of an abundance of caution, and to remove any doubt as to its validity, I have independently evaluated the Approach Rule and the basis for adopting it, and I now affirm and ratify the Approach Rule without deference to Assistant Administrator Coit's prior decision. I state that I have knowledge of the contents, purpose, and requirements of the Approach Rule and its rulemaking record. I undertake this action based on my careful review of the Approach Rule, my knowledge of its provisions, and my independent judgment that the Approach Rule was and remains necessary to protect Hawaiian spinner dolphins, a protected species under the MMPA, from illegal ''take'' by people wishing to closely swim with or approach the species. Pursuant to my authority as the NOAA Administrator, and based on my independent review of the action and the reasons for taking it, I hereby affirm and ratify the Approach Rule as of September 28, 2021, including all regulatory analysis certifications contained therein.

This action is taken without prejudice to any right to litigate the validity of the Approach Rule as approved and published on September 28, 2021. Nothing in this action is intended to suggest any legal defect or infirmity in the approval or publication of the Approach Rule.

Authority: 16 U.S.C. 1361 *et seq.*

Dated: July 8, 2022.

Richard W. Spinrad,

Under Secretary of Commerce for Oceans and Atmosphere and NOAA Administrator.

[FR Doc. 2022–14973 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2022–0875; Project Identifier MCAI–2022–00640–R]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters Deutschland GmbH (AHD) Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Airbus Helicopters Deutschland GmbH (AHD) Model MBB–BK 117 C–2 helicopters. This proposed AD was prompted by reports of excessively worn bolts that connect the cardan-pivot joint with the piston rod of the tail rotor actuator (TRA) assembly. This proposed AD would require repetitively inspecting certain TRA assemblies, and depending on the results, replacing or repairing parts, or accomplishing additional inspections. This proposed AD would also prohibit installing an affected TRA assembly unless it passes required inspections. Lastly, this proposed AD would provide terminating actions for certain inspections, as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD August 29, 2022.

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

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

For EASA material that is proposed for IBR in this NPRM, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* For Airbus Helicopters service information identified in this NPRM, contact Airbus Helicopters, 2701 North Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *https://www.airbus.com/helicopters/services/technical-support.html.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. The EASA material is also available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0875.

Examining the AD Docket

You may examine the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0875; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the EASA AD, any comments received, and other information. The street address for Docket Operations is listed above.

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

SUPPLEMENTARY INFORMATION:

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–2022–0875; Project Identifier MCAI–2022–00640–R'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

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

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Hal Jensen, Aerospace Engineer, Operational Safety Branch, Compliance & Airworthiness Division, FAA, 950 L'Enfant Plaza N SW, Washington, DC 20024; telephone (202) 267–9167; email *hal.jensen@faa.gov.* Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

EASA, which is the Technical Agent for the Member States of the European Union, has issued a series of EASA ADs, with the most recent being EASA AD 2022–0086, dated May 13, 2022 (EASA AD 2022–0086), to correct an unsafe condition for Airbus Helicopters

Deutschland GmbH (AHD), formerly Eurocopter Deutschland GmbH; and Airbus Helicopters Inc., formerly American Eurocopter LLC, Model MBB–BK117 C–2 helicopters. EASA issued EASA AD 2022–0086 to supersede EASA AD 2019–0313, dated December 20, 2019.

This proposed AD was prompted by reports of excessively worn bolts that connect the cardan-pivot joint with the piston rod of the TRA assembly. According to Airbus Helicopters, manufacturer investigations of affected TRAs have revealed improperly assembled cardan-pivot joints as the main cause of the excessively worn bolts. Additionally, incorrect washers as well as improperly shimmed laminated washers contribute to axial play and increased wear of the bolt. The FAA is proposing this AD to detect and prevent worn bolts. The unsafe condition, if not addressed, could result in helicopter oscillations on the yaw axis during flight, failure of a bolt resulting in loss of control of the tail rotor, and subsequent loss of control of the helicopter. See EASA AD 2022–0086 for additional background information.

Related Service Information Under 1 CFR Part 51

EASA AD 2022–0086 requires, for certain TRAs with a steel or aluminum cardan-pivot joint, repetitively measuring the minimum diameter of the cardan-pivot joint assembly bolt. Depending on the results, EASA AD 2022–0086 requires replacing the bolt and laminated washers of the affected TRA or repetitively measuring the minimum diameter of the cardan-pivot joint assembly bolt at a reduced compliance time; or contacting AHD for approved repair instructions and compliance time or measuring the maximum diameter of the TRA piston rod bore hole. Depending on the results of measuring the maximum diameter of the TRA piston rod bore hole, EASA AD 2022–0086 requires replacing the bolt and laminated washers of the affected TRA; or contacting AHD for approved repair instructions and compliance time or repetitively measuring the maximum diameter of the TRA piston rod bore hole at a reduced compliance time. EASA AD 2022–0086 also prohibits installing an affected TRA assembly unless it passes its required inspections. Lastly, EASA AD 2022–0086 specifies certain terminating actions for repetitively measuring the minimum diameter of the cardan-pivot joint assembly bolt.

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

Other Related Service Information

The FAA reviewed Airbus Helicopters Alert Service Bulletin MBB–BK117 C–2–67A–027, Revision 2, dated December 15, 2021. This service information specifies, for TRAs with a steel or aluminum cardan-pivot joint, procedures for measuring the minimum diameter of the cardan-pivot joint assembly bolt, measuring the maximum diameter of the TRA piston rod bore hole, replacing the bolt and laminated washers, and reassembling the TRA.

FAA's Determination

These helicopters have been approved by EASA and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with the European Union, EASA has notified the FAA about the unsafe condition described in its AD. The FAA is proposing this AD after evaluating all known relevant information and determining that the unsafe condition described previously is likely to exist or develop on other helicopters of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in EASA AD 2022–0086, described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under ''Differences Between this Proposed AD and the EASA AD.''

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate EASA AD 2022–0086 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2022–0086 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2022–0086 does not mean that operators need comply only with that section. For example, where the AD requirement refers to ''all required actions and compliance times,'' compliance with this AD requirement is not limited to the section titled ''Required Action(s) and Compliance Time(s)'' in EASA AD 2022–0086. Service information referenced in EASA AD 2022–0086 for compliance will be available at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0875 after the FAA final rule is published.

Differences Between This Proposed AD and the EASA AD

EASA AD 2022–0086 requires discarding certain parts, whereas this proposed AD would require removing those parts from service instead. EASA AD 2022–0086 requires maintaining a removed bolt for possible investigation purposes for four weeks, whereas this proposed AD would not require that action. EASA AD 2022–0086 requires contacting AHD for approved repair instructions and accomplishing those instructions within the compliance time specified therein, whereas this proposed AD would require accomplishing a repair in accordance with certain approved methods before further flight.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 142 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 proposed AD.

Measuring the cardan-pivot joint assembly bolt would take about 2 work-hours and have a nominal parts cost for an estimated cost of $170 per helicopter and $24,140 for the U.S. fleet, per inspection cycle. If required, measuring the TRA piston rod bore hole following the cardan-pivot joint assembly bolt inspection would take about an additional 0.5 work-hour for an estimated cost of $43 per helicopter, per inspection cycle. Replacing a bolt and the laminated washers following an inspection would take about an additional 0.25 work-hour and parts would cost about $586 for an estimated cost of $607 per replacement.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Helicopters Deutschland GmbH (AHD): Docket No. FAA–2022–0875; Project Identifier MCAI–2022–00640–R.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 29, 2022.

(b) Affected ADs

None.

(c) Applicability

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

Note 1 to paragraph (c): Helicopters with an MBB–BK 117 C–2(e) designation are Model MBB–BK 117 C–2 helicopters.

(d) Subject

Joint Aircraft Service Component (JASC) Code: 6720, Tail Rotor Control System.

(e) Unsafe Condition

This AD was prompted by reports of excessively worn bolts that connect the cardan-pivot joint with the piston rod of the tail rotor actuator assembly. The FAA is issuing this AD to detect and prevent worn bolts. The unsafe condition, if not addressed, could result in helicopter oscillations on the yaw axis during flight, failure of a bolt resulting in loss of control of the tail rotor, and subsequent loss of control of the helicopter.

(f) Compliance

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

(g) Requirements

Except as specified in paragraphs (h) and (i) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2022–0086, dated May 13, 2022 (EASA AD 2022–0086).

(h) Exceptions to EASA AD 2022–0086

(1) Where EASA AD 2022–0086 requires compliance in terms of flight hours, this AD requires using hours time-in-service (TIS).

(2) Where EASA AD 2022–0086 refers to its effective date, this AD requires using the effective date of this AD.

(3) Where Note 1 of EASA AD 2022–0086 allows a non-cumulative tolerance of 10% to the repetitive inspection intervals specified in its paragraphs (1), (2.2), and (5.2), this AD requires the repetitive inspection intervals specified in paragraphs (h)(3)(i) through (iii) of this AD.

(i) For the repetitive inspection interval specified in paragraph (1) of EASA AD 2022–0086, within intervals not to exceed 330 hours TIS.

(ii) For the repetitive inspection interval specified in paragraph (2.2) of EASA AD 2022–0086, within intervals not to exceed 165 hours TIS.

(iii) For the repetitive inspection interval specified in paragraph (5.2) of EASA AD 2022–0086, within intervals not to exceed 55 hours TIS.

(4) Where the service information referenced in EASA AD 2022–0086 specifies discarding parts, this AD requires removing those parts from service.

(5) Where the service information referenced in EASA AD 2022–0086 specifies maintaining a removed bolt for possible investigation purposes for four weeks, this AD does not require that action.

(6) Where paragraphs (3.1) and (5.1) of EASA AD 2022–0086 specify contacting AHD for approved repair instructions and accomplishing those instructions within the compliance time specified therein, this AD requires, before further flight, repair done in accordance with a method approved by the Manager, General Aviation & Rotorcraft Section, International Validation Branch, FAA; EASA; or Airbus Helicopters Deutschland GmbH EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(7) This AD does not mandate compliance with the ''Remarks'' section of EASA AD 2022–0086.

(i) No Reporting Requirement

Although the service information referenced in EASA AD 2022–0086 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

(j) Special Flight Permit

A special flight permit may be issued in accordance with 14 CFR 21.197 and 21.199, provided that there are no passengers onboard.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (l)(2) of this AD. Information may be emailed to: *9-AVS-AIR-730-AMOC@faa.gov.*

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

(l) Related Information

(1) For EASA AD 2022–0086, contact EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email *ADs@easa.europa.eu;* internet *www.easa.europa.eu.* You may find the EASA material on the EASA website at *https://ad.easa.europa.eu.* You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. This material may be found in the AD docket at *https://www.regulations.gov* by searching for and locating Docket No. FAA–2022–0875.

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

Issued on July 8, 2022.

Christina Underwood,

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

[FR Doc. 2022–15024 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125, and 135

[Docket No. FAA–2022–0912; Notice No. 22–04]

RIN 2120–AL36

Updating Manual Requirements To Accommodate Technology

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to update its manual requirements to reflect industry use of electronic and paper manuals. The amendments would apply to fractional ownership operations; domestic, flag, and supplemental operations; rules governing the operations of U.S.-registered civil airplanes which have a seating configuration of 20 or more passengers or a maximum payload capacity of 6,000 pounds or more when common carriage is not involved; and commuter and on-demand operations. The proposed action would require manuals accessed in paper format to display the date of last revision on each page, and require manuals accessed in electronic format to display the date of last revision in a manner in which a person can immediately ascertain it. This action would also revise the requirement for program managers or certificate holders to carry appropriate parts of the manual aboard airplanes during operations. This proposed rule would instead require program managers or certificate holders ensure the appropriate parts of the manual are accessible to flight, ground, and maintenance personnel when such personnel are performing their assigned duties. Lastly, the proposed rule would update outdated language that refers to accessing information in manuals kept in microfiche. The FAA proposes to remove this outdated language and simply require that all manual information and instructions be displayed clearly and be retrievable in the English language.

DATES: Send comments on or before September 12, 2022.

ADDRESSES: Send comments identified by docket number FAA–2022–0912 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *https://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at (202) 493–2251.

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *https://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Sandra Ray, Voluntary Programs and Rulemaking Section, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, telephone (412) 329–3088; email *sandra.ray@faa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This rulemaking proposes several amendments in title 14, Code of Federal Regulations (14 CFR), parts 91 subpart K (part 91K), 121, 125, and 135 that would remove certain prescriptive manual requirements for certificate holders. First, this proposed rulemaking would amend §§ 91.1025, 121.135, 125.73, and 135.23 to remove the requirement to have the date of last revision on each page concerned as it applies to operators using electronic manuals. Further, this proposed rule would add a separate requirement to allow certificate holders using electronic manuals flexibility in displaying the date of last revision, while maintaining the existing requirement for certificate holders with paper manuals.

In addition, this rulemaking proposes clarifying in §§ 91.1023, 121.139, and 135.21 that appropriate parts of the manual must be accessible on each aircraft when away from their principal base of operations, in lieu of indicating that manuals must exist in any particular format. This rulemaking would provide certificate holders flexibility regarding how their flight, ground, and maintenance personnel access electronic manuals, and to obtain information in a manner that reflects current technological capabilities.[1]

Lastly, this rulemaking proposes amendments in §§ 91.1023, 121.139, 125.71, and 135.21 to update language that requires certificate holders accessing manuals in ''other than printed form,'' ensure there is a ''compatible reading device available to those persons that provides a legible image'' or ''a system that is able to retrieve the maintenance information and instructions in the English language.'' The FAA proposes to replace this outdated language with a requirement that all manual information and instructions be displayed clearly and be retrievable in the English language.

II. Authority for This Rulemaking

The FAA's authority to issue rules on 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. Section 106(f) vests final authority in the Administrator for carrying out all functions, powers, and duties of the Administrator relating to the promulgation of regulations and rules.

Subtitle VII, Aviation Programs, describes in detail the scope of the Agency's authority. Section 44701(a)(5) requires the Administrator to promulgate regulations and minimum standards for other practices, methods, and procedures necessary for safety in air commerce and national security. In addition, 49 U.S.C. 44701(d)(1)(A) specifically states the Administrator, when prescribing safety regulations, must consider the duty of an air carrier to provide service with the highest possible degree of safety in the public interest. Such authority applies to the oversight the FAA exercises to ensure safety of aviation operations, including

[1] Other regulations, such as 14 CFR 91.9, contain language that does not preclude referring to or carrying manuals that exist in an electronic format. This proposed rule does not address such regulations.

review of manual information and instructions.

III. Background

FAA regulations require operators subject to parts 91K, 121, 125, or 135 to prepare and keep current operations manuals for use and guidance of flight, ground operations, and management personnel. These manuals must contain specific information about operations and must include the names of management personnel; copies of operations specifications; and many procedures for weight and balance calculations, accident notifications, airworthiness determinations, reporting mechanical irregularities, maintenance, and refueling.[2] Manuals ensure appropriate employees and contractors providing service for an operator are aware of the necessary steps for operating, moving, and servicing an aircraft in a safe manner.

Operators currently use electronic and internet-based technology to provide their flight, ground, and maintenance personnel with access to the manuals in a variety of formats, including electronic flight bags (EFB) and portable electronic devices (PED). Such technology has caused many operators to rely on manuals in electronic format, rather than accessing paper manuals.

Current manual requirements in applicable FAA regulations do not appropriately accommodate the use of electronic manuals. For example, the requirement that each page in a manual display the date it was last revised creates unnecessary barriers for operators that use electronic manuals. Specifically, electronic manuals in formats including Extensible Markup Language (XML) or Hypertext Markup Language (HTML) are not always paginated, making it unclear how to comply with this requirement.

Further, the requirement that some certificate holders ''carry'' appropriate parts of the manual on each aircraft when away from their principal base of operations does not reflect current technology. The FAA established this requirement when operators were only able to carry those manuals aboard airplanes to be used by personnel at out stations.[3] Prior to the advent of electronic manuals and the internet, the requirement to carry physically the ground servicing and maintenance parts of the manual aboard an airplane was necessary to ensure the manual was available to personnel at out stations or other locations away from the certificate holder's principal base of operations. Those personnel at out stations did not always have their own manuals, or access to necessary manuals, so they relied on the airplane to carry the manuals to them. Technological advancements have now rendered this prescriptive requirement unnecessary because accessing electronic manuals is significantly easier for flight, ground, and maintenance personnel.

Lastly, the language that requires operators accessing manuals in ''other than printed form,'' to ensure there is a ''compatible reading device available to those persons that provides a legible image'' or ''a system that is able to retrieve the maintenance information and instructions in the English language'' is outdated. The FAA promulgated this text during an era when certificate holders used microfiche technology to store and read manual information. Overall, the existing requirements do not reflect current technology.

IV. Discussion of the Proposed Rule

A. Date of Revision Display: §§ 91.1025, 121.135, 125.73, and 135.23

Current Requirement

In addition to requirements to establish manuals and have them contain specific information, FAA regulations also require manuals to remain up-to-date. Sections 91.1025, 121.135, 125.73, and 135.23 require each manual to display the date it was last revised on the revised page. The FAA established this requirement when operators used paper manuals; as a result, the requirement does not accommodate electronic manuals, which may not have traditional pages.

Including revision dates on each page is a means of ensuring flightcrew members and inspectors have current information pertinent to operations. When utilizing paper manuals, the only method to verify that the manual is current is to look at the revision date on each page. With electronic manuals, however, operators can efficiently provide updates to a manual, and personnel can access the most recent manual in real time via a web portal. Personnel and inspectors may be able to identify the revision date of the manual on an electronic device using the date the manual was last downloaded or the date the manual was last accessed through a web portal.

Operators conducting operations under parts 91K, 121, 125, or 135 are currently permitted to use manuals that are in electronic or paper format. The FAA has approved the use of electronic manuals for these operators through the use of Operation Specification (OpSpec) A025 or Management Specification (MSpec) MA025.[4] For example, the FAA has issued eight part 91K operators MSpec MA025 for electronic signatures, electronic recordkeeping systems and electronic manual systems.[5] In addition, the FAA is aware that certificate holders operating under part 121 currently provide their flightcrew members with access to the manual in a variety of formats, including EFBs[6] and PEDs.[7] At least 58 part 121 operators have authorization under OpSpec A025 for the use of electronic manuals.[8] Further, the FAA has issued 27 part 125 certificate holders and A125 letter of deviation authority (LODA) holders an OpSpec A025 to allow the use of electronic signatures, electronic recordkeeping systems, and electronic manual systems.[9] Moreover, the FAA has issued at least 471 part 135 certificate holders an OpSpec A025 for the use of electronic manuals.[10]

As previously mentioned, the FAA promulgated the requirement to display the revision date on each revised page of the manual when manuals were not available in electronic form. The current requirement does not contemplate the developments in technology, which have provided operators with options

[2] See 14 CFR 91.1025, 121.135, 125.73, 135.23.

[3] See discussion in section IV.B. of this preamble.

[4] Operation Specification A025 and Management Specification MA025 provide a table for listing the Master Manual containing an electronic manual system description and list of electronic manuals, as applicable. In addition, the table provides a place to record the date of the latest manual revision and revision number. OpSpec A025 and MSpec MA025 states the electronic manual system will be used to maintain, distribute, and make available the certificate holders manual in accordance with the applicable rule(s) of parts 91K, 125, or 135.

[5] FAA Safety Performance Analysis System SPAS (release 2.41.161).

[6] Advisory Circular 120–76D (Oct. 27, 2017) describes an EFB as ''any device, or combination of devices, actively displaying EFB applications'' and EFB applications as ''generally replacing conventional paper products and tools, traditionally carried in the pilot's flight bag. EFB applications include natural extensions of traditional flight bag contents, such as replacing paper copies of weather with access to near-real-time weather information.'' This document can be accessed at *https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1032166*.

[7] A portable electronic device refers to a cellular phone, laptop, tablet, or other portable electronic device on which the manual can be downloaded or accessed via the internet. Advisory Circular 120–76D (Oct. 27, 2017) describes these devices as ''consumer commercial off-the-shelf (COTS) electronic devices functionally capable of communications, data processing, and or/utility[.]'' This document can be accessed at *https://www.faa.gov/regulations_policies/advisory_circulars/index.cfm/go/document.information/documentID/1032166*.

[8] FAA Web-based Operations Safety System, accessed on Nov. 3, 2020.

[9] FAA Safety Performance Analysis System (release 2.41.161).

[10] FAA Web-based Operations Safety System, accessed on Nov. 3, 2020.

for various electronic formats for manuals. This proposed rule would ensure operators that operate under the current inaccurate revision display date requirement, and that may use manuals in electronic formats, such as XML or HTML, are able to comply easily with the requirement to display a revision date, in a manner that is consistent with updated manual display technology.

The introductory paragraphs of §§ 91.1025, 125.73, and 135.23 set forth the requirement that manuals have the date of the last revision on each revised page. Section 121.135(a)(3) contains similar language, requiring the manual to ''have the date of last revision on each page concerned.'' The date of revision display for all four sections does not reflect use of manuals in an electronic format that does not have traditional pages.

For years, the air carrier industry has recommended updates to § 121.135(a)(3). In 2017, the FAA tasked the Aviation Rulemaking Advisory Committee (ARAC) to consider (1) recommendations on existing regulations that are good candidates for repeal, replacement, or modification and (2) recommendations on regulatory action identified in FAA's regulatory agenda. The ARAC working group provided the FAA a report, (ARAC Input to Support Regulatory Reform of Aviation Regulations), that characterized the requirement in § 121.135(a)(3) as ''outdated, unnecessary or ineffective.'' The *ARAC Input to Support Regulatory Reform of Aviation Regulations* report recommended removing the requirement to have a date of last revision on each page, because no page numbers exist in electronic documents formatted in XML or HTML, which are the two main formats used in electronic manuals.[11]

In addition to input on the *ARAC Input to Support Regulatory Reform of Aviation Regulations* report, at least one major air carrier has petitioned for, and received, an exemption to permit use of electronic digital technology to display the revision date in lieu of having the last revision date on each page of the manual.[12] In granting the exemption, the FAA determined the electronic retrieval of technical data improved data accessibility, quality control, and speed of distribution, which could result in enhanced safety and rapid access to data. The FAA also acknowledged that traditional printed pages may not always exist within an electronic system, and that other acceptable means are available to determine the revision status. The FAA determined under 49 U.S.C. 44701(f) that granting an exemption from the requirement of § 121.135(a) was in the public interest. The FAA also stated in the exemption that it intended to clarify the requirement in a future rulemaking.

Proposed Rule Amendments

As previously discussed, §§ 91.1025, 125.73, and 135.23 have introductory paragraphs that require manuals to have the date of the last revision on each page. The FAA proposes amending these introductory paragraphs to state that each manual accessed in paper format must display the date of last revision on each page and that each manual accessed in electronic format must display the date of last revision in a manner in which a person can immediately ascertain it. The FAA proposes similar revisions to § 121.135, as it contains the same language requiring manuals have the date of last revision on each page revised. In this regard, the FAA proposes to revise § 121.135(a) such that it includes the same regulatory text as it proposes to add to the other regulatory sections as discussed above. This proposed rule would also remove § 121.135(a)(3) because it contains the requirement to ''have the date of last revision on each page concerned,'' which would be duplicative of the proposed language in § 121.135(a). As a result, this proposed rule would designate § 121.135(a)(4) as § 121.135(a)(3).

The FAA recognizes that manuals may be divided into many parts, some of which may be available in paper form and some in electronic form. The FAA does not propose to include language describing this in the regulatory text. This proposed rule would require that, if a manual is divided into parts, the date of last revision for each part must be immediately available in either paper form or electronic form, as applicable.

Allowing flexibility in displaying the date of last revision for an electronic manual is consistent with applicable safety standards that apply to the FAA and to operators under 49 U.S.C. 44701. This proposed rule would provide flexibility for the revision display date for electronic manuals, but would not remove the underlying requirement that the date of revision be displayed and ascertainable to the viewer of the manual.

To conform with the purpose of this proposed rule, the FAA proposes to further amend the introductory paragraph of § 125.73. While all of the above referenced sections currently contain the requirement concerning the date of last revision on each revised page, the introductory paragraph of § 125.73 includes an additional requirement that each manual have the ''revision number'' on each revised page.

The manual revision requirement in the introductory paragraph of § 125.73 should be consistent with the requirement in the associated sections in parts 91K, 121, and 135. Furthermore, displaying the date of the last revision on each page for paper manuals and in a manner in which a person can immediately ascertain for electronic manuals is sufficient to ensure flightcrew members and inspectors are able to identify the date of last revision or ensure the manual is up-to-date. Therefore, the FAA proposes amending the introductory paragraph of § 125.73 to remove the requirement that each manual include the ''revision number'' on each revised page.

B. Manual Carriage Requirement: §§ 91.1023, 121.139, and 135.21

Current Requirement

Sections 91.1023, 121.139, and 135.21[13] require operators to carry appropriate parts of the manual on board each airplane for use by ground, flight, or maintenance personnel. The requirement includes an exception. In part 121, certificate holders need not carry maintenance parts of the manual on the airplane if en route to specified stations at which they conduct all scheduled maintenance. In parts 91K and 135, the exception applies to the approved aircraft inspection program manual.

The FAA established this requirement when operators did not have the means to readily provide access to manuals, other than to carry those manuals aboard airplanes to be used by personnel at out stations.[14] Prior to the advent of electronic manuals and the internet, the requirement to carry physically the ground servicing and maintenance parts of the manual aboard an airplane was necessary to ensure the

[11] ARAC Input to Support Regulatory Reform of Aviation Regulations-ARAC Addendum Report, 82 FR 19783 (Sep. 12, 2017), p. 81. This document is available at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/Phase%202%20Report_Final%20Recommendations_Post%20ARAC%20Mt_Sept%2018%20(1).pdf.*

[12] See the following FAA grant of petition for exemption: Docket No. FAA–2000–8525. This exemption is available at *https://www.regulations.gov.*

[13] The FAA has determined that due to the unique language of the similar requirement in § 125.71, amendment to that section is not necessary for this issue and the language in § 125.71 is sufficient for operations involving non-common carriage.

[14] See section IV.B. of this rule for further discussion.

manual was available to personnel at out stations or other locations away from the operator's principal base of operations. Those personnel at out stations did not always have their own manuals, nor access to manuals, so they relied on each airplane to deliver the appropriate manuals.

While these regulations allow operators to carry this manual in electronic form,[15] the underlying requirement to carry appropriate parts of the manual on board each airplane for use by ground, flight, or maintenance personnel is no longer necessary. Most operators already provide personnel at all stations with access to the appropriate manuals necessary for servicing the airplane. Therefore, these personnel do not need to rely on the incoming airplane to carry the manual to them.

Section 121.139 sets forth the specific manual carriage requirements for certificate holders conducting supplemental operations. Under § 121.139(a), certificate holders conducting supplemental operations must carry appropriate parts of the manual on each airplane when away from their principal base of operations and the appropriate parts must be available for use by ground and flight personnel. In addition, § 121.139(a) currently contains requirements specific to the maintenance part of the manual. Specifically, paragraph (a) requires that, if the certificate holder carries aboard an airplane all or any portion of the maintenance part of its manual in other than printed form, they must also carry a compatible reading device that produces a legible image of the maintenance information and instructions or have a system that is able to retrieve the maintenance information in the English language. However, § 121.139(b) states that if a certificate holder is able to perform all scheduled maintenance at the specified stations at which it keeps maintenance parts of the manual, it does not have to carry those parts of the manual aboard the airplane en route to those specific stations.

Similarly, §§ 91.1023 and 135.21 state that if a program manager (part 91K) or certificate holder (part 135) conducts airplane inspections or maintenance at specified stations or facilities where it keeps the approved inspection program manual available, it is not required to carry the manual aboard the airplane en route to those stations.

Under the existing regulatory text, program managers and certificate holders must ''carry'' maintenance parts of the manual aboard the airplane in electronic or paper form. Requiring tangible maintenance portions of a manual to be physically aboard an aircraft during flight is unnecessary because this information is available at the stations to which an operator conducts operations.

Input From Air Carrier Industry on § 121.139

The 2017 *ARAC Input to Support Regulatory Reform of Aviation Regulations* report asserted that no safety justification exists for continuing to require physical carriage of maintenance information on the airplane because most certificate holders use manuals that are available electronically.[16] In addition, the report recommended the FAA modify the regulation to allow certificate holders to use any type of media or means to make appropriate parts of the manual available, as needed.

For years, the air carrier industry has recommended that the FAA make amendments to § 121.139 that reflect the new technology used to access manuals at out stations. Certificate holders expressed their viewpoint that carrying maintenance parts of the manual aboard airplanes is unnecessary. For example, Airlines for America (A4A) recommended the FAA change the requirement to apply only to parts of the manual that are essential to flightcrews.[17] They stated the promulgation of the rule preceded the advent of instant global communications, which now make it possible for certificate holders to maintain and transmit relevant parts of the manual with the most recent updates at virtually any time and location in the world. A4A recommended the FAA amend the regulation to enable certificate holders to conduct supplemental operations without carrying parts of the manual that are not required or that essential flightcrews do not utilize.

In addition, in 2004, in response to the FAA's published notice in the **Federal Register** asking the public to advise the FAA on which regulations the FAA should amend, the FAA received 97 comments.[18] One such comment, from the National Air Carrier Association, suggested that the FAA delete § 121.139 entirely because it is unnecessary, given current developments in technology.[19]

Furthermore, several major air carriers have petitioned the FAA for exemption from the requirement in § 121.139 or requested an interpretation of the requirement,[20] in which they expressed concern about carrying the appropriate parts of the maintenance manual aboard the airplane. These petitions for exemption and requests for interpretation contend that a certificate holder's ability to keep the manual stored electronically will result in the manual always being available to ground and maintenance personnel. The petitions and requests assert that the focus of the requirement should be on availability and accessibility of the manual, rather than the manual being physically located on the airplane. They also emphasize that certificate holders have policies and procedures to ensure personnel have access to the manual information, even in the event of an electronic malfunction.

Proposed Rule Amendments to §§ 91.1023, 121.139, and 135.21

The requirements of §§ 91.1023, 121.139, and 135.21 should reflect the current ability to access the manual using electronic devices, to download the manual or access it via the internet. The proposed amendments to §§ 91.1023, 121.139, and 135.21 would give certificate holders flexibility to use

[15] For example, in 1997, the FAA amended § 121.139 to reflect the revisions the FAA made to § 121.133, which allowed a certificate holder to prepare its manual in ''any form acceptable to the Administrator.'' The resulting change removed the language that limited certificate holders to printed form or microfiche, and allowed the maintenance part of the manual in ''other than printed form.'' FAA guidance interprets ''other than printed form'' to give certificate holders flexibility to determine whether to furnish the manual in paper or electronic form, as long as they are accessible and up-to-date.

[16] ARAC Input to Support Regulatory Reform of Aviation Regulations-ARAC Addendum Report (Sept. 12, 2017) at 74. This Report is available at *https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/Phase%202%20Report_Final%20Recommendations_Post%20ARAC%20Mt_Sept%2018%20(1).pdf.*

[17] Notification of Regulatory Review, Comments of Airlines for America, Part Three: Proposals for Repeal or Amendment of Existing FAA and PHMSA Regulations, DOT–OST–2017–0069, pp. 10–13. This document is available at *www.regulations.gov.*

[18] *Review of Existing Regulations,* 69 FR 8575 (Feb. 25, 2004).

[19] *Review of Existing Regulations,* 72 FR 34999, 35003 (Jun 26, 2007).

[20] *See* the following FAA denials of petition for exemption: Docket No. FAA–2012–0113 (issued Dec. 26, 2012); Docket No. 29561 (issued June 28, 2000); and Docket No. 26759 (issued Nov. 16, 1992). *See also* Letter of Interpretation to Christian Torro/Southwest Airlines Co. from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Oct. 19, 2009); Letter of Interpretation to Thomas Durrant-SPMI SWA CMO from Rebecca MacPherson, Assistant Chief Counsel for Regulations (May 17, 2011); Letter of Interpretation to Michael Keller/American Airlines from Rebecca B. MacPherson, Assistant Chief Counsel for Regulations (Oct. 20, 2010). Exemption decisions are available at *www.regulations.gov.* FAA interpretations are available at *https://www.faa.gov/about/office_org/headquarters_offices/agc/practice_areas/regulations/interpretations/.*

technology in providing access to the electronic manual. Specifically, this proposed rule would remove the requirement that certificate holders ''carry'' appropriate parts of the manual on each airplane when away from its principal base of operations. This proposed rule would replace the word ''carry'' or ''carried'' in the aforementioned sections with the requirement to ensure parts of the manual associated with personnel's assigned duties are accessible for flight, ground, and maintenance personnel, ''at all times when those personnel are performing their duties.'' This proposed language would ensure personnel always have access to the necessary information while performing their assigned duties. This proposed language achieves the objective of the existing language of §§ 91.1023, 121.139, and 135.21 because it ensures that wherever a certificate holder conducts its operations, the flight, ground, and maintenance personnel have access to the necessary parts of the manual.

The FAA acknowledges that these proposed revisions to §§ 91.1023, 121.139, and 135.21 could result in reliability concerns regarding certificate holders' ability to maintain consistent access to its manuals, *e.g.,* during electronic or internet outages. However, the proposed text requires personnel always have access to the relevant manual's information when they are performing their assigned duties. By using performance-based language to require certificate holders ensure availability when these personnel are performing their assigned duties, the proposed regulatory text indicates certificate holders should maintain policies and procedures to address circumstances in which an electronic or internet outage may occur.

The previously discussed amendments to § 121.139 would result in the removal of paragraphs (a) and (b), replacing them with a single paragraph. Further, the FAA proposes to amend § 121.139 by changing the section heading to read ''Manual accessibility: Supplemental operations.'' The FAA does not propose any changes to the section headings of §§ 91.1023, 125.71, or 135.21 because they do not contain similar language.

C. Compatible Reading Device Update: §§ 91.1023, 121.139, 125.71, & 135.21

Sections 91.1023(g), 121.139(a), 125.71(f), and 135.21(g) require that, when manuals exist in other than printed form, certificate holders must carry compatible reading devices that provide legible images of maintenance information and instructions. In addition, certificate holders must have a system that is able to retrieve the maintenance information and instructions in the English language. The FAA promulgated these requirements when certificate holders used microfiche technology to ensure the information was readable, or retrievable, in the English language.

This proposed rule would amend §§ 91.1023(g), 121.139, 125.71(f), and 135.21(g) to require that all manual information and instructions be displayed clearly and be retrievable in the English language. Removing the compatible reading device requirement is appropriate because electronic manuals do not require a separate, compatible reading device to view the manual information. This proposed rule would require all manual information and instructions be accessible to the appropriate personnel, and appear in a manner in which they can read and comprehend the necessary provisions. Due to FAA oversight of certificate holders' manuals, such manual information and instructions must be readable and retrievable in the English language for the FAA to review and approve the manual. Therefore, the requirement that all manual information and instructions under §§ 91.1023, 121.139, 125.71, and 135.21 be readable and retrievable in the English language codifies current practice and brings this regulatory requirement up-to-date.

V. Regulatory Notices and Analyses

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

In conducting these analyses, the FAA has determined that this proposed rule: (1) would result in benefits that justify costs; (2) is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866; (3) would not have a significant economic impact on a substantial number of small entities; (4) would not create unnecessary obstacles to the foreign commerce of the United States; and (5) would not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

A. Regulatory Impact Analysis

The FAA estimates the proposed rulemaking would not result in additional costs to affected operators that conduct operations under parts 91K, 121, 125, and 135. The proposal would provide flexibility for the efficient use of electronic manuals for these operators. The proposed requirements would also ensure consistency for manual requirements for these operators. These flexibilities may reduce administrative costs of maintaining and providing manual accessibility to these operators. The FAA determines the proposal would not adversely affect safety.

This proposed rulemaking would update the manual display requirements for these affected operators to accommodate electronic manuals. In particular, this proposal would remove the requirement to have the date of last revision on each page concerned as it applies to operators using electronic manuals. This proposed rulemaking would add a separate requirement to allow operators using electronic manuals flexibility in displaying the date of last revision, while maintaining the existing requirement for operators with paper manuals.

This proposal would also revise the current requirement to physically carry appropriate parts of the manual aboard airplanes for these operators. As a result, operators would have flexibility regarding how flight, ground, and maintenance operators use electronic manuals, and provide access to each manual's information in a manner that reflects current technological capabilities.

Based on information from industry, affected operators currently provide their flightcrew personnel with access to manuals in electronic formats, including EFBs and PEDs. In addition, most operators currently provide ground and

maintenance personnel at their stations access to the manual information necessary for ground handling and servicing of aircraft through electronic devices such as computers and PEDs.

The FAA expects the incremental changes from this proposed rulemaking would provide additional flexibilities to these operators for the efficient use of electronic manuals with no additional costs. These flexibilities may result in savings from avoided costs to these operators of maintaining and providing access to manuals for flightcrew, ground and maintenance personnel. The FAA did not identify data to quantify with certainty the incremental savings of this proposed rulemaking and the flexibilities it would provide to operators conducting operations under parts 91K, 125, and 135 affected operators.

The ARAC report provided information and insight on the potential costs and savings related to certain part 121 operators conducting operations to ensure appropriate parts of the manual are available for use by ground and maintenance personnel.[21] The report found technological advances and the availability of internet connections have eliminated the need for paper manuals to these operators.

The report identified potential cost savings would include a reduction in weight through the elimination of paper manuals compared to equipment associated with non-paper manuals and a reduction in time auditing, updating and printing paper manuals. In the report, one A4A member reports annual costs of approximately $500,000 because they claim the current regulation for operators of part 121 airplanes creates a requirement for paper manuals.[22] If this is representative of current costs for all 64 affected part 121 operators,[23] then the estimated annual savings would be $32,000,000 (= $500,000 × 64). Over a five-year period of analysis, the present value savings would be approximately $146.6 million at a three percent discount rate or approximately $132.2 million at a seven percent discount rate. The FAA notes that this cost saving estimate is conservative because the ARAC report only provided information for one part 121 operator and this proposal also affects operators in parts 91K, 125, and 135 service.

The FAA requests information and data that can be used to quantify additional savings of this proposed rulemaking. Please provide references and sources for information and data.

The changes in this proposed rulemaking would not have an adverse impact on safety because flightcrew members or inspectors would continue to be able to identify and ensure the manual or appropriate part is up-to-date. Likewise, the proposed changes to manual accessibility to these operators would have no adverse impact on safety because flight, ground and maintenance personnel would have access to the necessary parts of the manual wherever these operators conducts their operations.

In addition, the FAA has determined no adverse safety implication would result from the proposal for flightcrews and other personnel because such personnel are required to have access to parts of the manual that are appropriate to their assigned duties when they are performing those duties. This proposed rule alone would not result in new logistical issues related to connectivity because much of the current baseline maintenance activities rely on connectivity. In addition, as discussed in the ARAC report, in the unlikely event that connectivity is problematic or the on-ground electronic means is interrupted, maintenance activities would temporarily halt. While this may affect operations, it would ensure that no adverse effect on safety occurs. The FAA invites comments on these findings.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) of 1980, Public Law 96–354, 94 Stat. 1164 (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857, Mar. 29, 1996) and the Small Business Jobs Act of 2010 (Pub. L. 111–240, 124 Stat. 2504, Sept. 27, 2010), requires Federal agencies to consider the effects of the regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and 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.

This proposal would remove the requirement to have the date of last revision on each page concerned, as it applies to parts 91K, 121, 125, and 135 operators using electronic manuals and add a separate requirement that allows operators using electronic manuals flexibility in displaying the date of last revision, while maintaining the requirement for operators using paper manuals. This proposed rulemaking would also revise the current requirement to carry appropriate parts of the manual aboard airplanes for these operators. As a result, this proposal would provide operators with flexibility regarding how flight, ground, and maintenance personnel access the appropriate parts of the manual. The proposed rulemaking, therefore, would enable these operators to use electronic manuals efficiently and provide access to the manual information in a manner that reflects current technological capabilities.

The proposed rulemaking would not result in additional costs to affected operators. The proposed rulemaking does not mandate the use of an electronic format for manuals. Rather, the proposal would provide flexibility for the efficient use of electronic manuals. Such flexibility may reduce administrative costs of maintaining and providing manual accessibility to these operators. In addition, the FAA estimates that some operators would not incur savings from this proposed rule because they might currently benefit from these flexibilities.

Therefore, as provided in 5 U.S.C. 605(b), the head of the FAA certifies that this proposed rulemaking would not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

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

[21] ARAC Input to Support Regulatory Reform of Aviation Regulations-ARAC Addendum Report at 74 (Sept. 12, 2017), *available at https://www.faa.gov/regulations_policies/rulemaking/committees/documents/media/Phase%202%20Report_Final%20Recommendations_Post%20ARAC%20Mt_Sept%2018%20(1).pdf.*

[22] It is unclear if this estimate is net of incremental costs that would occur due to this proposal and does not include costs that would result regardless of this change.

[23] At the time of writing, there were 64 active part 121 certificate holders (data accessed January 14, 2022).

U.S. standards. The FAA has assessed the potential effect of this proposed rulemaking and determined that it would have only a domestic impact and therefore would not create obstacles to the foreign commerce of the United States.

D. Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of Federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal government having first provided the funds to pay those costs. The FAA determined that the proposed rulemaking would not result in the expenditure of $158,000,000 or more by State, local, or tribal governments, in the aggregate, or the private sector, in any one year.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule would not include any new requirement for information collection or changes to existing information collections associated with this proposed rule. The existing information collection associated with all part 121 manual requirements was approved under OMB control number 2120–0008, Part 121 Operating Requirements: Domestic, Flag, and Supplemental Operations. The information collection estimates the cost for the original manual for original certification, and the cost of manual revisions. The information collection attributes the burden associated with manual revision to § 121.133 and does not attribute any burden to § 121.139. The FAA has determined this proposed rulemaking would not require any adjustment in the estimate of public or government burden under the Paperwork Reduction Act.

The existing information collection associated with all part 135 manual requirements was approved under OMB control number 2120–0039, Part 135—Operating Requirements: Commuter and On-demand Operations and Rules Governing Persons on Board such Aircraft. This collection attributes the burden with manuals to § 135.21. The FAA has determined this proposed rule would not require any adjustment in the estimate of public or government burden under the Paperwork Reduction Act.

The existing information collection associated with all part 125 manual requirements was approved under OMB control number 2120–0085, Certification and Operations: Airplanes with Seating Capacity of 20 or More Passenger Seats or Maximum Payload of 6,000 Pounds or More—14 CFR part 125. This collection associates the burden with manuals to § 125.71. The FAA has determined this proposed rulemaking would not require any adjustment in the estimate of public or government burden under the Paperwork Reduction Act.

The existing information collection associated with all 14 CFR part 91 subpart K (91K) was approved under OMB control number 2120–0684, Fractional Ownership Programs. This collection attributes the burden with manuals to § 91.1023. The FAA has determined this proposed rulemaking would not require any adjustment in the estimate of public or government burden under the Paperwork Reduction Act.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed ICAO Standards and Recommended Practices, and identified no differences with any standards and recommended practices.

G. Environmental Analysis

FAA Order 1050.1F (Jul. 16, 2015) identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 5–6.6f for regulations and involves no extraordinary circumstances.

VI. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this proposed rulemaking under the principles and criteria of Executive Order 13132, Federalism. The Agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government and therefore, would not have federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rulemaking under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. The Agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

C. Executive Order 13609, International 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 FAA has analyzed this action under the policies and agency responsibilities of Executive Order 13609, and has determined that this action would have no effect on international regulatory cooperation.

VII. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The Agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The Agency may

change this proposal in light of the comments it receives.

B. Confidential Business Information

Confidential Business Information (CBI) is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this 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 the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

C. Electronic Access and Filing

A copy of this notice of proposed rulemaking, all comments received, any final rule, and all background material may be viewed online at *https://www.regulations.gov* using the docket number listed above. A copy of this proposed rule will be placed in the docket. Electronic retrieval help and guidelines are available on the website. It is available 24 hours each day, 365 days each year. An electronic copy of this document may also be downloaded from the Office of the Federal Register's website at *https://www.federalregister.gov* and the Government Publishing Office's website at *https://www.govinfo.gov*. A copy may also be found at the FAA's Regulations and Policies website at *https://www.faa.gov/regulations_policies.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW, Washington, DC 20591, or by calling (202) 267–9677. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed in the electronic docket for this rulemaking.

List of Subjects

14 CFR Part 91

Air carriers, Air taxis, Aircraft, Airports, Aviation safety, Charter flights, Freight, Reporting and recordkeeping requirements, Transportation.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter I of title 14, Code of Federal Regulations as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40101, 40103, 40105, 40113, 40120, 44101, 44111, 44701, 44704, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, 47534, Pub. L. 114–190, 130 Stat. 615 (49 U.S.C. 44703 note); articles 12 and 29 of the Convention on International Aviation (61 Stat. 1180), (126 Stat. 11).

■ 2. Amend § 91.1023 by revising paragraphs (f) and (g); removing paragraph (h); and redesignating paragraph (i) as paragraph (h). The revisions read as follows:

§ 91.1023 Program operating manual requirements.

* * * * *

(f) The program manager must ensure the appropriate parts of the manual are accessible to flight, ground, and maintenance personnel at all times when such personnel are performing their assigned duties.

(g) The information and instructions contained in the manual must be displayed clearly and be retrievable in the English language.

* * * * *

■ 3. Amend § 91.1025 by revising the introductory text to read as follows:

§ 91.1025 Program operating manual contents.

Each program operating manual accessed in paper format must display the date of last revision on each page. Each program operating manual accessed in electronic format must display the date of last revision in a manner in which a person can immediately ascertain it. Unless otherwise authorized by the Administrator, the manual must include the following:

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 4. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95 126 Stat 62 (49 U.S.C. 44732 note); Pub. L. 115–254, 132 Stat 3281 (49 U.S.C. 44903 note).

■ 5. Amend § 121.135 by revising paragraphs (a) introductory text and (a)(3) to read as follows:

§ 121.135 Manual Contents.

(a) Each manual required by § 121.133 must:

* * * * *

(3) If accessed in paper format, display the date of last revision on each page; if accessed in electronic format, display the date of last revision in a manner in which a person can immediately ascertain it; and

* * * * *

■ 6. Revise § 121.139 to read as follows:

§ 121.139 Manual accessibility: Supplemental operations.

Each certificate holder conducting supplemental operations must ensure the appropriate parts of the manual are accessible to flight, ground, and maintenance personnel at all times when such personnel are performing their assigned duties. The information and instructions contained in the manual must be displayed clearly and be retrievable in the English language.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE; AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 7. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40113, 44701–44702, 44705, 44710–44711, 44713, 44716–44717, 44722.

■ 8. Amend § 125.71 by revising paragraph (f) to read as follows:

§ 125.71 Preparation.

* * * * *

(f) The information and instructions contained in the manual must be displayed clearly and be retrievable in the English language.

* * * * *

■ 9. Amend § 125.73 by revising the introductory text to read as follows:

§ 125.73 Contents.

Each manual accessed in paper format must display the date of last revision on each page. Each manual accessed in electronic format must display the date of last revision in a manner in which a person can immediately ascertain it. The manual must include:

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 10. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 41706, 40113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722, 44730, 45101–45105; Pub. L. 112–95, 126 Stat. 58 (49 U.S.C. 44730).

■ 11. Amend § 135.21 by revising paragraphs (f) and (g); and removing paragraph (h). The revisions read as follows:

§ 135.21 Manual requirements.

* * * * *

(f) The certificate holder must ensure the appropriate parts of the manual are accessible to flight, ground, and maintenance personnel at all times when such personnel are performing their assigned duties.

(g) The information and instructions contained in the manual must be displayed clearly and be retrievable in the English language.

■ 12. Amend § 135.23 by revising the introductory text to read as follows:

§ 135.23 Manual contents.

Each manual accessed in paper format must display the date of last revision on each page. Each manual accessed in electronic format must display the date of last revision in a manner in which a person can immediately ascertain it. The manual must include:

* * * * *

Issued in Washington, DC, under authority provided by 49 U.S.C. 106(f), 106(g), and 44701(a)(5).

Robert C. Carty,

Deputy Executive Director, Flight Standards Service.

[FR Doc. 2022–14814 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR part 1223

[Docket No. CPSC–2013–0025]

Notice of Availability and Request for Comment: Revision to the Voluntary Standard for Infant and Cradle Swings

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of availability and request for comment.

SUMMARY: The U.S. Consumer Product Safety Commission's (Commission or CPSC) mandatory rule, Safety Standard for Infant Swings, incorporates by reference ASTM F2088–21, Standard Consumer Safety Specification for Infant and Cradle Swings. The Commission has received notice of a revision to this incorporated voluntary standard. CPSC seeks comment on whether the revision improves the safety of the consumer product covered by the standard.

DATES: Comments must be received by July 28, 2022.

ADDRESSES: Submit comments, identified by Docket No. CPSC–2013–0025, by any of the following methods:

Electronic Submissions: Submit electronic comments to the Federal eRulemaking Portal at: *https://www.regulations.gov.* Follow the instructions for submitting comments. CPSC typically does not accept comments submitted by electronic mail (email), except as described below. CPSC encourages you to submit electronic comments by using the Federal eRulemaking Portal.

Mail/hand delivery/courier/confidential Written Submissions: Submit comments by mail, hand delivery, or courier to: Division of the Secretariat, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; telephone: (301) 504–7479. If you wish to submit confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public, you may submit such comments by mail, hand delivery, or courier, or you may email them to: *cpsc-os@cpsc.gov.*

Instructions: All submissions must include the agency name and docket number. CPSC may post all comments without change, including any personal identifiers, contact information, or other personal information provided, to: *https://www.regulations.gov.* Do not submit through this website: confidential business information, trade secret information, or other sensitive or protected information that you do not want to be available to the public. If you wish to submit such information, please submit it according to the instructions for mail/hand delivery/courier/confidential written submissions.

Docket: For access to the docket to read background documents or comments received, go to: *https://www.regulations.gov,* and insert the docket number, CPSC–2013–0025, into the ''Search'' box, and follow the prompts.

FOR FURTHER INFORMATION CONTACT: Carlos Torres, Project Manager, Division of Mechanical and Combustion Engineering, U.S. Consumer Product Safety Commission, 5 Research Place, Rockville, MD 20850; telephone: (301) 987–2504; email: *ctorres@cpsc.gov.*

SUPPLEMENTARY INFORMATION: Section 104(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to adopt mandatory standards for durable infant or toddler products. 15 U.S.C. 2056a(b)(1). Mandatory standards must be ''substantially the same as'' voluntary standards, or may be ''more stringent'' than voluntary standards, if the Commission determines that more stringent requirements would further reduce the risk of injury associated with the products. *Id.* Mandatory standards may be based, in whole or in part, on a voluntary standard.

Pursuant to section 104(b)(4)(B) of the CPSIA, if a voluntary standards organization revises a standard that has been adopted, in whole or in part, as a consumer product safety standard under CPSIA section 104, it must notify the Commission. The revised voluntary standard then shall be considered to be a consumer product safety standard issued by the Commission under section 9 of the Consumer Product Safety Act (15 U.S.C. 2058), effective 180 days after the date on which the organization

notifies the Commission (or a later date specified by the Commission in the **Federal Register**) unless, within 90 days after receiving that notice, the Commission responds to the organization that it has determined that the proposed revision does not improve the safety of the consumer product covered by the standard, and therefore, the Commission is retaining its existing mandatory consumer product safety standard. 15 U.S.C. 2056a(b)(4)(B).

Under this authority, in 2012 the Commission issued a mandatory safety rule for infant swings. The rulemaking created 16 CFR part 1223, which incorporated by reference ASTM F2088–12a, Standard Consumer Safety Specification for Infant Swings. 77 FR 66703 (Nov. 7, 2012). The mandatory standard included performance requirements and test methods, as well as requirements for warning labels and instructions, to address hazards to children. Since promulgation of the final rule, ASTM has revised the voluntary standard for infant swings six times, and the Commission has issued three direct final rules to update the mandatory standard for infant swings to incorporate by reference the latest version of ASTM F2088:

- On June 24, 2013, the Commission published a direct final rule to update part 1223 to reflect incorporation of ASTM F2088–13, with no modifications (78 FR 37706).
- On January 19, 2021, the Commission published a direct final rule to update part 1223 to reflect incorporation of ASTM F2088–20, with no modifications (86 FR 4961).
- On October 28, 2021, the Commission published a direct final rule to update part 1223 to reflect incorporation of ASTM F2088–21, with no modifications (86 FR 59609).

In May 2022, ASTM published a revised version of the incorporated voluntary standard. On July 05 2022, ASTM notified the Commission that it had approved and published the revised version of the voluntary standard. CPSC staff is assessing the revised voluntary standard to determine, consistent with section 104(b)(4)(B) of the CPSIA, its effect on the safety of consumer products covered by the standard. The Commission invites public comment on that question to inform staff's assessment and any subsequent Commission consideration of the revisions in ASTM F2088–22.[1]

The existing voluntary standard and the revised voluntary standard are available for review in several ways. ASTM has provided on its website (*https://www.astm.org/CPSC.htm*), at no cost, a read-only copy of ASTM F2088–22 and a red-lined version that identifies the changes made to ASTM F2088–21. Likewise, a read-only copy of the existing, incorporated standard is available for viewing, at no cost, on the ASTM website at: *https://www.astm.org/READINGLIBRARY/.* Interested parties can also download copies of the standards by purchasing them from ASTM International, 100 Barr Harbor Drive, P.O. Box C700, West Conshohocken, PA 19428–2959; phone: 610–832–9585; *https://www.astm.org.* Alternatively, interested parties can schedule an appointment to inspect copies of the standards at CPSC's Division of the Secretariat, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, telephone: 301–504–7479; email: *cpsc-os@cpsc.gov.*

Comments must be received by July 28, 2022. Because of the short statutory time frame Congress established for the Commission to consider revised voluntary standards under section 104(b)(4) of the CPSIA, CPSC will not consider comments received after this date.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–15010 Filed 7–13–22; 8:45 am]

BILLING CODE 6355–01–P

[1] The Commission voted (4–0–1) to approve this document. Chair Hoehn-Saric, Commissioners Baiocco, Feldman, and Boyle voted to approve publication of the document as drafted. Commissioner Trumka did not vote.

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 8

RIN 2900–AR53

National Service Life Insurance—Veterans Affairs Life Insurance (VALife) Program Amendments

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend its regulations that govern National Service Life Insurance (NSLI), among other things, to accomplish the following: implement provisions contained in legislation that authorized a new program of insurance; clarify which individuals are eligible to take actions on an insurance policy; elucidate on various provisions regarding coverage and benefits under the new insurance program; and state which individuals are ineligible to benefit from the unlawful and wrongful killing of a veteran policyholder.

DATES: Comments must be received on or before September 12, 2022.

ADDRESSES: Comments may be submitted through *www.regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AR53—National Service Life Insurance—Veterans Affairs Life Insurance (VALife) Program Amendments.'' Comments received will be available at *regulations.gov* for public viewing, inspection or copies.

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

SUPPLEMENTARY INFORMATION: Section 1922B of title 38, United States Code, requires VA to issue policies under a new program of veterans' life insurance beginning on January 1, 2023. Consistent with 38 U.S.C. 1922B and other statutes in the NSLI subchapter (38 U.S.C. 1901–1929), VA proposes to implement this new program of insurance by amending 38 CFR part 8 as set forth below.

1. Definition of Part 8 Terms

Guardian

Current 38 CFR 8.0(e) defines the term ''guardian'' to mean ''any representative certified by the appropriate Veterans Service Center Manager, under [38 CFR 13.55], to receive benefits in a fiduciary capacity on behalf of the insured or the beneficiary, or to take the actions listed in [38 CFR] 8.32.'' We note that § 13.55 was removed in 2018, *see* 83 FR 32716, 32738 (July 13, 2018), but current § 8.0(e) essentially refers to a VA-appointed fiduciary, as defined in current § 13.20 (defining the term ''fiduciary'' as ''an individual or entity appointed by VA to receive VA benefits on behalf of a beneficiary for the use and benefit of the beneficiary and the beneficiary's dependents''). The current definition of ''guardian,'' therefore, only allows a VA-appointed fiduciary to take the actions that are enumerated in § 8.32. Some of these actions include applying for a life insurance policy, reinstating a lapsed policy, and cash surrendering a policy. 38 CFR 8.32(a), (b), (f). Private insurers allow state-appointed guardians and attorneys-in-fact who hold power of attorney for an individual as their principal to take these same actions. VA proposes to revise § 8.0(e) to include within the

definition of the term ''guardian,'' not only VA-appointed fiduciaries, but also state-appointed guardians and conservators, as well as attorneys-in-fact (*i.e.,* persons holding power of attorney). However, VA also proposes to clarify that if a VA-appointed fiduciary and either a state-appointed guardian/conservator or attorney-in-fact are not the same individual and both attempt to take conflicting actions on an incompetent insured's policy, the VA-appointed fiduciary shall have the exclusive authority to take actions on the policy. In that scenario, VA would not allow the state-appointed guardian/conservator or attorney-in-fact to take actions on the insurance policy unless VA removes the policyholder's fiduciary or the state-appointed guardian/conservator or attorney-in-fact is appointed as the VA fiduciary. These amendments would align VA procedures with commercial insurance practices and would afford those caring for incompetent insureds—whether they are VA-appointed fiduciaries, state-appointed guardians/conservators, or attorneys-in-fact—greater authority over VA life insurance actions. The amendments would also resolve potential conflicts between a VA-appointed fiduciary and either a state-appointed guardian/conservator or an attorney-in-fact.

Veterans' Affairs Life Insurance (VALife)

VA proposes to add a new paragraph (f) to 38 CFR 8.0 that would define the term ''Veterans' Affairs Life Insurance (VALife)'' to mean ''insurance that is issued under section 1922B of title 38 U.S.C.'' The title of the legislation that created VALife, ''Modernization of Service-Disabled Veterans Insurance,'' and its statutory heading in section 1922B, ''Service-Disabled Veterans Insurance,'' are similar to the name of VA's existing life insurance program for service-disabled veterans, which Congress renamed ''Legacy Service-Disabled Veterans' Insurance'' when it authorized the creation of VALife. *See* 38 U.S.C. 1922; Public Law 116–315, Title II, § 2004(b)(1), (c)(1) (2021). VA has issued policies for Legacy Service-Disabled Veterans' Insurance, formerly known as Service-Disabled Veterans' Insurance (SDVI), since 1951 and will continue to provide such insurance coverage even after it closes to new issues on December 31, 2022. *See* 38 U.S.C. 1922(d)(1) (''The Secretary may not accept any application by a Veteran to be insured under this section after December 31, 2022.''). Policyholders could be confused by the similarities in program names and legislative and statutory headings. For purposes of clarity, VA proposes to define VALife to mean the new program of life insurance authorized by 38 U.S.C. 1922B to distinguish it from the renamed SDVI program.

Application for Insurance Issued Under 38 U.S.C. 1922B

VA would require veterans applying for VALife to submit an application online or through another medium prescribed by the Secretary. Therefore, VA proposes to add a new paragraph (g) to § 8.0 that would define an application for VALife as a properly completed application form submitted online or through another medium prescribed by the Secretary. *Cf.* 84 FR 138, 139 (Jan. 18, 2019) (defining a ''claim'' for benefits under 38 CFR part 3); *see also, e.g., Veterans Justice Grp., LLC* v. *Sec'y of Veterans Affairs,* 818 F.3d 1336, 1350 (Fed. Cir. 2016) (holding that 38 U.S.C. 5101(a)(1) affirmatively grants the Secretary authority to prescribe the forms of application by claimants).

Beneficiary

VA proposes to define the term ''beneficiary'' that is contained in 38 U.S.C. 1922B(e) to include both principal and contingent beneficiaries. Although section 1922B(e) refers broadly to ''a beneficiary,'' we interpret that reference to include both principal and contingent beneficiaries because both commercial industry insurers and all existing Government life insurance programs allow insureds to name both types of beneficiaries. In the event that the insured has designated a contingent beneficiary, and the principal beneficiary does not file a claim, predeceases the insured, or is barred from receiving payment by operation of the slayer's rule, then the contingent beneficiary will be paid before an alternate beneficiary in the order of precedence is eligible to file a claim and receive payment.

2. Effective Date for an Insurance Policy Issued Under 38 U.S.C. 1922(a) or 1922B

Current 38 CFR 8.1(b) states that the effective date of an insurance policy that is issued under 38 U.S.C. 1922(a) is the date that a valid application and premium payment are delivered to VA. VA proposes to amend the heading of current 38 CFR 8.1 to clarify that insurance policies issued under VALife would have the same effective date as policies issued under SDVI. This amendment is consistent with the longstanding VA practice of determining the effective date of coverage for other Government life insurance programs based on the delivery of an application and an initial premium payment. However, we propose to revise § 8.1(a) to clarify that benefits due under an SDVI policy are payable any time after the effective date, but benefits due under a VALife policy are payable any time two years after the effective date.

VA also proposes to add a note 3 to current paragraph (b) that would state that when veterans apply for insurance coverage through an electronic medium, the date of delivery of the premium payment shall be the date of the valid authorization of the premium payment. The note would also state that in cases where the authorization does not result in the required premium payment because there were insufficient funds to cover the full initial premium amount, the delivery date of the premium payment shall be the date that the full initial premium amount is received by VA.

Current paragraph (c) provides three different options for SDVI policyholders to choose as an effective date other than the date of delivery described in paragraph (b). VA proposes to clarify that the effective date options for SDVI would not be available for VALife, and, therefore, VA would amend paragraph (c) to state that it does not apply to VALife.

3. Provisions During Waiting Period

Section 1922B(c)(3)(A) states that if a veteran dies during the two-year period described in paragraph (2), the Secretary shall pay to the beneficiary of the veteran the amount of premiums paid by the veteran under this section, plus interest. VA proposes to add a new paragraph (e) to current 38 CFR 8.2 to explain that if a veteran enrolls in VALife for an amount less than the statutory maximum and elects to apply for additional coverage at a later date and dies before completing the two-year waiting period for the additional VALife coverage amount, the beneficiary shall be refunded premiums that were paid for the additional VALife coverage, plus interest, in accordance with 38 U.S.C. 1922B(c)(3)(A). VA also proposes to explain in new paragraph (e) that if an insured surrenders or cancels a VALife policy during this same two-year period, the United States would not return to the insured the premiums that were paid to purchase the coverage. VA's proposal is consistent with the practice of commercial insurers, as comparable permanent insurance policies do not return the full amount of premiums that an insured pays when the insured surrenders policy coverage during the policy's waiting and enrollment period.

4. Calculation of Time Period and Veteran's Age

Current § 8.6 establishes the rules for calculating the time period for applying and reinstating life insurance coverage and paying premiums. VA proposes to revise the title of § 8.6 to read ''Calculation of Time Period; Veteran's Age,'' designate the current text as paragraph (a), and make some technical edits to the text in re-designated paragraph (a). Section 1922B(a)(3)(A) requires that veterans apply for VALife coverage prior to age 81, except in limited circumstances described in subparagraph (B). VA proposes to add new paragraph (b) to § 8.6 to state as follows: ''For VALife, the premium will be determined using the age of the veteran at his or her nearest birthday on the effective date of the policy.'' If the veteran's next birthday is within six months of the effective date of the policy, his or her premium will be calculated at one year older than the current age. If the veteran's birthday is more than six months after the effective date of the policy, his or her current age will be used to calculate the premium. For example, if the veteran's birthday is February 16, 1980, and the effective date of the policy is June 1, 2022, the premium age is 42. However, if the same veteran's policy's effective date is December 1, 2022, the premium age is 43. When VA developed VALife, VA actuaries established the premium table for the insurance program using this standard because it is consistent with commercial life insurance practices and with VA's currently administered programs. However, VA proposes, for the purposes of determining a veteran's eligibility for insurance under section 1922B(a)(3), to use the age of the veteran at his or her last birthday prior to application because it would provide a veteran approaching age 81 with additional time to elect insurance coverage and still be consistent with the VALife statute (38 U.S.C. 1922B(a)(3)(B)). VA proposes to add a new paragraph (c) to make this clarification. Although these proposed amendments contain different standards, it is common in the private insurance market for the term ''age'' to have a variety of meanings for insurance calculations (*see* 12A Couch on Ins. § 179:13, n.1.), and VA is explaining in this proposed rulemaking how it would calculate the insured's age for different purposes.

VA also proposes to add a new paragraph (d) that would clarify under what conditions a veteran who is beyond age 81 would be eligible to receive VALife coverage. The VALife statute states that ''[t]he Secretary may not grant insurance to a veteran . . . unless . . . the veteran submits the application for such insurance before the veteran attains 81 years of age [or] . . . with respect to a veteran who has attained 81 years of age . . . the veteran filed a claim for compensation under chapter 11 of this title before attaining such age . . . [and] based on such claim, and after the veteran attained such age, the Secretary first determines that the veteran has a service-connected disability.'' 38 U.S.C. 1922B(a)(3). VALife was created to replace SDVI, and under SDVI, a veteran can be granted insurance if he or she applies within two years following an initial service-connection determination for any disability. 38 U.S.C. 1922(a). However, eligibility for SDVI is not restricted to the two-year period following the veteran's first service-connection determination. VAOPGCPREC 77–90 (finding of service connection for a disability on a secondary basis establishes a new period for filing an application for SDVI). Although veterans are not eligible for SDVI by reason of an increase in a rating, *see id.,* a grant of individual unemployability under 38 CFR 4.18, or a finding of incompetency under 38 CFR 3.353, the two-year period to apply for SDVI is not limited by age, and a veteran who receives a grant of service connection for a new and different disability becomes eligible again to apply for SDVI. Consistent with Congressional intent in allowing issuance of SDVI coverage at advanced ages following an initial determination of service connection for a disability, VA proposes to allow any veteran who applies for service connection for a disability, either on a primary or secondary basis, before attaining age 81 but receives an initial grant on that claim after attaining age 81 to apply for VALife if the veteran otherwise meets the criteria of 38 U.S.C. 1922B(a)(3)(B). For example, a veteran who applies for service connection for a disability at age 79, but does not receive an actual grant of service connection on that claim until the age of 82, would have a two-year time period to apply for VALife and would receive full VALife coverage if they paid their premiums throughout the requisite two-year waiting period. VA's interpretation of this section of the VALife statute would encourage participation in VALife and provide life insurance coverage to veterans who are unlikely to be able to purchase life insurance in the private, commercial market due to their age and disabilities.

VA also proposes to limit the issuance of a VALife policy under 38 U.S.C. 1922B(a)(3)(B) to a maximum age of 95. This proposal aligns the maximum issue age for a VALife policy with the maximum issue age of an SDVI ordinary life policy, as determined by VA in line with common industry practice to ensure financial soundness and based on the 1941 Commissioners Standard Ordinary Table of Mortality, which is referenced in 38 U.S.C. 1922. VALife's guaranteed acceptance whole life coverage most closely mirrors ordinary life policies issued under the SDVI program, which is being closed and replaced with the new program.

5. Reinstatement Period

Current 38 CFR 8.7 allows a policyholder to reinstate coverage within five years of the date of lapse of coverage if the policyholder submits all outstanding premiums and evidence of good health and pays interest on the arrearage if not reinstated within six months from lapse. VA proposes to revise § 8.7(a) to indicate that the paragraph does not apply to VALife policies. In conjunction with that change, VA proposes to add a new paragraph (e) to § 8.7 to state that coverage issued under VALife that lapses for non-payment of premiums may only be reinstated if the former policyholder submits all premiums in arrears from their respective due dates, plus interest, to reinstate the coverage within two years of the date of the lapse and has not yet attained the age of 81. This two-year period is consistent with the two-year enrollment and waiting period from the effective date of a VALife policy until the coverage can pay a death benefit (38 U.S.C. 1922B(c)(2)) and is intended to incentivize policyholders with lapsed policies to reinstate coverage as soon as possible after lapsing. VA believes that a shorter reinstatement period is also warranted because VA would not require policyholders to submit proof of insurability to reinstate coverage. Veterans who do not reinstate VALife coverage within this two-year period would remain eligible to reapply for VALife but would be required to wait two years between their re-enrollment date and the date the full VALife coverage amount takes effect.

VA is proposing in new § 8.7(e) to make the maximum age for reinstatement age 80, which is our publicized maximum issue age for VALife. This is consistent with the practice of the commercial insurance industry, in which most companies do not allow reinstatement beyond the maximum issue age for their products.

While we are allowing issues up to age 95 for VALife, that is only for the category of veterans who applied for service connection for a new condition prior to age 81 but did not receive notification of an initial award for that new condition until after attaining age 81. Given that we are not requiring proof of satisfactory health as a condition for reinstatement, the maximum age limitation, in addition to the two-year time limit after lapse to apply, will mitigate the risk of anti-selection.

For clarity, VA also proposes to revise the heading of § 8.7 from ''Reinstatement of National Service Life Insurance except insurance issued pursuant to section 1925 of title 38 U.S.C.'' to ''Reinstatement.''

6. New Program of Insurance Is Not Participating

Paragraph (a)(3) of 38 CFR 8.10 states that Government life insurance programs issued under 38 U.S.C. 1904(c) and 1922(a) do not pay dividends. VALife is only authorized to issue coverage on a non-participating basis (38 U.S.C. 1922B(a)(5)(A)(i)), which means that the new insurance program would not issue policies that pay dividends to its policyholders. *See* 5 Couch on Ins. § 69:46 n.1 (participating plan provides for a refund of a portion of the premium as a dividend at the end of the policy period). For purposes of clarity, VA proposes to revise paragraph (a)(3) by adding a reference to section 1922B.

7. Surrender of VALife Coverage; Development of VALife Cash Values

VA proposes to clarify that § 8.11(a) and (b), which provides that cash value, paid-up insurance, and extended term insurance, except as provided in § 8.14(b), shall become effective at the completion of the first policy year on certain NSLI plans and explains the process for requesting a cash surrender, respectively, would not apply to VALife.

VA also proposes to amend § 8.11 to add a new paragraph (j) stating that cash values for VALife would be developed using the 1941 Commissioners Standard Ordinary Mortality Table (1941 CSO Table) and an interest rate of 3.5 percent per annum. The 1941 CSO Table is the same mortality basis as that prescribed for cash values in SDVI (38 U.S.C. 1922(a)(1)).

VA would also state in the new paragraph (j) that VA would not be obligated to pay cash value in the event of lapse or surrender during the two-year waiting period prior to VALife coverage becoming payable for a death benefit because cash value does not begin to accrue until the two-year waiting period elapses. Additionally, if an insured enrolls in VALife for an amount less than the statutory maximum and elects to apply for additional coverage at a later date, the cash value on the additional amount of coverage would not begin accruing until the end of the two-year waiting period for the additional coverage. Full coverage would not be in force under VALife until the two-year waiting period has been completed. *See* 38 U.S.C. 1922B(c)(2). And consistent with other life insurance programs currently administered by VA, VA would transfer any premiums paid for coverage that lapses or is surrendered, to the credit of the VALife revolving fund that is established under 38 U.S.C. 1922B(a)(5)(A)(i) to support the financial health of VALife.

VA would also explain in new paragraph (k) the process for an insured to cash surrender a policy and the process to issue the surrender value of the policy to the insured. VA would apply a process similar to cash surrenders under existing policies as explained in § 8.11(b), with the following differences: (1) applications would be primarily through an electronic medium in order to decrease administrative costs; and (2) indebtedness and paid up additions would not apply as the VALife program does not initially plan to provide policy loans and is a non-participating program without dividends. Dividends are required in order to issue paid up additions.

For clarity, VA also proposes to revise the heading of this section from ''Cash value and policy loan'' to ''Cash value.''

8. Policy Loans

Section 1906 of title 38, United States Code, permits VA to establish regulations pertaining to loans. VA has implemented that authority in 38 CFR 8.13, and paragraph (a) of that section requires VA to lend to an insured monies borrowed against the security of the cash value of his or her insurance coverage, subject to the insured meeting various criteria. VALife is designed to be completely self-supporting, unlike other programs of NSLI which receive an annual subsidy to cover excess claims expenses. *See* 38 U.S.C. 1919(a) (authorizing appropriation for NSLI), 1922(a)(5) (authorizing appropriations in part for SDVI). Because VA has determined that it would not be actuarially sound to offer loans under VALife at its inception on January 1, 2023, VA proposes to amend § 8.13 by adding a new paragraph (e) that would state that the United States shall only issues loans to VALife policyholders if VA determines that doing so is administratively and actuarially sound for the VALife Program.

9. Extended Term and Paid-Up Insurance

Under 38 CFR 8.14 and 8.15, insureds who fail to pay premiums do not go into lapse status and instead remain covered under their policies according to the extended term value of their coverage, or their coverage amount is reduced to a level that is consistent with the policyholder's accrued cash value. Both regulations were promulgated to prevent life insurance coverage from lapsing and are consistent with the intent of preventing policyholders from going into lapse status. However, VA proposes to add language to each section stating that, for purposes of VALife, such extended term or reduced paid-up insurance would not be available to veterans during the VALife two-year waiting period. VA also proposes to add language clarifying that as soon as the two-year waiting period ends, VALife policyholders would enjoy the protection of extended term and reduced paid-up insurance coverage that both sections provide to policyholders covered under other Government life insurance programs.

10. Slayer's Rule Exclusion

The Federal common-law slayer's rule is a public policy that precludes killers from benefitting from their victims' deaths. 76 FR 77455 (Dec. 13, 2011). The statutes governing the NSLI programs of life insurance are silent regarding whether a beneficiary who killed the decedent, or a family member of such a beneficiary, may receive the proceeds of the victim's insurance coverage. Some courts have applied the slayer's rule to claims for NSLI proceeds. *Shoemaker* v. *Shoemaker,* 263 F.2d 931 (6th Cir. 1959). However, there are a variety of different requirements for applying the slayer's rule depending on the state where the killing occurred. *See* Annot., 26 A.L.R.2d 987 (1952 & 1998 Supp.); 4 Couch on Ins. § 62:19. Therefore, VA believes it is necessary to establish a uniform Federal rule for applying the slayer's rule to Government life insurance death proceeds for all NSLI policies, including VALife. VA has previously codified a slayer's rule in 38 CFR 9.5 that pertains to the payment of death proceeds under Servicemembers' Group Life Insurance. For purposes of consistency, VA proposes to amend 38 CFR 8.19 to designate the existing text as paragraph (a) and to create a new paragraph (b)

that would state that where a beneficiary has been determined to have intentionally and wrongfully killed the insured, the provisions found in 38 CFR 9.5(e) shall be applied to payment of insurance. Under what is known as the extended slayer's rule, some jurisdictions also disqualify members of a slayer's family, other than individuals also related to the victim, from receiving the proceeds of an insurance policy. 76 FR 77455. Consistent with § 9.5(e)(2), VA proposes to incorporate the extended slayer's rule into 38 CFR 8.19 in order to prevent killers from receiving even the indirect benefits of their wrongdoing by receiving or inheriting, through relatives, the financial benefits of the killing.

11. Eligibility for Those Insured Under 38 U.S.C. 1922(a) to Purchase VALife After December 31, 2025; Increases in VALife Coverage

Veteran policyholders insured under 38 U.S.C. 1922(a) are eligible to maintain their insurance coverage during the initial two-year VALife enrollment period if they apply for VALife between January 1, 2023, and December 31, 2025. 38 U.S.C. 1922(d)(2)(A), (B). Although 38 U.S.C. 1922(d)(3) states that a veteran may not be insured under both programs simultaneously other than as provided by paragraph (2)(B), we interpret subsection (d)(3) to mean that a veteran may not be insured under both programs simultaneously except if a veteran who is insured under SDVI elects to be insured under VALife during the initial two-year enrollment period. Also, neither this statute nor the VALife statute addresses whether a policyholder who is insured under 38 U.S.C. 1922(a) is eligible to apply for VALife after December 31, 2025, if the policyholder surrenders his or her life insurance policy or informs VA that he or she desires to terminate coverage in order to become eligible for VALife. VA proposes to add new § 8.35 to 38 CFR part 8 that would explain the eligibility criteria for those insured under 38 U.S.C. 1922(a) to purchase VALife after December 31, 2025. Veterans would be eligible to purchase VALife coverage upon surrender or cancellation of the policy along with a written statement to VA that the policyholder desires to terminate his or her existing life insurance coverage in order to apply for VALife and initiate the two-year waiting period before VALife will pay a death benefit to the policyholder's beneficiary. This statement would be in a form that is prescribed by the Secretary.

12. Issuance of Coverage Under 38 U.S.C. 1922B Following Additional Elections

Under 38 U.S.C. 1922B(a)(4)(A), a veteran may elect to be insured for between $10,000 and $40,000, in $10,000 increments. VA proposes to add a new § 8.36 to 38 CFR part 8 that would explain that veterans who do not elect the statutory maximum amount of VALife coverage may still apply for additional VALife coverage at a later date, but the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2) must be satisfied before the additional coverage amount of VALife is in force. Allowing veterans to apply for additional VALife coverage would be an important feature of VALife for policyholders, as life circumstances may change, such as marriage or the birth of a child. These life events may create the need for additional coverage. However, the two-year waiting period allows for addressing any adverse selection risks while providing this flexibility to insureds. This is consistent with private, commercial insurance provider practices.

Executive Orders 12866 and 13563

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

Regulatory Flexibility Act

The Secretary hereby certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). This proposed rule would generally be small business neutral as it implements statutory provisions that only allow the United States to issue life insurance coverage to veterans with service-connected disabilities. 38 U.S.C. 1922B(a)(1) (''[T]he Secretary shall carry out a service-disabled veterans insurance program under which a veteran is granted insurance by the United States against the death of such individual occurring while such insurance is in force.''). Although there are statutes in 38 U.S.C. 1901–1988 that allow VA to purchase a large group life insurance policy from a private commercial insurer, those statutory authorities only apply to the Servicemembers' Group Life Insurance Program, which provides life insurance coverage to Service members and their dependents and former Service members, and they do not provide VA with the authority to purchase a group life insurance policy from a private insurer for purposes of providing VALife coverage. As such, the overall impact of this proposed rule would be of no benefit or detriment to small businesses, because these insurance policies would only be issued by the United States to veterans with service-connected disabilities. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

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

Paperwork Reduction Act

This proposed rule includes provisions constituting new collections of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521) that require approval by the Office of Management and Budget (OMB). Accordingly, under 44 U.S.C. 3507(d), VA has submitted a copy of this rulemaking action to OMB for review and approval.

OMB assigns control numbers to collections of information it approves. VA 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. If OMB does not approve the collection of information as requested, VA will immediately remove the provisions containing the collection of

information or take such other action as is directed by OMB.

Comments on the new collections of information contained in this rulemaking should be submitted through *www.regulations.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AR53; National Service Life Insurance—Veterans Affairs Life Insurance (VALife) Program Amendments'' and should be sent within 60 days of publication of this rulemaking. The collections of information associated with this rulemaking can be viewed at: *www.reginfo.gov/public/do/PRAMain.*

OMB is required to make a decision concerning the collections of information contained in this rulemaking between 30 and 60 days after publication of this rulemaking in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the provisions of this rulemaking.

The Department considers comments by the public on new collection of information in—

- Evaluating whether the new collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;
- Evaluating the accuracy of the Department's estimate of the burden of the new collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

The collections of information associated with this rulemaking contained in 38 CFR 8.0(g), 8.7, 8.11, 8.19, 8.35 and 8.36 are described immediately following this paragraph, under their respective title.

Title: Application for Veterans' Affairs Life Insurance (VALife).

OMB Control No: 2900–XXXX (New/TBD).

CFR Provision: 38 CFR 8.0(g) and 8.36.

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 8.0(g) and 8.36 would require individuals applying for or increasing VALife coverage to provide certain information to VA.
- *Description of need for information and proposed use of information:* The information would be used by VA to determine the eligibility of veterans with service-connected disabilities who elect to apply for, or increase, VALife coverage.
- *Description of likely respondents:* Veterans, veterans' VA-appointed fiduciaries, and veterans' state-appointed guardians and custodians and attorneys-in-fact.
- *Estimated number of respondents:* 185,000 annually.
- *Estimated frequency of responses:* One time per application.
- *Estimated average burden per response:* 10 minutes.
- *Estimated total annual reporting and recordkeeping burden:* Based on a projected 185,000 annual respondents and an average burden per response of 10 minutes, VA estimates a total annual reporting and recordkeeping burden of 30,833 hours.
- *Estimated cost to respondents per year:* VA estimates the total information collection burden cost to be $863,632 per year (30,833 burden hours for respondents × $28.01 per hour).*

* To estimate the total information collection burden cost, VA used the Bureau of Labor Statistics (BLS) median hourly wage for hourly wage for ''all occupations'' of $28.01 per hour. This information is available at *https://www.bls.gov/oes/current/oes_nat.htm#13-0000.*

Title: Veterans' Affairs Life Insurance (VALife) Policy Maintenance Form.

OMB Control No: 2900–XXXX (New/TBD).

CFR Provisions: 38 CFR 8.7, 8.11, and 8.19.

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 8.7 would require an individual to use the new form to request reinstatement for VALife. The new collection of information in proposed § 8.11(k) would require an individual to use the new form to surrender the VALife policy and request payment of the cash value. An individual could also use the new form to request beneficiary changes on a VALife policy under proposed § 8.19(a).
- *Description of need for information and proposed use of information:* The information would be used by VA to reinstate a VALife policy or to complete a insured's request to surrender coverage under VALife.
- *Description of likely respondents:* Veterans, veterans' VA-appointed fiduciaries, and veterans' state-appointed guardians and custodians and attorneys-in-fact.
- *Estimated number of respondents:* 26,672 annually.
- *Estimated frequency of responses:* One action per form.
- *Estimated average burden per response:* 5 minutes.
- *Estimated total annual reporting and recordkeeping burden:* Based on a projected 26,672 annual respondents and an average burden per response of 5 minutes, VA estimates a total annual reporting and recordkeeping burden of 2,223 hours.
- *Estimated cost to respondents per year:* VA estimates the total information collection burden cost to be $62,266 per year (2,223 burden hours for respondents × $28.01 per hour).*

* To estimate the total information collection burden cost, VA used the Bureau of Labor Statistics (BLS) median hourly wage for hourly wage for ''all occupations'' of $28.01 per hour. This information is available at *https://www.bls.gov/oes/current/oes_nat.htm#13-0000.*

Title: Veterans' Affairs Life Insurance (VALife) Surrender/Conversion Form.

OMB Control No: 2900–XXXX (New/TBD).

CFR Provisions: 38 CFR 8.35.

- *Summary of collection of information:* The new collection of information in proposed 38 CFR 8.35 would require an individual to confirm their surrender of any current SDVI coverage at the time they apply for VALife.
- *Description of need for information and proposed use of information:* The information would be used by VA to surrender an existing SDVI policy so that a Veteran can apply for VALife.
- *Description of likely respondents:* Veterans, veterans' VA-appointed fiduciaries, and veterans' state-appointed guardians and custodians and attorneys-in-fact.
- *Estimated number of respondents:* 26,672 annually.
- *Estimated frequency of responses:* One action per form.
- *Estimated average burden per response:* 5 minutes.
- *Estimated total annual reporting and recordkeeping burden:* Based on a projected 26,672 annual respondents and an average burden per response of 5 minutes, VA estimates a total annual reporting and recordkeeping burden of 2,223 hours.
- *Estimated cost to respondents per year:* VA estimates the total information

collection burden cost to be $62,266 per year (2,223 burden hours for respondents × $28.01 per hour).*

* To estimate the total information collection burden cost, VA used the Bureau of Labor Statistics (BLS) median hourly wage for hourly wage for ''all occupations'' of $28.01 per hour. This information is available at *https://www.bls.gov/oes/current/oes_nat.htm#13-0000*.

Assistance Listing

The Assistance Listing number and title for the program affected by this document is 64.103, Life Insurance for Veterans.

List of Subjects in 38 CFR Part 8

Life insurance, Veterans.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on June 30, 2022, and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.

For the reasons stated in the preamble, VA is proposing to amend 38 CFR part 8 as set forth below:

PART 8—NATIONAL SERVICE LIFE INSURANCE

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

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

■ 2. Amend § 8.0 by:
■ a. Revising paragraph (e); and
■ b. Adding paragraphs (f), (g), and (h).

The revision and additions read as follows:

§ 8.0 Definitions of terms used in connection with title 38 CFR, part 8, National Service Life Insurance.

* * * * *

(e) *What does the term ''guardian'' mean?* The term *guardian* means any state-appointed guardian or conservator, attorney-in-fact, or VA-appointed fiduciary, as defined in § 13.20, who is responsible for receiving VA benefits in a fiduciary capacity on behalf of the insured or the beneficiary, or to take the actions listed in § 8.32.

Note to paragraph (e): If a VA-appointed fiduciary and either a state-appointed guardian/conservator or attorney-in-fact are not the same individual and both attempt to take conflicting actions on an incompetent insured's policy, the VA-appointed fiduciary shall have the exclusive authority to take actions on the policy.

(f) *What does the term ''Veterans' Affairs Life Insurance (VALife)'' mean?* The term *Veterans' Affairs Life Insurance,* or *VALife* in its abbreviated form, means a policy of insurance that is issued under section 1922B of title 38 U.S.C.

(g) *What does the term ''application for VALife'' mean?* The term *application for VALife* means a properly completed application form submitted online or through another medium prescribed by the Secretary.

(h) *What does the term ''beneficiary'' mean?* The term ''beneficiary'' means a principal or contingent beneficiary designated by the insured.

■ 3. Amend § 8.1 by:
■ a. Revising the heading;
■ b. Revising paragraph (a);
■ c. Adding Note 3 in paragraph (b);
■ d. Removing ''Yes,'' and adding in its place ''For insurance other than VALife,'' in paragraph (c).

The revisions and addition read as follows:

§ 8.1 Effective date for an insurance policy issued under section 1922(a) or 1922B of title 38 U.S.C.

(a) *What is the effective date of the policy?* The effective date is the date policy coverage begins. Benefits due under a policy issued under section 1922(a) are payable any time after the effective date. Benefits due under a policy issued under section 1922B are payable any time two years after the effective date.

(b) * * *

Note 3 to paragraph (b): If you apply for insurance coverage through an electronic medium, the date of delivery of the premium payment will be the date you authorize payment of the initial premium. In cases where the authorization does not result in the required premium payment because there were insufficient funds to cover the full initial premium, the delivery date of the premium payment will be the date your full initial premium is received by VA.

* * * * *

■ 4. Amend § 8.2 by adding paragraph (e) to read as follows:

§ 8.2 Payment of premiums.

* * * * *

(e) If a policyholder enrolls in VALife for an amount less than the statutory maximum and elects to apply for additional coverage at a later date and dies before completing the two-year waiting period for the additional VALife coverage amount, the beneficiary shall be refunded premiums that were paid for the additional VALife coverage, plus interest, in accordance with 38 U.S.C. 1922B(c)(3)(A). If a policyholder surrenders or cancels a VALife policy during the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2) before coverage is in force, the United States shall not return to the policyholder the premiums that were paid to purchase the coverage.

■ 5. Revise § 8.6 to read as follows:

§ 8.6 Calculation of Time Period; Veteran's Age.

(a) If the last day of a time period specified in § 8.2 or § 8.3, or the last day allowed for filing an application for National Service Life Insurance or for applying for reinstatement thereof, or paying premiums due thereon, falls on a Saturday, Sunday, or legal holiday, the time period will be extended to include the following workday.

(b) For VALife, the premium will be determined using the age of the veteran at his or her nearest birthday on the effective date of the policy.

(c) For purposes of determining a veteran's eligibility for VALife under 38 U.S.C. 1922B(a)(3)(A), the age of the veteran at his or her last birthday prior to the date of application will be used.

(d) For purposes of determining a veteran's eligibility for VALife under 38 U.S.C. 1922B(a)(3)(B), with respect to a veteran who has attained 81 years of age, an initial grant of service connection for a new or secondary condition for which the veteran applied for disability compensation before attaining 81 years of age will satisfy the eligibility criteria; however, VA will not grant insurance to such a veteran based on an increase in an existing disability rating, a grant of individual unemployability under 38 CFR 4.18, or a finding of incompetency under 38 CFR 3.353. VA will not issue a VALife policy to a veteran over age 95.

■ 6. Amend § 8.7 by:
■ a. Revising the heading;
■ b. Removing ''Any policy'' and adding in its place ''Subject to paragraph (e), any policy'' in paragraph (a); and
■ c. Adding paragraph (e).

The revisions and addition read as follows:

§ 8. 7 Reinstatement.

* * * * *

(e) Coverage issued under VALife that lapses for non-payment of premiums may only be reinstated if the former policyholder submits all premiums in arrears from their respective due dates, plus interest, to reinstate the coverage within two years of the date of the lapse and has not yet reached age 81.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–XXXX.)

■ 7. Amend § 8.10 by revising paragraph (a)(3) to read as follows:

§ 8.10 How paid.

(a) * * *

(3) Issued under sections 1904(c), 1922(a), and 1922B of title 38 U.S.C.

* * * * *

■ 8. Amend § 8.11 by:

■ a. Revising the heading;

■ b. Adding at the end in paragraph (a) ''This paragraph shall not apply to VALife.'';

■ c. Removing ''Upon'' and adding in its place ''For insurance other than VALife, upon'' in paragraph (b); and

■ d. Adding paragraphs (j) and (k).

The revisions and additions read as follows:

§ 8.11 Cash value.

* * * * *

(j) Cash values that accrue for VALife will be developed using a multiple of the 1941 Commissioners Standard Ordinary Mortality Table and an interest rate of 3.5 percent per annum. Cash values will not accrue and will not be payable until the completion of the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2). If a VALife policy lapses or is surrendered before completion of the two-year waiting period, then any amounts that VA has collected, such as premium payments, shall be returned to the credit of the VALife revolving fund that is established under 38 U.S.C. 1922B(a)(5)(A)(i). If a veteran enrolls in VALife for an amount less than the statutory maximum and elects to apply for additional coverage at a later date, the cash value on the additional amount of coverage would not begin accruing until the end of the two-year waiting period for the additional coverage.

(k) The United States will pay the cash value, in full or in part, of any VALife policy, subject to the limitations in § 8.11(j), to insureds upon request through electronic medium or other method prescribed by the Secretary. Unless otherwise requested by the insured, a surrender will be deemed effective as of the end of the premium month in which the application for cash surrender is delivered to the Department of Veterans Affairs, or as of the date of payment for the cash value, whichever is later.

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–XXXX.)

* * * * *

■ 9. Amend § 8.13 by adding paragraph (e) to read as follows:

§ 8.13 Policy loans.

* * * * *

(e) For VALife, the United States shall only issue policy loans if the Secretary determines that offering loans is administratively and actuarially sound.

■ 10. Amend § 8.14 by adding paragraph (d) to read as follows:

§ 8.14 Provision for extended term insurance—other than 5-year level premium term or limited convertible 5-year level premium term policies.

* * * * *

(d) VALife shall not be extended automatically as term insurance until the insured has paid the required premiums during the two-year waiting period that is imposed by 38 U.S.C. 1922B(c)(2) before VALife coverage is in force.

■ 11. Revise § 8.15 to read as follows:

§ 8.15 Provision for paid-up insurance; other than 5-year level premium term or limited convertible 5-year level premium term policies.

(a) If a National Service Life Insurance policy on any plan other than 5-year level premium term or limited convertible 5-year level premium term plan has not been surrendered for cash, upon written request of the insured and complete surrender of the insurance with all claims thereunder, after the expiration of the first policy year and while the policy is in force under premium-paying conditions, the United States will issue paid-up insurance for such amount as the cash value less any indebtedness, and a charge for administrative cost for insurance issued under 38 U.S.C. 1925, will purchase when applied as a net single premium at the attained age of the insured. For this purpose the attained age is the age on the birthday anniversary nearest to the effective date of the policy plus the number of years and months from that date to the date the paid-up insurance becomes effective. Such paid-up insurance will be effective as of the expiration of the period for which premiums have been paid and earned; and, any premiums paid in advance for months subsequent to that in which the application for paid-up insurance is made shall be refunded to the insured. The paid-up insurance, if eligible to participate in and to receive dividends, shall be with the right to dividends. The insured may at any time surrender the paid-up policy for its cash value or obtain a loan on such paid-up insurance.

(b) The United States shall not issue paid-up insurance under VALife until the insured has paid premiums during the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2) before VALife coverage is in force.

■ 12. Revise § 8.19 to read as follows:

§ 8.19 Beneficiary and optional settlement changes.

(a) The insured shall have the right at any time, and from time to time, and without the knowledge or consent of the beneficiary to cancel or change a beneficiary and/or optional settlement designation. A change of beneficiary or optional settlement to be effective must be made by notice in writing signed by the insured and forwarded to the Department of Veterans Affairs by the insured or designated agent, and must contain sufficient information to identify the insured. A beneficiary designation and an optional settlement selection, but not a change of beneficiary, may be made by last will and testament duly probated. Upon receipt by the Department of Veterans Affairs, a valid designation or change of beneficiary or option shall be deemed to be effective as of the date of execution. Any payment made before proper notice of designation or change of beneficiary has been received in the Department of Veterans Affairs shall be deemed to have been properly made and to satisfy fully the obligations of the United States under such insurance policy to the extent of such payments.

(b) If a beneficiary has been determined to have intentionally and wrongfully killed the insured, the provisions found in 38 CFR 9.5(e) shall be followed.

■ 13. Add § 8.35 to read as follows:

§ 8.35 Eligibility for those insured under 38 U.S.C. 1922(a) to purchase insurance under 38 U.S.C. 1922B after December 31, 2025.

An insured under a Legacy Service Disabled Veterans' Insurance policy shall be eligible to purchase VALife coverage after December 31, 2025, upon cancellation of his or her Legacy Service Disabled Veterans' Insurance policy and surrender of any cash value that his or her coverage has accrued in accordance with 38 CFR 8.11. The policyholder must also submit a statement in a form that is prescribed by the Secretary, which clearly indicates that the policyholder desires to terminate his or her existing life insurance coverage in order to apply for VALife and initiate the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2) before such VALife coverage is in force.

(Authority: 38 U.S.C. 501, 1901–1929, 1981–1988)

(The Office of Management and Budget has approved the information collection

provisions in this section under control number 2900–XXXX.)

■ 14. Add § 8.36 to read as follows:

§ 8.36 Issuance of coverage under section 1922B of title 38 U.S.C. following additional elections.

An insured who elects less than the maximum amount of VALife coverage under 38 U.S.C. 1922B(a)(4)(A) shall remain eligible to purchase additional VALife coverage up to the VALife statutory maximum. Any insured who elects to apply for additional VALife coverage shall be subject to the two-year waiting period imposed by 38 U.S.C. 1922B(c)(2) before such additional VALife coverage is in force.

(Authority: 38 U.S.C. 501, 1901–1929, 1981–1988)

(The Office of Management and Budget has approved the information collection provisions in this section under control number 2900–XXXX.)

[FR Doc. 2022–14942 Filed 7–13–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0412; FRL–9818–01–R9]

Determinations of Attainment by the Attainment Date, California Areas Classified as Serious for the 2008 Ozone National Ambient Air Quality Standards and Marginal for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Nevada County (Western part) and Ventura County areas in California, both classified as Serious for the 2008 ozone National Ambient Air Quality Standards (NAAQS), attained the 2008 ozone NAAQS by the July 20, 2021 attainment date. The EPA is also proposing to determine that six areas in California classified as Marginal for the 2015 ozone NAAQS, attained the 2015 ozone NAAQS by the August 3, 2021 attainment date. These six areas are: Butte County, Calaveras County, San Luis Obispo (Eastern part), Sutter Buttes, Tuolumne County, and Tuscan Buttes. Our proposed determination of attainment is based on the exclusion of exceedances of the 2008 and 2015 ozone NAAQS that occurred on multiple days in 2018 and 2020, because the exceedances are due to exceptional events. We are further proposing to find that, if we finalize these proposed determinations of attainment by the attainment date for the Nevada County (Western part) and Ventura nonattainment areas, then the requirement for the state to have contingency measures for Reasonable Further Progress (RFP) and attainment for the 2008 ozone NAAQS for these areas will no longer apply, because the contingency measures would never be needed given the attainment of the NAAQS. This action, if finalized as proposed, will fulfill the EPA's statutory obligation to determine whether these ozone nonattainment areas attained the NAAQS by the relevant attainment date.

DATES: Comments must be received on or before August 15, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0412, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov.* The EPA may publish any comment received to our public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, Cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.* If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Lawrence, Air Planning Office (AIR–2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; By phone: (415) 972–3407 or by email: *lawrence.laura@epa.gov.*

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

Table of Contents

I. Background

A. Statutory and Regulatory Background for the Proposed Actions

The Clean Air Act (CAA or ''Act'') requires the EPA to establish primary and secondary National Ambient Air Quality Standards (NAAQS or ''standards'') for certain pervasive pollutants that ''may reasonably be anticipated to endanger public health and welfare.'' [1] The primary NAAQS is designed to protect public health with an adequate margin of safety, and the secondary NAAQS is designed to protect public welfare and the environment. The EPA has set standards for six common air pollutants, referred to as criteria pollutants, including ozone (O_3). These standards represent the air quality levels an area must meet to comply with the CAA.

Ozone is a gas created in the troposphere by chemical reactions between volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight. Ground-level ozone can harm human health and the environment. Ozone exposure has been associated with increased susceptibility to respiratory infections, increased medication use by asthmatics, and increased health care visits, emergency department visits, and hospital admissions for individuals with

[1] CAA section 108(a).

respiratory disease. Ozone exposure may also contribute to metabolic diseases, such as diabetes, and premature death, especially in people with heart and lung disease.

In March 2008, the EPA strengthened the ozone NAAQS, establishing primary and secondary 8-hour ozone standards at a level of 0.075 ppm (''2008 ozone NAAQS'' or ''2008 ozone standards'').[2] The numerical level of the NAAQS had previously been set at 0.08 ppm. In October 2015, the EPA further strengthened the primary and secondary eight-hour ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm (''2015 ozone NAAQS'' or ''2015 ozone standards'').[3] Both of these standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed the numerical level of the standard. Section 107(d) of the CAA requires the EPA to designate an area ''nonattainment'' if it is violating the standards or if it has sources contributing to a violation of the standards in a nearby area. The EPA designates areas for each standard separately, and makes determinations of attainment individually for each area and each standard. For ozone standards, the EPA classifies nonattainment areas as ''Marginal,'' ''Moderate,'' ''Serious,'' ''Severe,'' or ''Extreme,'' depending upon ambient air monitoring results calculated as an ozone design value of the area at the time of designation.[4] [5] An ozone nonattainment area with a higher classification is subject to a greater number of, and more stringent, CAA planning and control requirements than lower classification areas, but the state is provided more time to attain the NAAQS.[6]

B. Determination of Attainment or Failure To Attain

The EPA is required to determine whether areas designated nonattainment attained the NAAQS by the applicable attainment date, and to take certain steps for areas that failed to attain.[7] For a concentration-based standard, such as the 2008 and 2015 ozone NAAQS, the determination of attainment or failure to attain is based on a nonattainment area's design value, as described below.

1. 2008 Ozone NAAQS

Under the EPA regulations at 40 Code of Federal Regulations (CFR) part 50, appendix P, the 2008 ozone NAAQS is attained at a monitor site when the design value, (*i.e.,* the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration) does not exceed 0.075 ppm. The data handling convention in Appendix P dictates that concentrations shall be reported in parts per million to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.076 ppm is greater than 0.075 ppm and would exceed the standard, but a design value of 0.0759 is truncated to 0.075 and attains the 2008 ozone NAAQS.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System (AQS) database.[8] Ambient air quality monitoring data for the 3-year period preceding the year of the attainment date (*i.e.,* 2018–2020 for the 2008 ozone NAAQS Serious areas with an attainment date of July 20, 2021) must meet the data completeness requirements in Appendix P.[9] The completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness. Additional information on data handling conventions for the 2008 ozone NAAQS is found in the Technical Support Document (TSD) accompanying this rulemaking.[10]

2. 2015 Ozone NAAQS

Under the EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a site when the design value (*i.e.,* the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration) does not exceed 0.070 ppm. The data handling convention in Appendix P dictates that concentrations shall be reported in ''ppm'' to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a design value of 0.0709 is truncated to 0.070 and attains the 2015 ozone NAAQS.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's AQS database. Ambient air quality monitoring data for the 3-year period preceding the attainment date (*i.e.,* 2018–2020 for the 2015 ozone NAAQS Marginal areas with an attainment date of August 3, 2021) must meet the data completeness requirements in Appendix U.[11] The completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness. Additional information on data handling conventions for the 2015 ozone NAAQS is found in the technical support document (TSD) accompanying this rulemaking.

C. Data Considered for This Proposed Determination

Because the design value is based on three complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date. Accordingly, for these areas in California with attainment dates of July 20, 2021 and August 3, 2021, the areas must show attainment by December 31, 2020. Our proposed determination is therefore based upon the 2018–2020 design value for each area, which is based upon complete, quality-assured and certified ozone monitoring data from calendar years 2018, 2019, and 2020. The data the EPA is using to calculate the 2018–2020 design values for these areas are provided in the accompanying TSD,

[2] 73 FR 16436 (March 27, 2008).

[3] 80 FR 65291 (October 26, 2015).

[4] See CAA section 181(a)(1).

[5] A design value is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The design value for the 2015 ozone and 2008 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The design value is calculated for each air quality monitor in an area and the area's design value is the highest design value among the individual monitoring sites in the area.

[6] See, generally, subpart 2 of part D of title I of the CAA.

[7] CAA section 181(b)(2).

[8] The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, state, local, and tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for nonattainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. Access is through the website at *https://www.epa.gov/aqs.*

[9] 40 CFR part 50, appendix P, section 2.3(b).

[10] Technical Support Document (TSD) Regarding Ozone Monitoring—Data Determinations of Attainment under the 2008 and 2015 8-Hour Ozone National Ambient Air Quality Standards (NAAQS) for Select Areas in California.

[11] See 40 CFR part 50, appendix U, section 4(b).

which can be found in the docket for this rulemaking.

D. Areas Addressed in Proposed Action

This notice includes proposed determinations of attainment by the attainment date for eight areas in California.[12] For the 2008 ozone NAAQS, this proposal addresses the Ventura County area and the Nevada County (Western part) area (or ''Western Nevada County area''), both of which are classified Serious for the 2008 ozone NAAQS, with an attainment date of July 20, 2021. For the 2015 ozone NAAQS, this proposal addresses the Butte County, Calaveras County, San Luis Obispo (Eastern part) (or ''Eastern San Luis Obispo''), Sutter Buttes, Tuloumne County, and Tuscan Buttes areas. These six areas are classified Marginal for the 2015 ozone NAAQS, with an attainment date of August 3, 2021. In separate rulemakings, the EPA has recently proposed determinations of attainment by the attainment date and findings of failure to attain for the 2008 and 2015 ozone NAAQS for other areas in California and nationwide.[13] The EPA omitted some areas in California from the national notices because the California Air Resources Board (CARB) had submitted exceptional events demonstrations for events in 2018 and 2020. The EPA required additional time to review these claimed exceptional events, as the EPA's actions on these demonstrations would affect the areas' design values. These demonstrations and the EPA's evaluation of and action on these demonstrations is discussed in section II.B of this proposed rulemaking.

1. Areas Classified Serious for the 2008 Ozone NAAQS

The Ventura County nonattainment area consists of the main portion of Ventura County (excluding the Channel Islands of Anacapa and San Nicolas Islands), within California's South Central Coast Air Basin. The Western Nevada County area consists of the western portion of Nevada County, within the Mountain Counties Air Basin in northern California. For more information about these areas, see the TSD) for California for designations for the 2008 ozone NAAQS, which is included in the docket for this rulemaking.[14] For the 2008 ozone NAAQS, the Ventura County area and Nevada County (Western part) area were designated nonattainment effective July 20, 2012.[15]

At the time of designation, in a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of each nonattainment area's ozone problem, determined by the area's design value.[16] The Ventura County area was initially classified Serious, with an attainment date of July 20, 2021. The Western Nevada County area was initially classified Marginal, with an initial attainment date of July 20, 2015. Effective June 3, 2016, the EPA determined that the Western Nevada County area had failed to attain the 2008 ozone NAAQS by the July 20, 2015 Marginal attainment date. This finding resulted in the area being reclassified to Moderate nonattainment, with a new attainment date of July 20, 2018.[17] Effective September 23, 2019, the EPA determined that the Western Nevada County area had failed to attain the 2008 ozone NAAQS by the July 20, 2018 Moderate attainment date.[18] This finding resulted in the area being reclassified to Serious nonattainment, with an attainment date of July 20, 2021.

2. Areas Classified Marginal for the 2015 Ozone NAAQS

The Butte County area consists of the entirety of Butte County, in California's Sacramento Valley Air Basin, and areas of Indian country belonging to the Berry Creek Rancheria of Maidu Indians of California, the Enterprise Rancheria of Maidu Indians of California, the Mechoopda Indian Tribe of Chico Rancheria, and the Mooretown Rancheria of Maidu Indians of California. The Calaveras County area consists of the entirety of Calaveras County, in California's Mountain Counties Air Basin, and areas of Indian country belonging to the California Valley Miwok Tribe. The Eastern San Luis Obispo area consists of the eastern portion of San Luis Obispo County, and lies within California's South Central Coast Air Basin. The Sutter Buttes area is a mountaintop area that comprises the area of the Sutter Buttes above 2,000 feet (610 meters) in elevation in Sutter County. The Tuloumne County area consists of the entirety of Tuolumne County, in the Mountain Counties Air Basin, and areas of Indian country belonging to the Chicken Ranch Rancheria of Me-Wuk Indians of California and Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California. The Tuscan Buttes area is a mountaintop area that comprises the area of the Tuscan Buttes above 1,800 feet (549 meters) in elevation, in Tehama County. For more information about these areas, see the Technical Support Document (TSD) for California for designations for the 2015 ozone NAAQS, which is included in the docket for this rulemaking.[19] Effective August 3, 2018, the EPA designated the Butte County, Calaveras County, Eastern San Luis Obispo, Sutter Buttes, Tuloumne County and Tuscan Buttes areas nonattainment for the 2015 ozone NAAQS.[20] The areas were classified Marginal for this standard, and required to attain the 2015 ozone NAAQS as expeditiously as practicable, but no later than three years from the date of designation as nonattainment, *i.e.,* August 3, 2021.[21]

II. Proposed Determinations of Attainment by the Attainment Date

The EPA is proposing this action to fulfill its statutory obligation under CAA section 181(b)(2) to determine whether select ozone nonattainment areas with attainment dates in 2021 attained the standard by their applicable attainment dates. Specifically, we are proposing to determine that the Ventura County and Western Nevada County nonattainment areas attained the 2008 ozone NAAQS by the attainment date of July 20, 2021 and that the Butte County, Calaveras County, Eastern San Luis Obispo, Sutter Buttes, Tuolumne County and Tuscan Buttes areas attained the 2015 ozone NAAQS by the attainment date of August 3, 2021. As discussed in section I.D of this proposed rulemaking, the EPA has addressed proposed determinations for other areas in California and around the country in separate rulemakings. This proposed determination is based on complete, quality-assured, certified data for the three-year period before the attainment date for each area (see design value data presented in Tables 1 and 2 below).

We are also proposing to determine that, if we finalize these proposed determinations of attainment by the attainment date for the Nevada County (Western part) and Ventura

[12] This notice does not address all ozone nonattainment areas in California with attainment dates in 2021. On April 13, 2022, the EPA published proposed determinations of attainment or failure to attain for areas across the country classified Serious for the 2008 ozone standards and Marginal for the 2015 ozone standards (see 87 FR 21842 (April 13, 2022) and 87 FR 21825 (April 13, 2022)), including several areas in California.

[13] 87 FR 21842 (April 13, 2022) and 87 FR 21825 (April 13, 2022).

[14] See Technical Support Document for 2008 Ozone NAAQS Designations: California Area Designations for the 2008 Ozone National Ambient Air Quality Standards.

[15] 77 FR 30088 (May 21, 2012).

[16] 77 FR 30160 (May 21, 2012).

[17] 81 FR 26698 (May 4, 2016).

[18] 84 FR 44238 (August 23, 2019).

[19] See CALIFORNIA: Intended Area Designations for the 2015 Ozone National Ambient Air Quality Standards Technical Support Document (TSD).

[20] 83 FR 25776 (June 4, 2018).

[21] See 40 CFR 51.1303(a).

nonattainment areas, then the requirement for the state to have contingency measures for failure to meet Reasonable Further Progress (RFP) and failure to attain for the 2008 ozone NAAQS will no longer apply, because contingency measures would never be needed given the attainment of the NAAQS. (see section II.D).

A. Determinations of Attainment and the EPA's Analysis of Relevant Air Quality Monitoring Data

The EPA evaluated air quality data to determine if these nonattainment areas attained or failed to attain the 2008 and 2015 ozone NAAQS by their applicable attainment dates. The design values for the 2018–2020 period for the two areas classified Serious for the 2008 ozone NAAQS are shown in Table 1, and the design values for the six areas classified Marginal for the 2015 ozone NAAQS are shown in Table 2.

TABLE 1—2008 OZONE NAAQS SERIOUS NONATTAINMENT AREA EVALUATION SUMMARY [a]

2008 NAAQS nonattainment area	2018–2020 Design value (ppm)
Nevada County (Western part)	0.075
Ventura County	0.075

[a] The data shown exclude exceedances due to exceptional events.≤

TABLE 2—2015 OZONE NAAQS SERIOUS NONATTAINMENT AREA EVALUATION SUMMARY [a]

2015 NAAQS nonattainment area	2018–2020 Design value (ppm)
Butte County	[b] 0.070
Calaveras County	0.069
San Luis Obispo (Eastern part)	0.070
Sutter Buttes	0.070
Tuolumne County	0.070
Tuscan Buttes	0.070

[a] The data shown exclude exceedances due to exceptional events.
[b] The average percent completeness for one of the monitors in Butte County, located in Paradise, CA, is 88 percent due to a power loss caused by a regional California wildfires. Per 40 CFR part 50, Appendix U, 4(c) CARB submitted a request to the Regional Administrator for Region 9 to count missing data for 79 days between November 8, 2018, and January 25, 2019, towards the minimum data completeness requirements. This request was approved and results in data completeness over 90 percent on average over the three-year period of 2018–2020 for the site; therefore, this design value is considered valid. For more information regarding the Paradise monitor data certification and the state's request, see the TSD for this notice and data certification letters included in this docket.

As explained in section I.B, the 2008 ozone NAAQS is met at an ambient monitoring site when the design value for the area does not exceed 0.075 parts per million (ppm). The 2015 ozone NAAQS is met at an ambient monitoring site when the design value for the area does not exceed 0.070 parts per million (ppm). The design values shown in Table 1 show that the Ventura County and Western Nevada County areas have met the 2008 ozone NAAQS. The design values shown in Table 2 show that the Butte County, Calaveras County, Eastern San Luis Obispo County, Sutter Buttes, Tuolumne County and Tuscan Buttes areas have met the 2015 ozone NAAQS. The data the EPA used to calculate the 2018–2020 design values for these areas are provided in the TSD for this action, which can be found in the docket for this rulemaking. Also found in the docket for this rulemaking are design value reports from the EPA's AQS database, and data certification materials from CARB for the relevant years.

B. Exceptional Events Relevant to the EPA's Analysis of Relevant Air Quality Monitoring Data

On March 22, 2007, the EPA adopted a final rule, ''Treatment of Data Influenced by Exceptional Events,'' also known as the Exceptional Events Rule (EER), to govern the review and handling of certain air quality monitoring data for which the normal planning and regulatory processes are not appropriate.[22] On October 3, 2016, the EPA adopted revisions to this rule.[23] Under the EER, the EPA may exclude data from use in determinations of NAAQS exceedances and violations if a state demonstrates that an ''exceptional event'' (EE) caused the exceedance or exceedances.[24] Before the EPA can exclude data from these regulatory determinations, the state must flag the data in the EPA's AQS database, notify the EPA of the state's intent to submit an EE demonstration, and, after public notice and opportunity for comment, submit a demonstration to the EPA to justify the exclusion. The EPA considers the demonstration and concurs or nonconcurs with the state's flag. If the EPA concurs that the exceedance was due to an exceptional event covered under the EER, the data is excluded from regulatory consideration, including from a determination of whether the area attained a NAAQS by its attainment date.

In submittals dated September 3, 2021, September 17, 2021, November 18, 2021, and December 8, 2021, CARB provided documentation for ozone exceedances that occurred at the monitors listed in Tables 3 and 4 below on multiple days in 2018 and 2020, and which the state had flagged as due to wildfire ozone exceptional events.[25]

[22] 72 FR 13560 (March 22, 2007).
[23] 81 FR 68216 (October 3, 2016).
[24] 40 CFR 50.1, 50.14.

[25] See: (1) letter from Michael Benjamin, D. Env., Chief, Air Quality Planning and Science Division, CARB to Elizabeth Adams, Director, Air and Radiation Division, EPA Region 9, dated September 3, 2021, transmitting *Exceptional Events Demonstration for Ozone Exceedances: Northern California July–August 2018 Wildfire Events;* (2) letter from Michael Benjamin, D. Env., Chief, Air Quality Planning and Science Division, CARB to Elizabeth Adams, Director, Air and Radiation Division, EPA Region 9, dated September 17, 2021, transmitting *Exceptional Events Demonstration for*

Continued

These events occurred during the July 26–August 10, 2018 and August 18–October 4, 2020 time periods. A full list of days identified as exceptional events at each monitor is included in Tables 1 and 2 in the TSD for this rulemaking.

TABLE 3—EXCEEDANCES DUE TO EXCEPTIONAL EVENTS—2008 OZONE NAAQS

2008 NAAQS nonattainment area	Monitor	Number of exceedances excluded in 2018	Number of exceedances excluded in 2020
Nevada County (Western part)	Grass Valley (06–057–0005)	11	5
Ventura County	Simi Valley (06–111–2002)	0	5

TABLE 4—EXCEEDANCES DUE TO EXCEPTIONAL EVENTS—2015 OZONE NAAQS

2015 NAAQS nonattainment area	Monitor	Number of exceedances excluded in 2018	Number of exceedances excluded in 2020
Butte County	Paradise (06–007–0007)	11	0
Calaveras County	San Andreas—Gold Strike (06–009–0001)	8	0
San Luis Obispo (Eastern part)	Red Hills (06–079–8005)	5	5
Sutter Buttes	Sutter Buttes (06–101–0004)	9	2
Tuolumne County	Sonora (06–109–0005)	11	3
Tuscan Buttes	Tuscan Butte (06–103–0004)	9	0

The EPA reviewed the documentation submitted by the State and concurred with CARB's determinations that the exceedances identified by CARB in 2018 and 2020 and listed in Tables 1 and 2 in the TSD accompanying this rulemaking were caused by wildfire ozone exceptional events, and that these exceedances meet the criteria for exclusion from regulatory consideration under the EER. Accordingly, the EPA concurred with the exclusion flags for the days flagged in 2018 and 2020 for these areas and is excluding the monitored exceedances associated with these exceptional events from use in determinations of exceedances and violations, including the evaluation of whether the nonattainment areas considered in this notice have attained the relevant ozone NAAQS by the attainment date in accordance with CAA section 181(b)(2)(A).

A concurrence letter notifying CARB of our decision was sent on May 4, 2022.[26] Included with the letter were TSDs setting forth in detail the bases for the EPA's concurrences.[27] The state's demonstrations and the EPA's concurrence letter and accompanying TSDs are included in the docket for this rulemaking. Also included in the docket for this rulemaking are the state's Initial Notification of Intent (INI) documents, notifying the EPA of the state's intent to submit EE demonstrations, and the EPA's responses to the INIs.

For the reasons set forth in the concurrence letter and its enclosures, the EPA is excluding from regulatory consideration data showing exceedances due to exceptional events at the monitoring sites, as summarized below in Tables 3 and 4, in this determination of attainment. For additional information, including a list of each day excluded at each monitoring site, please see the TSD for this rulemaking action and the TSDs accompanying the EPA's May 4, 2022 concurrence letter.

C. Effect of This Proposal: Designation and Classification

If the EPA finalizes these proposed determinations, the areas will remain designated nonattainment, and will retain their current classifications. A determination of attainment by the attainment date does not have the effect of redesignating an area to attainment. Redesignation of an area to attainment requires that an area has met all applicable requirements of CAA section 110 and Part D, and that the area has submitted, and the EPA has approved, a redesignation request and maintenance plan.[28]

D. Effect of This Proposal: Contingency Measures

Based on our proposed finding of attainment by the applicable attainment date, we are also proposing to find that the CAA requirement for a state implementation plan (''SIP'') to include contingency measures to be implemented in the event the area fails to attain (''attainment contingency measures'') or fails to meet reasonable further progress milestones (''RFP contingency measures'') will no longer apply to the Ventura County and Western Nevada County nonattainment areas for purposes of the 2008 ozone NAAQS.

Under CAA section 172(c)(9), attainment contingency measures must be implemented only if the area fails to attain by the attainment date. Therefore, if we finalize the determination that the Ventura County and Western Nevada County nonattainment areas have attained the 2008 ozone standard by the applicable attainment date, then attainment contingency measures for this NAAQS would never be required to be implemented, regardless of whether the areas continue to attain the

Ozone Exceedances: Eastern Portion of San Luis Obispo County, California August 2018 Wildfire Events; (3) letter from Michael Benjamin, D. Env., Chief, Air Quality Planning and Science Division, CARB to Matthew Lakin, Acting Director, Air and Radiation Division, EPA Region 9 dated November 18, 2021, transmitting *Exceptional Events Demonstration for Ozone Exceedances: Northern California 2020 Wildfire Events;* and (4) letter from Michael Benjamin, D. Env., Chief, Air Quality Planning and Science Division, CARB to Matthew Lakin, Acting Director, Air and Radiation Division, EPA Region 9 dated December 8, 2021, transmitting *Exceptional Events Demonstration for Ozone Exceedances: Southern California 2020 Wildfire Events.*

[26] Letter from Elizabeth J. Adams, Director, Air and Radiation Division, U.S. EPA Region IX, to Sylvia Vanderspek, Chief, Air Quality Planning Branch, California Air Resources Board, dated May 4, 2022.

[27] The 16 TSDs associated with this concurrence letter are organized under the heading, ''Technical Support Documents for EPA Concurrence on July 26-August 10, 2018 and August 18-October 4, 2020 O_3 Exceedances in Northern and Southern California as Exceptional Events.''

[28] Memorandum dated September 4, 1992 from John Calcagni, Director, EPA Air Quality Management Division, to Regional Air Directors, titled ''Procedures for Processing Requests to Redesignate Areas to Attainment.''

NAAQS.[29] This proposed finding will not prevent the EPA, in the event that an area subsequently violates the NAAQS, from exercising its authority under the CAA to address violations of the NAAQS.[30]

Additionally, the purpose of the RFP requirements under the CAA is to ensure progress toward attainment of the applicable NAAQS by the applicable attainment date. Consistent with this purpose, under CAA section 182(g), ozone nonattainment areas classified ''Serious'' or higher are required to meet RFP emission reduction ''milestones'' and to demonstrate compliance with those milestones, except when the milestone coincides with the attainment date and the standard has been attained.[31] This specific statutory exemption from milestone compliance demonstration (MCD) submittals for areas that attained by the attainment date indicates that Congress intended that a finding that an area attained the standard—the finding made in a determination of attainment by the attainment date—would serve as a demonstration that RFP requirements for the area have also been met. In other words, if a Serious or above area has attained the NAAQS by the attainment date, then the RFP milestones have been sufficiently achieved. Accordingly, such a finding of attainment by the attainment date would also indicate that RFP contingency measures could not be triggered and are therefore no longer necessary.[32]

On February 28, 2022, the EPA found that California's MCD submittal for Ventura County and Western Nevada County adequately demonstrated that the applicable 2020 milestone for the 2008 ozone NAAQS had been met for these areas.[33] Notably, 2020 is the last applicable milestone prior to the attainment date for areas classified Serious for the 2008 ozone NAAQS. Therefore, if we finalize the determination that the Ventura County and Western Nevada County nonattainment areas have attained the 2008 ozone standard, RFP contingency measures for this NAAQS would never be required to be implemented, regardless of whether the area continues to attain the NAAQS. This proposed finding will not prevent the EPA, in the event that an area subsequently violates the NAAQS, from exercising its authority under the CAA to address violations of the NAAQS.[34]

The state submitted contingency measures as part of the Final 2016 Ventura County Air Quality Management Plan and the Ventura County portion of the 2018 Updates to the California State Implementation Plan, and as part of the 2018 Western Nevada County Ozone Plan, respectively.The EPA will address these measures, as appropriate, in separate actions, taking into consideration this proposed finding of attainment by the applicable attainment date and resulting determination that the attainment and RFP contingency measure requirements are no longer required for these areas for purposes of the 2008 ozone NAAQS.

III. Environmental Justice Considerations

The EPA believes that this proposed action will not have disproportionately high or adverse human health or environmental effects on minority, low income, or indigenous populations. The purpose of this rule is to determine whether two nonattainment areas in California attained the 2008 ozone standard by their Serious area attainment date, and to determine whether six nonattainment areas in California attained the 2015 ozone standard by their Marginal area attainment date. These determinations are required under CAA section 181(b)(2) for purposes of implementing the 2008 and 2015 ozone standards and there are no particular facts or circumstances that would compel the EPA Administrator to consider information beyond the statutory criteria.

IV. Summary of Proposal

For the reasons articulated above, we are proposing to determine that:

- The Ventura County and Western Nevada County nonattainment areas attained the 2008 ozone NAAQS by the July 20, 2021 attainment date;
- The Butte County, Calaveras County, Eastern San Luis Obispo County, Sutter Buttes, Tuolumne County, and Tuscan Buttes nonattainment areas attained the 2015 ozone NAAQS by the August 3, 2021 attainment date; and
- The CAA requirement for the SIP to provide for contingency measures for attainment and RFP will no longer apply to the Ventura County and Western Nevada County nonattainment areas for the 2008 ozone NAAQS.

We note that we are not proposing a redesignation to attainment for any areas. The EPA would consider a redesignation to attainment for these areas following a submittal by the State of a formal redesignation request and maintenance plan.

V. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *https://www2.epa.gov/laws-regulations/laws-and-executive-orders.*

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

This proposed 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 rule does not impose any new information collection burden under the PRA not already approved by the OMB.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities.

D. Unfunded Mandates Reform Act

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

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the

[29] See *Bahr* v. *Regan,* 6 F.4th 1059 (July 28, 2021).

[30] See *id.* at 1085; see also 42 U.S.C. 7407(d)(3).

[31] CAA section 182(g)(2).

[32] See *Matusow* v. *Wheeler,* No. 20–72279 (9th Cir. Apr. 21, 2022).

[33] Letter from Martha Guzman, Regional Administrator, EPA Region IX, to Richard W. Corey, Executive Officer, California Air Resources Board, February 28, 2022.

[34] *See Bahr* at 1085; see also 42 U.S.C. 7407(d)(3).

Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.''

The EPA has identified tribal areas within three of the nonattainment areas covered by this proposed rule, that would be potentially affected by this rule. Specifically, as discussed in section I.D, the Butte County, Calaveras County, and Tuolumne County nonattainment areas addressed in this proposal have tribes located within their boundaries. A full list of impacted tribes is included in section I.D and in the TSD for this action.

The EPA has concluded that the proposed rule may have tribal implications for these tribes for the purposes of Executive Order 13175, but would not impose substantial direct costs upon the tribes, nor would it preempt tribal law. If we finalize the determinations of attainment by the attainment date proposed in this notice, these determinations would also apply on tribal lands within the nonattainment areas. The nonattainment areas, including the tribal lands within the nonattainment areas, would remain designated nonattainment and would retain their existing classifications.

The EPA intends to notify the potentially affected tribes located within the boundaries of the nonattainment areas addressed in this proposal. Because our proposed action, if finalized, would not change the tribe's existing nonattainment designation or classification, we do not intend to offer government-to-government consultation on this proposal, however, we will initiate government-to-government consultation at the request of any of the tribes.

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

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the 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 does not concern an environmental health risk or safety risk.

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

This proposed action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) 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 Population

Executive Order (E.O.) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Upon review, the EPA did not identify any particular facts or circumstances that would indicate this action will have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. Upon review, the EPA did not identify any particular facts or circumstances that would indicate this action will have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations.

Furthermore, with respect to the determinations of whether areas have attained the NAAQS by the attainment date, the EPA has no discretionary authority to address environmental justice in these determinations. The CAA directs that within 6 months following the applicable attainment date, the Administrator shall determine, based on the area's design value as of the attainment date, whether the area attained the standard by that date. CAA section 181(b)(2)(A). Except for any Severe or Extreme area, any area that the Administrator finds has not attained the standard by that date shall be reclassified by operation of law to either the next higher classification or the classification applicable to the area's design value.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements and Volatile organic compounds.

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

Dated: July 8, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–15032 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0584; FRL–9939–01–R9]

Air Quality Implementation Plan; California; Tuolumne County Air Pollution Control District; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Tuolumne County Air Pollution Control District's (TCAPCD or ''District'') portion of the California State Implementation Plan (SIP). This revision governs the District's issuance of permits for stationary sources, and focuses on the preconstruction review and permitting of major sources and major modifications under part D of title I of the Clean Air Act (CAA or ''the Act''). We are taking comments on this proposal and plan to follow with a final action.

DATES: Comments must be received on or before August 15, 2022.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0584 at *https://www.regulations.gov,* or via email to *R9AirPermits@epa.gov*. For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia

submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI and multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets*. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Amber Batchelder, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105; by phone: (415) 947–4174, or by email to *batchelder.amber@epa.gov*.

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

Table of Contents

I. The State's Submittal

A. What rule did the State submit?

Table 1 lists the rule addressed by this proposal, including the date on which it was adopted by the District and the date on which it was submitted to the EPA by the California Air Resources Board (CARB or ''the State''). The TCAPCD is the air pollution control agency for Tuolumne County in California.

TABLE 1—SUBMITTED RULE

Local agency	Rule #	Rule title	Adopted	Submitted
TCAPCD	429	Federal New Source Review	07/06/21	08/03/21

For areas designated nonattainment for one or more National Ambient Air Quality Standards (NAAQS), the applicable SIP must include preconstruction review and permitting requirements for new or modified major stationary sources of such nonattainment pollutant(s) under part D of title I of the Act, commonly referred to as Nonattainment New Source Review (NNSR). The rule listed in Table 1 contains the District's NNSR permit program applicable to new and modified major sources located in areas designated nonattainment for the 1997 and 2015 ozone NAAQS.

On February 3, 2022, the submittal for Rule 429 was deemed by operation of law to meet the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal EPA review.

B. Are there other versions of this rule?

There are no previous versions of Rule 429 in the SIP.

C. What is the purpose of the submitted rule?

Rule 429 is intended to address the CAA's statutory and regulatory requirements for NNSR permit programs for major sources emitting nonattainment air pollutants and their precursors.

II. The EPA's Evaluation

A. What is the background for this proposal?

The EPA's April 2004 designation of Tuolumne County as a nonattainment area for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS) triggered the requirement for the District to develop and submit an NNSR program to the EPA for SIP approval.[1] Although the EPA revoked the 1997 8-hour ozone NAAQS effective April 6, 2015,[2] the NNSR requirements applicable to Tuolumne County based on its designation and classification for the revoked 1997 8-hour ozone NAAQS remain applicable in order to prevent future emissions from new and modified major stationary sources from increasing beyond the levels allowed, based on the area's prior designation and classification for the 1997 ozone NAAQS. Thus, because Tuolumne County was designated and classified as Moderate nonattainment for the 1997 8-hour ozone NAAQS, the District's NNSR program must satisfy the NNSR requirements applicable to Moderate ozone nonattainment areas, including the offset ratios identified in CAA section 182(b)(5).[3] Tuolumne County is also designated and classified as Marginal nonattainment for the 2015 8-hour ozone NAAQS and, therefore, subject to the NNSR requirements applicable to Marginal ozone nonattainment areas.[4] Submission of an NNSR program that satisfies the requirements of the Act and the EPA's regulations for Moderate ozone nonattainment areas, however, would satisfy the NNSR program requirements for Marginal ozone nonattainment areas.[5]

Additional information regarding the District's nonattainment status for each pollutant is included in our Technical Support Document (TSD), which may be found in the docket for this rule.

B. How is the EPA evaluating the rule?

The EPA reviewed Rule 429 for compliance with CAA requirements for: (1) stationary source preconstruction permitting programs as set forth in CAA part D, including CAA sections 172(c)(5) and 173; (2) the review and modification of major sources in accordance with 40 CFR 51.160–51.165 as applicable in Moderate ozone nonattainment areas; (3) the review of new major stationary sources or major modifications in a designated nonattainment area that may have an

[1] CAA section 172(b) and 40 CFR 51.914.

[2] 80 FR 12264, 12265 (March 6, 2015).

[3] The EPA's determination that the Tuolumne County area had attained the 1997 8-hour ozone NAAQS by the applicable attainment date suspended the requirements to submit those SIP elements related to attainment of these NAAQS for so long as the area continues to attain but did not suspend the requirement to submit an NNSR program. 40 CFR 51.918; see also 77 FR 71551 (Dec. 3, 2012) (noting that the EPA's attainment determination does not redesignate the area to attainment or relax control requirements).

[4] 40 CFR 51.1314.

[5] The NNSR requirements applicable to Moderate ozone nonattainment areas are identical to those that apply to Marginal ozone nonattainment areas, except that Moderate nonattainment areas are subject to a more stringent offset ratio than Marginal nonattainment areas. CAA sections 182(a)(2)(C) (requiring permit programs consistent with CAA sections 172(c)(5) and 173 for ozone nonattainment areas), 182(a)(4) (establishing 1.1 to 1 offset ratio for Marginal nonattainment areas), and 182(b)(5) (establishing 1.15 to 1 offset ratio for Moderate nonattainment areas) and 40 CFR 51.165.

impact on visibility in any mandatory Class I Federal Area in accordance with 40 CFR 51.307; (4) SIPs in general as set forth in CAA section 110(a)(2), including 110(a)(2)(A) and 110(a)(2)(E)(i);[6] and (5) SIP revisions as set forth in CAA section 110(l) and 193.[7] [8] Our review evaluated the submittal for compliance with the NNSR requirements applicable to Moderate ozone nonattainment areas, and ensured that the submittal addressed the NNSR requirements for the 1997 and 2015 ozone NAAQS.

C. Does the rule meet the evaluation criteria?

With respect to procedural requirements, CAA sections 110(a)(2) and 110(l) require that revisions to a SIP be adopted by the state after reasonable notice and public hearing. Based on our review of the public process documentation included in the August 3, 2021 submittal of Rule 429, we find that the District has provided sufficient evidence of public notice, opportunity for comment, and a public hearing prior to adoption and submittal of these rules to the EPA.

With respect to the substantive requirements found in CAA sections 172(c)(5) and 173, and 40 CFR 51.160–51.165, we have evaluated Rule 429 in accordance with the applicable CAA and regulatory requirements that apply to NNSR permit programs under part D of title I of the Act for all relevant ozone NAAQS, including the 2015 ozone NAAQS. We find that Rule 429 satisfies these requirements as they apply to sources subject to the NNSR permit program requirements applicable to Moderate ozone nonattainment areas. We have also determined that this rule satisfies the related visibility requirements in 40 CFR 51.307. In addition, we have determined that Rule 429 satisfies the requirement in CAA section 110(a)(2)(A) that requires regulations submitted to the EPA for SIP approval be clear and legally enforceable, and we have determined that the submittal demonstrates, in accordance with CAA section 110(a)(2)(E)(i), that the District has adequate personnel, funding, and authority under state law to carry out these proposed SIP revisions.

Regarding the additional substantive requirements of CAA sections 110(l) and 193, our action will result in a more stringent SIP, while not relaxing any existing provision contained in the SIP. We have concluded that our action would comply with section 110(l) because our approval of Rule 429 will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other CAA applicable requirement. In addition, our approval of Rule 429 will not relax any pre-November 15, 1990 requirement in the SIP, and therefore changes to the SIP resulting from this action ensure greater or equivalent emission reductions of ozone and its precursors in the District. Accordingly, we have concluded that our action is consistent with the requirements of CAA section 193.

III. Proposed Action and Public Comment

As authorized in sections 110(k)(3) and 301(a) of the Act, the EPA is proposing to approve the submitted rule because it fulfills the relevant CAA requirements, and strengthens the SIP. We have concluded that our approval of the submitted rule would comply with the relevant provisions of CAA sections 110(a)(2), 110(l), 172(c)(5), 173, and 193, 40 CFR 51.160–51.165, and 40 CFR 51.307.

If finalized as proposed, our action will be codified through revisions to 40 CFR 52.220 (Identification of plan-in part). In conjunction with the EPA's SIP approval of the District's visibility provisions for sources subject to the NNSR program as meeting the relevant requirements of 40 CFR 51.307, this action would also revise the regulatory provision at 40 CFR 52.281(d) concerning the applicability of the visibility Federal Implementation Plan (FIP) at 40 CFR 52.28 as it pertains to California, to provide that this FIP does not apply to sources subject to review under the District's SIP-approved NNSR program.

We will accept comments from the public on this proposal until August 15, 2022.

IV. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the District rule described in Section I.A. of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and in hard copy at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

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

[6] CAA section 110(a)(2)(A) requires that regulations submitted to the EPA for SIP approval be clear and legally enforceable, and CAA section 110(a)(2)(E)(i) requires that states have adequate personnel, funding, and authority under state law to carry out their proposed SIP revisions.

[7] Per CAA section 110(l), SIP revisions are subject to reasonable notice and public hearing prior to adoption and submittal by states to the EPA. Additionally, CAA section 110(l) prohibits the EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

[8] CAA section 193 prohibits the modification of any SIP-approved control requirement in effect before November 15, 1990 in a nonattainment area unless the modification ensures equivalent or greater emission reductions of the relevant pollutants.

disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: July 7, 2022.

Martha Guzman Aceves,

Regional Administrator, Region IX.

[FR Doc. 2022–15027 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R01–UST–2022–0269; FRL–9580–01–R1]

Connecticut: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Connecticut's Underground Storage Tank (UST) program submitted by the Connecticut Department of Energy and Environmental Protection (CT DEEP). This action is based on EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of Connecticut's State program and to incorporate by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA subtitle I and other applicable statutory and regulatory provisions.

DATES: Send written comments by August 15, 2022.

ADDRESSES: Submit any comments, identified by EPA–R01–UST–2022–0269, by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: beland.andrea@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R01–UST–2022–0269. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the notice for assistance. You can view and copy the documents that form the basis for this codification and associated publicly available materials either through *www.regulations.gov* or at the EPA Region 1 Office, 5 Post Office Square, 1st floor, Boston, MA 02109–3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Andrea Beland, RCRA Waste Management, UST, and Pesticides Section, at (617) 918–1313, before visiting the Region 1 office. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Andrea Beland, (617) 918–1313, *beland.andrea@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Authority: This rule is issued under the authority of Sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: June 30, 2022.

David W. Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2022–14977 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R03–UST–2021–0862; FRL–9625–01–R3]

Delaware: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Solid Waste Disposal Act of 1965, as amended (commonly known as the Resource Conservation and Recovery Act (RCRA)), the Environmental Protection Agency (EPA) is proposing to approve revisions to Delaware's Underground Storage Tank (UST) program submitted by Delaware (State). This action is based on EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of Delaware's state program and to incorporate by reference (IBR) those provisions of Delaware's regulations and statutes that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and

9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions. In the ''Rules and Regulations'' section of this issue of the **Federal Register**, EPA is approving this action by a direct final rule. If no significant negative comment is received, EPA will not take further action on this proposed rulemaking, and the direct final rule will be effective 60 days from the date of publication in this **Federal Register**. If you want to comment on EPA's proposed approval of Delaware's revisions to its state UST program, you must do so at this time.

DATES: Send written comments by August 15, 2022.

ADDRESSES: Submit any comments, identified by EPA–R03–UST–2021–0862, by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: cato.diashinae@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R03–UST–2021–0862. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The federal website *https://www.regulations.gov,* is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the document for assistance. If you need assistance in a language other than English, or you are a person with disabilities who needs a reasonable accommodation at no cost to you, please reach out to the EPA contact person by email or phone.

FOR FURTHER INFORMATION CONTACT: Diashinae Cato, (215) 814–2738, *cato.diashinae@epa.gov,* RCRA Programs Branch; Land, Chemicals, and Redevelopment Division; EPA Region 3, Four Penn Center, 1600 John F. Kennedy Blvd. (Mailcode 3LD30), Philadelphia, PA 19103–2852.

SUPPLEMENTARY INFORMATION: EPA has explained the reasons for this action in the preamble to the direct final rule. For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Authority: This proposed rule is issued under the authority of section 9004 of the Solid Waste Disposal Act of 1965, as amended, 42 U.S.C. 6991c.

Adam Ortiz,

Regional Administrator, EPA Region 3.

[FR Doc. 2022–15096 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R01–UST–2022–0204; FRL 9581–01–R1]

Vermont: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the State of Vermont's Underground Storage Tank (UST) program submitted by the Vermont Department of Environmental Conservation (VT DEC). This action is based on the EPA's determination that these revisions satisfy all requirements needed for program approval. This action also proposes to codify EPA's approval of Vermont's State program and incorporate by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA's inspection and enforcement authorities under sections 9005 and 9006 of RCRA Subtitle I and other applicable statutory and regulatory provisions.

DATES: Send written comments by August 15, 2022.

ADDRESSES: Submit any comments, identified by EPA–R01–UST–2022–0204, by one of the following methods:

1. *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Email: coyle.joan@epa.gov.*

Instructions: Direct your comments to Docket ID No. EPA–R01–UST–2022–0204. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *https://www.regulations.gov* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *https://www.regulations.gov,* or email. The Federal *https://www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *https://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy the documents that form the basis for this codification and associated publicly available materials either through *www.regulations.gov* or at the EPA Region 1 Office, 5 Post Office Square, 1st floor, Boston, MA 02109–3912. The facility is open from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you call Joan Coyle, RCRA Waste Management, UST, and Pesticides

Section, at (617) 918–1303, before visiting the Region 1 office. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Joan Coyle, RCRA Waste Management, UST, and Pesticides Section, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Boston, MA 02109–3912; (617) 918–1303; *coyle.joan@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule published in the ''Rules and Regulations'' section of this issue of the **Federal Register**.

Authority: This rulemaking is issued under the authority of Sections 2002(a), 9004, and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6991c, 6991d, and 6991e.

Dated: June 30, 2022.

David W. Cash,

Regional Administrator, EPA Region 1.

[FR Doc. 2022–15066 Filed 7–13–22; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 410, 482, 483, 485, 488

[CMS–3347–RCN]

RIN 0938–AT36

Medicare and Medicaid Program; Requirements for Long-Term Care Facilities: Regulatory Provisions To Promote Efficiency, and Transparency Final Rule

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Extension of timeline.

SUMMARY: The Social Security Act (the Act) specifies that a Medicare final rule must be published no later than 3 years after the publication date of the proposed rule or interim final rule, as applicable, except under exceptional circumstances. In accordance with the Act, this document announces an extension of the timeline for publication of the final rule and includes a brief explanation of the justification for the variation.

DATES: As of July 14, 2022, the timeline for publication of the final rule to finalize the provisions of the proposed rule published on July 18, 2019 (84 FR 34737), is extended until July 18, 2023.

FOR FURTHER INFORMATION CONTACT: Ronisha Blackstone, CMS, (410) 786–6682.

SUPPLEMENTARY INFORMATION: On July 18, 2019, we published a proposed rule in the **Federal Register** entitled ''Medicare and Medicaid Programs; Requirements for Long-Term Care (LTC) Facilities: Provisions to Promote Efficiency and Transparency'' (84 FR 34737), which would revise the Medicare and Medicaid long-term care facility requirements that the Centers for Medicare & Medicaid Services had identified as unnecessary, obsolete, or excessively burdensome. This proposed rule aimed to increase the ability of health care professionals to apportion resources to improve resident care by eliminating or reducing requirements that could impede quality care or that divert resources away from providing high quality care.

Section 1871(a)(3)(B) of the Social Security Act (the Act) requires the Secretary of the Department of Health and Human Services (the Secretary) to publish a Medicare final rule no later than 3 years after the publication date of the proposed rule or interim final rule, as applicable, except under exceptional circumstances.

In such circumstances, the Secretary may vary the final rule publication timeline if the Secretary publishes a **Federal Register** notice of the different timeline, including a brief explanation of the justification for the variation, by no later than the previously established timeline. To meet the 3-year timeline, the final rule would have to be published by July 18, 2022. For the reasons discussed below, we are unable to publish the final rule by July 18, 2022.

Since the beginning of the COVID–19 Public Health Emergency (PHE), we have prioritized our efforts to address the immediate needs relevant to the COVID–19 pandemic by issuing appropriate regulatory changes to increase public health and safety, while taking into consideration ways to create flexibility and minimize unnecessary regulatory burdens. These efforts have required considerable focus and resources, especially to prioritize the publication of interim final rules relevant to the PHE and to provide guidance to health care facilities. In response to the proposed rule, we received over 1,500 timely comments from a variety of stakeholders. The commenters presented robust policy and technical issues for our consideration, which require extensive consultation and analysis. Likewise, we need to re-evaluate the policies and consider the comments provided in light of the current needs of residents, the impact of the COVID–19 PHE on long-term care facilities, and the current priorities of the Department of Health and Human Services related to health and safety and equity.

Therefore, this notice extends the timeline to finalize the provisions in the June 18, 2022 proposed rule for 1 year, until July 18, 2023.

Dated: July 11, 2022.

Wilma Robinson,

Deputy Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2022–15081 Filed 7–13–22; 8:45 am]

BILLING CODE 4120–01–P

Notices

Federal Register
Vol. 87, No. 134
Thursday, July 14, 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; and ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by August 15, 2022 will be considered. Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rural Business-Cooperative Service

Title: Food Supply Chain Guaranteed Loan Program.

OMB Control Number: 0570–0077.

Summary of Collection: Section 1001 of the American Recovery Act of 2021, Public Law 117–2 provided funding for fiscal year 2022 (FY22) to the Secretary of Agriculture to provide assistance to maintain and improve food and agricultural supply chain resiliency.

The purpose of the Food Supply Chain (FSC) Guaranteed loan is to make funds available to qualified applicants and projects to facilitate financing for the start-up or expansion of activities in the middle of the food supply chain, particularly the aggregation, processing, manufacturing, storing, transporting, wholesaling, or distribution of food, to increase capacity and help create a more resilient, diverse, and secure U.S. food supply chain.

Need and Use of the Information: Lenders wishing to apply for an FSC guarantee must submit applications with specified forms, proposals, certifications, and agreements to the Agency electronically through the FSC online application system. Lenders that receive FSC guarantees are also required to provide financial information and annual reports to the Agency to ensure that borrowers and projects remain viable.

The information provided will be used to determine applicant and project eligibility and to ensure that projects meet program goals and are for authorized purposes.

Description of Respondents: Businesses or other for-profits; Farms; Not-for-profit institutions.

Number of Respondents: 250.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 6,227.

Rural Business-Cooperative Service

Title: Rural Energy Pilot Program.

OMB Control Number: 0570–0078.

Summary of Collection: The Consolidated Appropriations Act, 2021 (Pub. L. 116–260) appropriated $10 million to remain available until expended for the Secretary of Agriculture to carry out a pilot program to provide financial assistance for rural communities to further develop renewable energy.

The Rural Business-Cooperative Service (Agency) announced the availability of up to $10 million in competitive grants awarded to Rural Energy Community Partnerships to further develop renewable energy to help meet our nation's energy needs and combat climate change while prioritizing environmental justice, racial equity, and economic opportunity.

Cost-share grants of up to 80 percent of total eligible project costs but not more than $2 million were made available to assist eligible entities with planning, installing, equipping, and maintaining community scale distributed/renewable energy technologies/systems/resources.

Need and Use of the Information: RBCS will collect information to determine whether participants meet the eligibility requirements to be a recipient of grant funds, project eligibility, conduct the technical evaluation, calculate a priority score, rank and compete the application, as applicable, in order to be considered. Lack of adequate information to make the determination could result in the improper administration and appropriation of Federal grant funds.

Applications must be submitted electronically using the Government-wide *www.grants.gov* website. No other form of application will be accepted.

Description of Respondents: Businesses or other for-profits; Not-for-profit institutions.

Number of Respondents: 100.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 4,622.

Levi S. Harrell,

Departmental Information Collection Clearance Officer.

[FR Doc. 2022–15028 Filed 7–13–22; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Value of Donated Foods From July 1, 2022 Through June 30, 2023

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the national average value of donated foods

or, where applicable, cash in lieu of donated foods, to be provided in school year 2023 (July 1, 2022 through June 30, 2023) for each lunch served by schools participating in the National School Lunch Program (NSLP), and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program (CACFP).

DATES: *Effective date:* July 1, 2022.

FOR FURTHER INFORMATION CONTACT: Erica Antonson, Branch Chief, Policy Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 1320 Braddock Place, Alexandria, VA 22314, or telephone (703) 305–2680.

SUPPLEMENTARY INFORMATION: These programs are located in the Assistance Listings under Nos. 10.555 and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice was reviewed by the Office of Management and Budget under Executive Order 12866. Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

National Average Minimum Value of Donated Foods for the Period July 1, 2022 Through June 30, 2023

This notice implements mandatory provisions of sections 6(c) and 17(h)(1)(B) of the Richard B. Russell National School Lunch Act (the Act) (42 U.S.C. 1755(c) and 1766(h)(1)(B)). Section 6(c)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in the NSLP at 11.00 cents per meal. Pursuant to section 6(c)(1)(B), this amount is subject to annual adjustments on July 1 of each year to reflect changes in a three-month average value of the Producer Price Index for Foods Used in Schools and Institutions for March, April, and May each year (Price Index). Section 17(h)(1)(B) of the Act provides that the same value of donated foods (or cash in lieu of donated foods) for school lunches shall also be established for lunches and suppers served in the CACFP. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under the NSLP (7 CFR part 210) and per lunch and supper under the CACFP (7 CFR part 226) shall be 30.00 cents for the period July 1, 2022 through June 30, 2023.

The Price Index is computed using five major food components in the Bureau of Labor Statistics Producer Price Index (cereal and bakery products; meats, poultry, and fish; dairy; processed fruits and vegetables; and fats and oils). Each component is weighted using the relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month average value of the Price Index for March, April, and May each year. The three-month average of the Price Index increased by 15.50 percent from 227.26 for March, April, and May of 2021, as previously published in the **Federal Register**, to 262.50 for the same three months in 2022. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 2022 through June 30, 2023 will be 30.00 cents per meal. This is an increase of four (4) cents from the school year 2022 (July 1, 2021 through June 30, 2022) rate.

Authority: Sections 6(c)(1)(A) and (B), 6(e)(1), and 17(h)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(c)(1)(A) and (B) and (e)(1), and 1766(h)(1)(B)).

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022–14994 Filed 7–13–22; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–22–TELECOM–0043]

60-Day Notice of Proposed Information Collection: Advance and Disbursement of Funds—Telecommunications; OMB Control No.: 0572–0023

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the United States Department of Agriculture (USDA) Rural Utilities Service announces its' intention to request an extension of a currently approved information collection and invites comments on this information collection.

DATES: Comments on this notice must be received by September 12, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted by the Federal eRulemaking Portal: Go to *https://www.regulations.gov* and, in the lower ''Search Regulations and Federal Actions'' box, select ''Rural Utilities Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select ''RUS–22–TELECOM–0043'' to submit or view public comments and to view supporting and related materials available electronically. Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''User Tips'' link.

FOR FURTHER INFORMATION CONTACT: Robin M. Jones, Management Analyst, Rural Development Innovation Center—Regulations Management Division, United States Department of Agriculture, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 772–1172. Email: *robin.m.jones@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies the following information collection that Rural Utilities Service is submitting to OMB as extension to an existing collection with Agency adjustment.

Title: Advance and Disbursement of Funds—Telecommunications.

OMB Control Number: 0572–0023.

Expiration Date of Approval: November 30, 2022.

Type of Request: Extension of a currently approved information collection.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 1 hours per response.

Respondents: Business or other for profit, not-for-profit institutions.

Estimated Number of Respondents: 38.

Estimated Number of Responses per Respondent: 15.

Estimated Number of Responses: 571.

Estimated Total Annual Burden on Respondents: 616 hours.

Abstract: The Rural Utilities Service (RUS) manages the Telecommunications loan program and Rural Broadband Access, to provide loans and loan guarantees to fund the cost of construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities. RUS therefore requires Telecommunications and Broadband borrowers to submit Form 481, Financial Requirement Statement. This form implements certain provisions of the standard RUS loan documents by setting forth requirements and procedures to be followed by borrowers in obtaining advances and making disbursements of loan funds.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Copies of this information collection can be obtained from Robin M. Jones, Rural Development Innovation Center—Regulations Management Division, at (202) 772–1172. Email: *robin.m.jones@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Christopher McLean,

Acting Administrator, Rural Utilities Service.

[FR Doc. 2022–15080 Filed 7–13–22; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

[Docket No. RUS–22–ELECTRIC–0033]

60-Day Notice of Proposed Information Collection: Seismic Safety of New Building Construction; OMB Control No.: 0572–0099

AGENCY: Rural Utilities Service (RUS), USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the United States Department of Agriculture (USDA) Rural Utilities Service (RUS) announces its' intention to request an extension of a currently approved information collection and invites comments on this information collection.

DATES: Comments on this notice must be received by September 12, 2022 to be assured of consideration.

ADDRESSES: Comments may be submitted by the Federal eRulemaking Portal: Go to *http://www.regulations.gov* and, in the ''Search Field'' box, labeled ''Search for Rules, Proposed Rules, Notices, or Supporting Documents,'' enter the following docket number: (RUS–22–ELECTRIC–0033). To submit or view public comments, click the ''Search'' button, select the ''Documents'' tab, then select the following document title: (Seismic Safety of New Building Construction) from the ''Search Results,'' and select the ''Comment'' button. Before inputting your comments, you may also review the ''Commenter's Checklist'' (optional). Insert your comments under the ''Comment'' title, click ''Browse'' to attach files (if available). Input your email address and select ''Submit Comment.''

Information on using *Regulations.gov*, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site's ''FAQ'' link.

FOR FURTHER INFORMATION CONTACT: MaryPat Daskal, Chief, Branch 1, Rural Development Innovation Center—Regulations Management Division, United States Department of Agriculture, 1400 Independence Avenue SW, South Building, Washington, DC 20250–1522. Telephone: (202) 720–7853. Email *MaryPat.Daskla@usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR part 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies the following information collection that RUS is submitting to OMB as extension to an existing collection with Agency adjustment.

Title: 7 CFR part 1792, subpart C—Seismic Safety of New Building Construction.

OMB Control Number: 0572–0099.

Expiration Date of Approval: November 30, 2022.

Type of Request: Revision of a currently approved information collection.

Estimate of Burden: Public reporting for this collection of information is estimated to average 0.75 hours per response.

Respondents: Not-for-profit institutions and other businesses.

Estimated Number of Respondents: 10.

Estimated Annual Number of Responses: 10.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 8.

Abstract: The Earthquake Hazards Reduction Act of 1977 was enacted to reduce risks to life and property through the National Earthquake Hazards Reduction Program (NEHRP). The Federal Emergency Management Agency (FEMA) is designated as the agency with the primary responsibility to plan and coordinate the NEHRP. This program includes the development and implementation of feasible design and construction methods to make structures earthquake resistant. Executive Order 12699 of January 5, 1990, Seismic Safety of Federal and Federally Assisted or Regulated New Building Construction, requires that measures to assure seismic safety be imposed on federally assisted new building construction.

Title 7 part 1792, subpart C, Seismic Safety of Federally assisted New Building Construction, identifies acceptable seismic standards which must be employed in new building construction funded by loans, grants, or guarantees made by RUS or the Rural Telephone Bank (RTB) or through lien accommodations or subordinations approved by RUS or RTB. This subpart implements and explains the provisions of the loan contract utilized by the RUS for both electric and telecommunications borrowers and by the RTB for its telecommunications borrowers requiring construction certifications affirming compliance with the standards.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection

of information including the validity of the methodology and assumptions used;

(c) ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Copies of this information collection can be obtained from Arlette Mussington, Rural Development Innovation Center—Regulations Management Division, at (202) 720–2825. Email: *arlette.mussington@usda.gov.*

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Christopher A. McLean,

Administrator, Rural Utilities Service.

[FR Doc. 2022–15037 Filed 7–13–22; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Rural Housing Service

Rural Utilities Service

[Docket No. RUS–22–Agency–0032]

OneRD Annual Notice of Guarantee Fee Rates, Periodic Retention Fee Rates, Loan Guarantee Percentage and Fee for Issuance of the Loan Note Guarantee Prior to Construction Completion for Fiscal Year 2023

AGENCY: Rural Business-Cooperative Service, Rural Housing Service, and Rural Utilities Service, Agriculture (USDA).

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBCS), Rural Housing Service (RHS), and the Rural Utilities Service (RUS), agencies of the Rural Development mission area within the U.S. Department of Agriculture (USDA), hereinafter collectively referred to as the Agency, offer loan guarantees through four programs: Community Facilities (CF) administered by the RHS; Water and Waste Disposal (WWD) administered by the RUS; and Business and Industry (B&I) and Rural Energy for America Program (REAP) administered by the RBCS. This notice provides applicants with the Guarantee Fee rates, Guarantee percentage for Guaranteed Loans, the Periodic Retention Fee, and Fee for Issuance of the Loan Note Guarantee Prior to Construction Completion for Fiscal Year (FY) 2023, to be used when applying for guaranteed loans under the guaranteed loan types listed above. This notice is being published prior to the passage of a FY 2023 appropriation. Should the fees need to be adjusted after passage of the FY 2023 appropriations, the agency will publish a subsequent notice in the **Federal Register**.

DATES: The fees in this notice are effective October 1, 2022.

FOR FURTHER INFORMATION CONTACT: For information specific to this notice contact Michele Brooks, Director, Regulations Management, Rural Development Innovation Center—Regulations Management, USDA, 1400 Independence Avenue SW, Washington, DC 20250–1522. Telephone: (202) 690–1078. Email: *michele.brooks@usda.gov*. For information regarding implementation, contact your respective Rural Development State Office listed here: *https://www.rd.usda.gov/browse-state*.

SUPPLEMENTARY INFORMATION: As set forth in 7 CFR part 5001, the Agency is authorized to charge a guarantee fee, a periodic guarantee retention fee, a fee for the issuance of the loan note guarantee prior to construction completion and establish a loan guarantee percentage for guaranteed loans made under this rule. Pursuant to this and other applicable authority, and subject to the current appropriated authority, the Agency is establishing the following for FY 2023:

Loan type	Guarantee fee (%)	Periodic guarantee retention fee (%)	Loan guarantee percentage (%)	Fee for issuance of loan note guarantee prior to construction completion (%)
B&I	3.00	0.5	80	0.5
B&I Reduced Fee	1.0	0.5	80	0.5
B&I project in a high cost, isolated rural area of the State of Alaska that is not connected to a road system	1.0	0.5	90	0.5
CF	1.25	0.5	80	0.5
REAP	1.0	0.25	80	0.5
WWD	1.0	N/A	80	0.5

The initial guarantee fee is paid at the time the loan note guarantee is issued. The periodic guarantee retention fee is paid by the lender to the Agency once a year. Payment of the periodic guarantee retention fee is required in order to maintain the enforceability of the guarantee. The fee for issuance of the loan note guarantee prior to construction completion DOES NOT apply to all construction loans. This additional fee only applies to loans requesting to receive a loan note guarantee prior to project completion. For loans where the loan note guarantee is issued between October 1 and December 31, the first periodic retention fee payment is due January 31 of the second year following the date the loan note guarantee was issued.

Unless precluded by a subsequent FY 2023 appropriation, these rates will apply to all guaranteed loans obligated in FY 2023. The amount of the periodic retention fee on each guaranteed loan will be determined by multiplying the periodic retention fee rate by the outstanding principal loan balance as of December 31, multiplied by the percentage of guarantee.

Non-Discrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its agencies, offices, and employees, and institutions participating in or administering USDA Programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *https://www.usda.gov/oascr/how-to-file-a-program-discrimination-complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) *Mail:* U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250–9410; or

(2) *Email: OAC@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

Justin Maxson,

Deputy Undersecretary, Rural Development.

[FR Doc. 2022–15058 Filed 7–13–22; 8:45 am]

BILLING CODE 3410–15–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of a Public Meeting of the Maine Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of a public 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 the Maine Advisory Committee to the Commission will hold a virtual meeting for project planning on Monday, July 18, 2022, at 12:00 p.m. (ET).

DATES: Monday, July 18, 2022, at 12:00 p.m. (ET).

ADDRESSES:

Public Web Conference Registration Link (video and audio): http://tinyurl.com/bdeb9c3z; password, if needed: USCCR-ME.

If Joining by Phone Only, Dial: 1–551–285–1373; Meeting ID: 160 062 5641#.

FOR FURTHER INFORMATION CONTACT: Liliana Schiller at *lschiller@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: These meetings are available to the public through the WebEx 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 the call-in number found through registering at the web link provided for these meetings.

Members of the public are entitled to make comments during the open period at the end of the meetings. Members of the public may also 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 Liliana Schiller at *lschiller@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 539–8246. Records and documents discussed during the meetings 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 the Regional Programs Unit at the above phone number or email address.

Agenda

Monday, July 18, 2022, at 12 p.m. ET

I. Welcome & Roll Call
II. Project Planning
III. Open Comment
IV. Adjourn

Dated: July 3, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–14525 Filed 7–13–22; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the South Dakota Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of public web briefings.

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 the South Dakota State Advisory Committee to the Commission will convene a briefing on Wednesday, July 27, 2022, at 3:00 p.m. (CT). The purpose of the briefing is to hear from invited presenters on the topic of voting rights in South Dakota.

DATES: Wednesday, July 27, 2022, at 3:00 p.m. (CT).

ADDRESSES:

Public Web Conference Zoom Link (video and audio): https://tinyurl.com/2wfvt9zc; password, if needed: USCCR-SD

If Joining by Phone Only, Dial: 1–551–285–1373; Meeting ID: 161 925 2069#.

FOR FURTHER INFORMATION CONTACT: Kayla Fajota at *kfajota@usccr.gov* or 312–353–8311.

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 other accommodations, please email *kfajota@usccr.gov* at least 10 business days prior to the meeting for which accommodations are requested.

Members of the public are entitled to make comments during the open period at the end of the meeting. Members of the public may also 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

Kayla Fajota at *kfajota@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (202) 809–9618. 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 the Regional Programs Unit at the above phone number or email address.

Agenda

Wednesday, July 27, 2022, from 3:00 p.m. (CT)

I. Welcome & Roll Call
II. Opening Remarks
III. Panel I: Voting Rights Briefing—Panelist Presentations
IV. Question and Answer: Committee and Presenters
V. Public Comment
VI. Closing Remarks
VII. Adjournment

Dated: July 3, 2022.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2022–14529 Filed 7–13–22; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–8–2022]

Foreign-Trade Zone (FTZ) 43—Battle Creek, Michigan; Authorization of Production Activity; Pfizer, Inc. (Lipid Active Pharmaceutical Ingredients); Kalamazoo, Michigan

On March 11, 2022, Pfizer, Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 43E, in Kalamazoo, Michigan.

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 15911, March 21, 2022). On July 11, 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: July 11, 2022.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2022–15087 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Corporation for Travel Promotion Board of Directors

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an opportunity for travel and tourism industry leaders to apply for membership on the Board of Directors of the Corporation for Travel Promotion.

SUMMARY: The Department of Commerce is currently seeking applications from travel and tourism leaders from specific industry sectors for membership on the Board of Directors (Board) of the Corporation for Travel Promotion (doing business as Brand USA). The purpose of the Board is to guide the Corporation for Travel Promotion on matters relating to the promotion of the United States as a travel destination and communication of travel facilitation issues, among other tasks.

DATES: All applications must be received by the National Travel and Tourism Office by close of business on Friday, September 9, 2022.

ADDRESSES: Please submit application information by email to *CTPBoard@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Julie Heizer, National Travel and Tourism Office, U.S. Department of Commerce; telephone: 202–482–0140; email: *CTPBoard@trade.gov.*

SUPPLEMENTARY INFORMATION: The Travel Promotion Act of 2009 (TPA) was signed into law on March 4, 2010 and was amended in July 2010, December 2014, and again in December 2019. The TPA established the Corporation for Travel Promotion (the Corporation), as a non-profit corporation charged with the development and execution of a plan to (A) provide useful information to those interested in traveling to the United States; (B) identify and address perceptions regarding U.S. entry policies; (C) maximize economic and diplomatic benefits of travel to the United States through the use of various promotional tools; (D) ensure that international travel benefits all States, territories of the United States, and the District of Columbia; (E) identify opportunities to promote tourism to rural and urban areas equally, including areas not traditionally visited by international travelers; (F) give priority to countries and populations most likely to travel to the United States; and (G) promote tourism to the United States through digital media, online platforms, and other appropriate mediums.

The Corporation is governed by a Board of Directors, consisting of 11 members with knowledge of international travel promotion or marketing, broadly representing various regions of the United States. The TPA directs the Secretary of Commerce (after consultation with the Secretary of Homeland Security and the Secretary of State) to appoint the Board of Directors for the Corporation.

At this time, the Department will be selecting four individuals with the appropriate expertise and experience from specific sectors of the travel and tourism industry to serve on the Board as follows:

1. One member having appropriate expertise and experience in the Attractions or Recreations sector;

2. One member having appropriate expertise and experience in the Commercial or Private Passenger Air sector;

3. One member having appropriate expertise and experience in Immigration Law and Policy; and

4. One member having appropriate expertise and experience in the Land or Sea Passenger Transportation sector.

To be eligible for Board membership, individuals must have international travel and tourism marketing experience, be a current or former chief executive officer, chief financial officer, or chief marketing officer or have held an equivalent management position. Additional consideration will be given to individuals who have experience working in U.S. multinational entities with marketing budgets, and/or who are audit committee financial experts as defined by the Securities and Exchange Commission (in accordance with 15 U.S.C. 7265). Individuals must be U.S. citizens, and in addition, cannot be federally registered lobbyists or registered as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

Members of the Board are selected, in accordance with applicable Department of Commerce guidelines, based on their ability to carry out the objectives of the Board and in a manner that ensures that the Board is balanced in terms of points of views, industry subsector, geography, and company size. The diverse membership of the Board assures perspectives and expertise reflecting the full breadth of the Board's responsibilities and, where possible, the Department of Commerce will also consider the ethnic, racial, and gender diversity and various abilities of the United States population.

Those selected for the Board must be able to meet the time and effort commitments of the Board.

Board members serve at the discretion of the Secretary of Commerce (who may remove any member of the Board for good cause). The terms of office of each member of the Board appointed by the Secretary shall be three (3) years. Board members can serve a maximum of two consecutive full three-year terms. Board members are not considered Federal Government employees by virtue of their service as a member of the Board and will receive no compensation from the Federal Government for their participation in Board activities. Members participating in Board meetings and events may be paid actual travel expenses and per diem by the Corporation when away from their usual places of residence.

Individuals who want to be considered for appointment to the Board should submit the following information by the Friday, September 9, 2022 deadline to the email address listed in the **ADDRESSES** section above:

1. Name, title, and personal resume of the individual requesting consideration, including address, email address, and phone number.

2. A brief statement of why the person should be considered for appointment to the Board. This statement should also address the individual's relevant international travel and tourism marketing experience and audit committee financial expertise, if any, and indicate clearly the sector or sectors enumerated above in which the individual has the requisite expertise and experience. Individuals who have the requisite expertise and experience in more than one sector can be appointed for only one of those sectors. Appointments of members to the Board will be made by the Secretary of Commerce.

3. An affirmative statement that the applicant is (1) a U.S. citizen, (2) is not a federally-registered lobbyist and further, (3) is not required to register as a foreign agent under the Foreign Agents Registration Act of 1938, as amended.

4. A statement acknowledging that the applicant is or is not an audit committee financial expert as defined by the Securities and Exchange Commission (in accordance with 15 U.S.C. 7265).

Dated: July 7, 2022.

Julie Heizer,

Deputy Director, National Travel and Tourism Office.

[FR Doc. 2022–15049 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) has received requests to conduct administrative reviews of various antidumping duty (AD) and countervailing duty (CVD) orders with May anniversary dates. In accordance with Commerce's regulations, we are initiating those administrative reviews.

DATES: Applicable July 14, 2022.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

SUPPLEMENTARY INFORMATION:

Background

Commerce has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various AD and CVD orders with May anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting time.

Notice of No Sales

With respect to antidumping administrative reviews, if a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (POR), it must notify Commerce within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *https://access.trade.gov,* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on Commerce's service list.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the POR. We intend to place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 35 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted within seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments within five days after the deadline for the initial comments.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act, the following guidelines regarding collapsing of companies for purposes of respondent selection will apply. In general, Commerce has found that determinations concerning whether particular companies should be ''collapsed'' (*e.g.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of this review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this AD proceeding (*e.g.,* investigation, administrative review, new shipper review, or changed circumstances review). For any company subject to this review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection.

Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete the Quantity and Value (Q&V) Questionnaire for purposes of respondent selection, in general, each company must report volume and value

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of this proceeding where Commerce considered collapsing that entity, complete Q&V data for that collapsed entity must be submitted.

Respondent Selection—Aluminum Extrusions From the People's Republic of China

In the event Commerce limits the number of respondents for individual examination in the administrative review of the antidumping duty order on aluminum extrusions from the People's Republic of China (China), Commerce intends to select respondents based on volume data contained in responses to Q&V questionnaires. Further, Commerce intends to limit the number of Q&V questionnaires issued in the review based on CBP data for U.S. imports of aluminum extrusions from China. The extremely wide variety of individual types of aluminum extrusion products included in the scope of the order on aluminum extrusions would preclude meaningful results in attempting to determine the largest China exporters of subject merchandise by volume. Therefore, Commerce will limit the number of Q&V questionnaires issued based on the import values in CBP data which will serve as a proxy for imported quantities. Parties subject to the review to which Commerce does not send a Q&V questionnaire may file a response to the Q&V questionnaire by the applicable deadline if they desire to be included in the pool of companies from which Commerce will select mandatory respondents. The Q&V questionnaire will be available on Commerce's website at *http://trade.gov/enforcement/news.asp* on the date of publication of this notice in the **Federal Register**. The responses to the Q&V questionnaire must be received by Commerce within 14 days of publication of this notice. Please be advised that due to the time constraints imposed by the statutory and regulatory deadlines for antidumping duty administrative reviews, Commerce does not intend to grant any extensions for the submission of responses to the Q&V questionnaire. Parties will be given the opportunity to comment on the CBP data used by Commerce to limit the number of Q&V questionnaires issued. We intend to release the CBP data under APO to all parties having an APO within seven days of publication of this notice in the **Federal Register**. Commerce invites comments regarding CBP data and respondent selection within five days of placement of the CBP data on the record.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that has requested a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Deadline for Particular Market Situation Allegation

Section 504 of the Trade Preferences Extension Act of 2015 amended the Act by adding the concept of a particular market situation (PMS) for purposes of constructed value under section 773(e) of the Act.[2] Section 773(e) of the Act states that ''if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology.'' When an interested party submits a PMS allegation pursuant to section 773(e) of the Act, Commerce will respond to such a submission consistent with 19 CFR 351.301(c)(2)(v). If Commerce finds that a PMS exists under section 773(e) of the Act, then it will modify its dumping calculations appropriately.

Neither section 773(e) of the Act nor 19 CFR 351.301(c)(2)(v) set a deadline for the submission of PMS allegations and supporting factual information. However, in order to administer section 773(e) of the Act, Commerce must receive PMS allegations and supporting factual information with enough time to consider the submission. Thus, should an interested party wish to submit a PMS allegation and supporting new factual information pursuant to section 773(e) of the Act, it must do so no later than 20 days after submission of initial responses to section D of the questionnaire.

Separate Rates

In proceedings involving non-market economy (NME) countries, Commerce begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is Commerce's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, Commerce analyzes each entity exporting the subject merchandise. In accordance with the separate rates criteria, Commerce assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a Separate Rate Application or Certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, Commerce requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[3] should timely file a

[2] *See* Trade Preferences Extension Act of 2015, Public Law 114–27, 129 Stat. 362 (2015).

[3] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new shipper review, *etc.*) and entities that lost their separate rate in the most recently completed

Continued

Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[4] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Application will be available on Commerce's website at *https://enforcement.trade.gov/nme/nme-separate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Application, refer to the instructions contained in the application. Separate Rate Applications are due to Commerce no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

Exporters and producers must file a timely Separate Rate Application or Certification if they want to be considered for respondent selection. Furthermore, exporters and producers who submit a Separate Rate Application or Certification and subsequently are selected as mandatory respondents will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

Initiation of Reviews

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following AD and CVD orders and findings. We intend to issue the final results of these reviews not later than May 31, 2023.

	Period to be reviewed
AD Proceedings	
BELGIUM: Certain Carbon and Alloy Steel Cut-to-Length Plate, A–423–812	5/1/21–4/30/22
Industeel Belgium S.A.	
NLMK Clabecq S.A./NLMK Plate Sales S.A./NLMK Sales Europe S.A./NLMK Manage Steel Center S.A./NLMK La Louviere S.A.[5].	
BELGIUM: Stainless Steel Plate in Coils, A–423–808	5/1/21–4/30/22
ArcelorMittal Genk.	
Aperam Stainless Belgium NV (ASB).	
Helaxa BVBA.	
Industeel Belgium.	
CAMBODIA: Mattresses, A–555–001	11/3/20–4/30/22
Best Mattresses International Company Limited.	
Rose Lion Furniture International Company Limited.	
CANADA: Large Diameter Welded Pipe, A–122–863	5/1/21–4/30/22
Acier Profile SBB Inc.	
Aciers Lague Steels Inc.	
Amdor Inc.	
BPC Services Group.	
Bri-Steel Manufacturing.	
Canada Culvert.	
Canam (St Gedeon).	
Cappco Tubular Products Canada Inc.	
CFI Metal Inc.	
Dominion Pipe & Piling.	
Enduro Canada Pipeline Services.	
Evraz Inc. NA/Evraz Inc. NA Canada/the Canadian National Steel Corporation[6].	
Fi Oilfield Services Canada.	
Forterra.	
Gchem Ltd.	
Graham Construction.	
Groupe Fordia Inc.	
Grupo Fordia Inc.	
Hodgson Custom Rolling.	
Hyprescon Inc.	
Interpipe Inc.	
K K Recycling Services.	
Kobelt Manufacturing Co.	
Labrie Environment.	
Les Aciers Sofatec.	
Lorenz Conveying P.	
Lorenz Conveying Products.	
Matrix Manufacturing.	
MBI Produits De Forge.	
Nor Arc.	
Peak Drilling Ltd.	
Pipe & Piling Sply Ltd.	
Pipe & Piling Supplies.	
Prudental.	
Prudential.	
Shaw Pipe Protecction.	

segment of the proceeding in which they participated.

[4] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

	Period to be reviewed
Shaw Pipe Protection.	
Tenaris Algoma Tubes Facility.	
Tenaris Prudential.	
Welded Tube of Can Ltd.	
CROATIA: Common Alloy Aluminum Sheet,[7] A–891–001	10/15/20–3/31/22
GERMANY: Carbon and Alloy Steel Cut-To-Length Plate, A–428–844	5/1/21–4/30/22
AG der Dillinger Huttenwerke.	
GERMANY: Common Alloy Aluminum Sheet,[8] A–428–849	10/15/20–3/31/22
Hydro Aluminium Rolled Products GmbH.	
Speira GmbH.	
Novelis Deutschland GmbH.	
Constellium Rolled Products Singen GmbH & Co. KG.	
GREECE: Large Diameter Welded Pipe, A–484–803	5/1/21–4/30/22
Corinth Pipeworks Pipe Industry S.A.	
INDIA: Certain Welded Carbon Steel Standard Pipes and Tubes, A–533–502	5/1/21–4/30/22
Universal Tube and Plastic Industries, Ltd.	
INDIA: Silicomanganese, A–533–823	5/1/21–4/30/22
Maithan Alloys Ltd.	
INDONESIA: Mattresses, A–560–836	11/3/20–4/30/22
Bali Natural Latex.	
CV. Aumireta Anggun.	
CV. Lautan Rezeki.	
Duta Abadi Primantara, Pt.	
Ecos Jaya JL Pasir Awi.	
Mimpi.	
P.T. Barat Daya Gemilang.	
PT Celebes Putra Prima.	
PT Demak Putra Mandiri.	
PT Ecos Jaya Indonesia.	
PT Graha Anom Jaya.	
PT Graha Seribusatujaya.	
PT Grantec Jaya Indonesia.	
PT Kline Total Logistics Indonesia.	
PT Massindo International.	
PT Rubberfoam Indonesia.	
PT Solo Murni Epte.	
PT Zinus Global Indonesia.	
PT. Ateja Multi Industri.	
PT. Ateja Tritunggal.	
PT. Aurora World Cianjur.	
PT. Cahaya Buana Furindotama.	
PT. CJ Logistics Indonesia.	
PT. Dinamika Indonusa Prima.	
PT. Dunlopillo Indonesia.	
PT. Dynasti Indomegah.	
PT. Ocean Centra Furnindo.	
PT. Quantum Tosan Internasional.	
PT. Romance Bedding & Furniture.	
PT. Royal Abadi Sejahtera.	
PT. Transporindo Buana Kargotama.	
Sonder Canada Inc.	
Super Poly Industry PT.	
Zinus Inc.	
ITALY: Carbon and Alloy Steel Cut-To-Length Plate, A–475–834	5/1/21–4/30/22
NLMK Verona S.p.A.	
Officine Tecnosider s.r.l.	
JAPAN: Diffusion-Annealed Nickel-Plated Flat-Rolled Steel Products, A–588–869	5/1/21–4/30/22
Nikken Las Industry Co., Ltd.	
Taiyo Manufacturing Co., Ltd.	
Toyo Kohan Co., Ltd.	
OMAN: Polyethylene Terephthalate Resin, A–523–810	5/1/21–4/30/22
OCTAL SAOC—FZC.	
REPUBLIC OF KOREA: Carbon and Alloy Steel Cut-To-Length Plate, A–580–887	5/1/21–4/30/22
POSCO[9].	
POSCO International Corporation.	
REPUBLIC OF KOREA: Carbon and Alloy Steel Wire Rod, A–580–891	5/1/21–4/30/22
POSCO.	
POSCO International Corporation.	
REPUBLIC OF KOREA: Large Diameter Welded Pipe, A–580–897	5/1/21–4/30/22
Hyundai RB Co., Ltd.	
SeAH Steel Corporation.	
AJU Besteel Co., Ltd.	
Chang Won Bending Co., Ltd.	
Daiduck Piping Co., Ltd.	

	Period to be reviewed
Dong Yang Steel Pipe Co., Ltd.	
Dongbu Incheon Steel Co., Ltd.	
EEW KHPC Co., Ltd.	
EEW Korea Co., Ltd.	
Geumok Tech. Co., Ltd.	
Hansol Metal Co. Ltd.	
Histeel Co., Ltd.	
Husteel Co., Ltd.	
Hyundai Steel Company.	
Il Jin Nts Co. Ltd.	
Kiduck Industries Co., Ltd.	
Kum Kang Kind. Co., Ltd.	
Kumsoo Connecting Co., Ltd.	
Nexteel Co., Ltd.	
Seonghwa Industrial Co., Ltd.	
SIN-E B&P Co., Ltd.	
Steel Flower Co., Ltd.	
WELTECH Co., Ltd.	
REPUBLIC OF KOREA: Polyester Staple Fiber, A–580–839	5/1/21–4/30/22
Huvis Corporation.	
Toray Advanced Materials Korea, Inc.	
SERBIA: Mattresses, A–801–002	11/3/20–4/30/22
Healthcare Europe DOO Ruma.	
SLOVENIA: Common Alloy Aluminum Sheet,[10] A–856–001	10/15/20–3/31/22
SOUTH AFRICA: Stainless Steel Plate in Coils, A–791–805	5/1/21–4/30/22
Columbus Stainless (PTY) Ltd.	
TAIWAN: Certain Circular Welded Carbon Steel Pipes and Tubes, A–583–008	5/1/21–4/30/22
Shin Yang Steel Co., Ltd.	
Yieh Hsing Enterprise Co., Ltd.	
TAIWAN: Stainless Steel Plate in Coil, A–583–830	5/1/21–4/30/22
Aurora Metal International Co., Ltd.	
Build Up Hardware Co., Ltd.	
Chain Chon Industrial Co., Ltd.	
Chang Mien Industries Co., Ltd.	
Chia Far Industries Factory Co., Ltd.	
Chien Shing Stainless Co., Ltd.	
China Steel Corporation.	
China Tah Lee Special Steel Co., Ltd.	
Da Song Enterprise Co., Ltd.	
Da Tsai Stainless Steel Co., Ltd.	
East Track Enterprise Co., Ltd.	
Gifull Enterprise Co., Ltd.	
Goang Jau Shing Enterprise Co., Ltd.	
Goldioceans International Co., Ltd.	
High Point Steel Mfg. Co., Ltd.	
Hoka Elements Co., Ltd.	
Huang-Yi Steel Coil Co., Ltd.	
JJSE Co., Ltd.	
Jye Chi Corporation.	
Kunn Chuan Enterprise Co., Ltd.	
Lien Kuo Metal Industries Co., Ltd.	
Lung An Stainless Ind. Co., Ltd.	
Omen Bright Co., Ltd.	
PFP Taiwan Co., Ltd.	
Pyramid Metal Technology Co., Ltd.	
Shing Shong Ta Metal Co., Ltd.	
Shye Yao Steel Co., Ltd.	
Sinkang Industries Co., Ltd.	
S-More Steel Materials Co., Ltd.	
Staunch Stainless Steel Co., Ltd.	
Sun Chun Stainless Co., Ltd.	
Ta Chen International.	
Ta Chen Stainless Pipe Co., Ltd.	
Ta Fong Steel Co., Ltd.	
Taiwan Nippon Steel Stainless.	
Tang Eng Iron Works.	
Tsung Yui Enterprise Co., Ltd.	
Tzong Ji Metals Co., Ltd.	
Wuu Jing Enterprise Co., Ltd.	
Yc Inox Co., Ltd.	
Yi Shuenn Enterprise Co., Ltd.	
Yieh Loong Enterprise Co., Ltd. (aka Chung Hung Steel Co., Ltd.).	
Yieh Mau Corporation.	
Yieh Trading Co.	

	Period to be reviewed
Yieh United Steel Corporation.	
Yuan Long Stainless Steel Corp.	
Yuen Chang Stainless Steel Co., Ltd.	
Yuh Sheng Stainless Steel Co., Ltd.	
TAIWAN: Stilbenic Optical Brightening Agents, A–583–848	5/1/21–4/30/22
Teh Fong Min International Co, Ltd.	
TAIWAN: Common Alloy Aluminum Sheet,[11] A–583–867	10/15/20–3/31/22
C.S. Aluminum Corporation.	
THAILAND: Mattresses, A–549–841	11/3/20–4/30/22
Saffron Living Co., Ltd.	
Nisco (Thailand) Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Extrusions, A–570–967	5/1/21–4/30/22
Ailenmr (Tianjin) Machinary.	
American International Cargo Service Inc.	
Anhui Morden Living Co., Ltd.	
Beijing Kingpeng International Agriculture Corporation.	
Bisen Smart Access Co., Ltd.	
Caribbean Galaxy Aluminum, S.R.L.	
Changshu Wojun Machinery Equipment.	
Changzhou Hivalue Impex Co Ltd.	
Changzhou Infusion Plastics Industries.	
Changzhou Ryan-Al Door.	
Chenming Industry and Commerce Shouguang Co., Ltd.	
China Jwell Intelligent Plastic Extrusion Machinery Co., Ltd.	
CTW Furniture Co., Ltd.	
Dongying Andy Petroleum Machinery Co., Ltd.	
Dura Shower Enclosures Co., Ltd.	
East Asia Aluminum Co., Ltd.	
Eastlinx Xiamen Co., Ltd.	
Epson Engineering (Shenzhen) Ltd.	
Favour Light Co Ltd.	
Foshan City Nanhai Yongfeng Aluminum.	
Fuzhou J&K Imp.&Exp. Co., Ltd.	
General Equipment Technology Development Ltd.	
Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.	
Guangdong Suyue Aluminium Co., Ltd.	
Guangdong Victor Aluminum Co., Ltd.	
Guangdong Yaoyinshan Aluminum Co., Ltd.	
Guangzhou Graly Lighting Co., Ltd.	
Hangzhou Evernew Machinery & Equipment Co., Ltd.	
Hangzhou Siyi Imp. &Exp. Co., Ltd.	
Hota International Logistics Co., Ltd.	
Huazhijie Plastic Products.	
Hui Qian (Shanghai) International Trading Co., Ltd.	
Jakks Pacific (HK) Ltd.	
Jer Education Technology.	
Jiangsu Asia Pacific Aviation Technology Co., Ltd.	
Jiangsu Singcheer Intelligent Equipment Co., Ltd.	
Jiangsu Yizheng Haitian Aluminum Industrial.	
Jinming Machinery (Guangdong) Co., Ltd.	
Lien Chiang Furniture Hardware Co.	
LongKou Mat Aluminium Co., Ltd.	
Maxable Global Company Limited.	
Ningbo Baihui Furniture Co., Ltd.	
Ningbo Huige Metal Products Co., Ltd.	
Ningbo Mark One International.	
Ningbo Yinzhou Outdoor Equipment Co., Ltd.	
Pacific Precise International Ltd.	
Qingdao Huayu Hardware Products Co.	
Qingdao Mrp Industry Co., Ltd.	
Qingdao Sea Nova Building.	
Reifenhauser Plastic Machinery (Suzhou) Co., Ltd.	
Sanming Foreign Trade Development Co., Ltd.	
Shaanxi Simex Enterprise Co., Ltd.	
Shandong Golden Realm Industrial Co., Ltd.	
Shandong Mount Tai Sheng Li Yuan Glass Co., Ltd.	
Shanghai An Mao E-Commerce Co Ltd.	
Shanghai Promise Metal Co., Ltd.	
Shanghai Xindun Trade Co., Ltd.	
Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.	
Shenzhen Beiruitong Trade Co., Ltd.	
Shenzhen Thomas Homeware Co., Limited.	
Shenzhen Wision Industrial Co., Ltd.	
Shenzhen Xinjiayi Plastic& Metal, Co. Ltd.	

	Period to be reviewed
Shenzhen Zhongyuan Electronic Co., Ltd.	
ShineLong Technology Corp., Ltd.	
Sichuan Hangxin New Glazing Material Co., Ltd.	
Suzhou Bonate Int. Trading Co., Ltd.	
Suzhou Futong New Materials and High-tech Co., Ltd.	
The Tigereye International Trading Co. Ltd.	
Tianjin Hyosung Packaging Product Co., Ltd.	
Top Asian Resource Co., Ltd.	
Wuxi Longdet Imp. & Exp. Co., Ltd.	
Wuxi Rapid Scaffolding Engineering.	
Xiamen Rex. Technology Co., Ltd.	
Yantai Jintai International Trade Co., Ltd.	
Yonn Yuu Enterprise Co., Ltd.	
Yuyao Royal Industrial.	
Zhangzhou Jindian Craft Product Co., Ltd.	
Zhejiang Hengfeng Technology Co., Ltd.	
Zhejiang Tangzhengge Plastic Technology Co., Ltd.	
Zhuji Wenfeng Import and Export Co.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Vertical Shaft Engines Between 99cc and Up to 225cc, and Parts Thereof, A–570–124	7/23/20–4/30/22
Changzhou Kawasaki and Kwang Yang Engine Co., Ltd.	
Chongqing AM Pride Power & Machinery Co., Ltd.	
Chongqing Chen Hui Electric Machinery Co., Ltd.	
Chongqing Dinking Power Machinery Co., Ltd.	
Chongqing Ducar Power Equipment Co., Ltd.	
Chongqing HWASDAN Power Technology Co., Ltd.	
Chongqing Kohler Engines, Ltd.	
Chongqing Kohler Motors Co., Ltd.	
Chongqing Rato Technology Co., Ltd.	
Chongqing Senci Import & Export Trade Co., Ltd.	
Chongqing Shineray Agricultural Machinery Co., Ltd.	
Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd./ Chongqing Zongshen Power Machinery Co., Ltd.[12].	
Fujian Everstrong Lega Power Equipments Co., Ltd.	
Kawasaki Heavy Industries, Ltd.	
Lifan Technology (Group) Co., Ltd.	
Loncin Motor Co., Ltd.	
Qianjiang Group Wenling Jennfeng Industry Inc.	
Senci Import & Export Trade Co., Ltd C.	
Taizhou Sabo Electronics Co., Ltd.	
Wenling Qianjiang Imp. & Exp. Co., Ltd.	
Zhejiang Amerisun Technology Co., Ltd.	
Zhejiang Dobest Power Tools Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Citric Acid and Citrate Salt, A–570–937	5/1/21–4/30/22
RZBC Group Co., Ltd.	
RZBC Co., Ltd., RZBC Import & Export Co., Ltd.	
RZBC (Juxian) Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Drawn Stainless Steel Sinks,[13] A–570–983	4/1/21–3/31/22
THE PEOPLE'S REPUBLIC OF CHINA: Non-Refillable Steel Cylinders, A–570–126	10/30/20–4/30/22
Ningbo Eagle Machinery & Technology Co., Ltd.	
Sanjiang Kai Yuan Co. Ltd (SKY).	
Wuyi Xilinde Machinery Manufacture Co., Ltd.	
Zhejiang KIN–SHINE Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Pure Magnesium, A–570–832	5/1/21–4/30/22
Tianjin Magnesium International Co., Ltd.	
Tianjin Magnesium Metal Co., Ltd.	
THE SOCIALIST REPUBLIC OF VIETNAM: Mattresses, A–552–827	11/3/20–4/30/22
Ashley Furniture Industries Inc.	
Ashley Furniture Trading Company.	
Comfort Bedding Company Limited.	
Cong Ty Tnhm Nem Thien Kim (a.k.a. Better Zs, Ltd.).	
Gesin Vietnam Co., Ltd.	
Everpia Vietnam.	
Glory (Viet Nam) Industry Co., Ltd.	
Hava's Mattress Co., Ltd.	
Saigon - Kymdan Rubber Stock Co.	
Mic Luxury.	
Millennium Furniture Co., Ltd.	
Nitori Furniture Vietnam EPE.	
Sinomax Macao Commercial Offshore Ltd.	
Sinomax (Vietnam) Household Products Limited.	
Super Foam Vietnam Ltd.	
Taimei Company Limited.	
Tongli Vietnam Industries Co., Ltd.	

	Period to be reviewed
Uu Viet Co., Ltd.	
Van Thanh Mattress.	
Van Thien Sa.	
Vietnam Glory Home Furnishings Co., Ltd.	
Viet Thang Mattress.	
Wanek Furniture Co., Ltd.	
TURKEY: Carbon and Alloy Steel Wire Rod, A–489–831	5/1/21–4/30/22
Icdas Celik Enerji Tersane ve Ulasim Sanayi A.S.	
Ege Celik Industrisi Sanayi Ve Ticaret A.S.	
TURKEY: Circular Welded Carbon Steel Pipes and Tubes, A–489–501	5/1/21–4/30/22
Borusan Birlesik Boru Fabrikalari San ve Tic.	
Borusan Gemlik Boru Tesisleri A.S.	
Borusan Holding.	
Borusan Ihracat Ithalat ve Dagitim A.S.	
Borusan Ithicat ve Dagitim A.S.	
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.	
Borusan Mannesmann Yatirim Holding.	
Borusman Istikbal Ticaret T.A.S.	
Cayirova Boru Sanayi ve Ticaret A.S.	
Çinar Boru Profil San. Ve Tic. Aş.	
Erbosan Erciyas Boru Sanayi ve Ticaret A.S.	
Kale Bağlanti Teknolojileri San. ve Tic. A.Ş.	
Noksel Çelik Boru Sanayi A.Ş.	
Toscelik Metal Ticaret A.Ş.	
Tosçelik Profil Ve Sac Endüstrisi A.Ş.	
Tosyali Dis Ticaret A.S.	
Tubeco Pipe and Steel Corporation.	
Yucel Boru ve Profil Endustrisi A.S.	
Yucelboru Ihracat Ithalat ve Pazarlama A.S.	
TURKEY: Large Diameter Welded Pipe, A–489–833	5/1/21–4/30/22
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.[14].	
Borusan Istikbal Ticaret.	
Cagil Makina San ve Tic A.S. AKA Cagil Makina A.S.	
HDM Celik Boru Sanayi ve Ticaret A.S./HDM Spiral Kaynakli Celik Boru A.S.[15].	
Spirally Welded Steel Pipe Inc.	
Çimtaş Boru Imalatiral Ticaret Ltd.	
Emek Boru Makina Sanayi ve Ticaret A.S.	
Erciyas Celik Boru Sanayi A.S.	
Mazlum Mangtay Boru Son. Ins. Tar. Urn. San. ve Tic. A.S.	
Noksel Celik Boru Sanayi A.S.	
Ozbal Celik Boru San. Tic. Ve TAAH A.S.	
Toscelik Profil ve Sac End. A.S.	
Toscelik Profile and Sheet Ind. Co.	
Toscelik Spiral Boru Uretim A.S.	
Umran Celik Boru Sanayii A.S.	
UNITED ARAB EMIRATES: Certain Steel Nails, A–520–804	5/1/21–4/30/22
Al Falaq Building Materials, LLC.	
Al Khashab Building Materials Co., LLC.	
Al Rafaa Star Building Materials Est.	
Al Sabbah Trading and Importing, Est.	
All Ferro Building Materials, LLC.	
Asgar Ali Yousif Trading Co., LLC.	
Azymuth Consulting, LLC.	
Burj Al Tasmeem, Tr.	
Dubai Wire FZE Gheewala Hardware Trading Company, LLC.	
Master Nails and Pins Manufacturing LLCNew World International, LLC.	
Okzeela Star Building Materials Trading, LLC.	
Rich Well Steel Industries LLC.	
Samrat Wire Industry, LLC.	
SK Metal International DMCC.	
Steel Racks Factory, LLC.	
Trade Circle Enterprises, LLC.	
CVD Proceedings	
REPUBLIC OF KOREA: Carbon and Alloy Steel Cut-To-Length Plate, C–580–888	1/1/21–12/31/21
Ajin Industrial Co., Ltd.	
BDP International.	
Blue Track Equipment.	
Boxco.	
Bukook Steel Co., Ltd.	
Buma CE Co., Ltd.	
China Chengdu International Techno-Economic Cooperation Co., Ltd.	
Daehan I.M. Co., Ltd.	
Daehan Tex Co., Ltd.	
Daelim Industrial Co., Ltd.	

	Period to be reviewed
Daesam Industrial Co., Ltd.	
Daesin Lighting Co., Ltd.	
Daewoo International Corp.	
Dong Yang Steel Pipe.	
DK Dongshin Co., Ltd.	
Dongbu Steel Co., Ltd.	
Dongkuk Industries Co., Ltd.	
Dongkuk Steel Mill Co., Ltd.	
EAE Automotive Equipment.	
EEW KHPC Co., Ltd.	
Eplus Expo Inc.	
GS Global Corp.	
Haem Co., Ltd.	
Han Young Industries.	
Hyosung Corp.	
Hyundai Steel Co.	
Jinmyung Frictech Co., Ltd.	
Khana Marine Ltd.	
Kindus Inc.	
Korean Iron and Steel Co., Ltd.	
Kyoungil Precision Co., Ltd.	
Menics.	
POSCO.	
POSCO International Corporation [16].	
Qian'an Rentai Metal Products Co., Ltd.	
Samsun C&T Corp.	
Samsung.	
Shinko.	
Shipping Imperial Co., Ltd.	
Sinchang Eng Co., Ltd.	
SK Networks Co., Ltd.	
SNP Ltd.	
Steel N People Ltd.	
Summit Industry.	
Sungjin Co., Ltd.	
Young Sun Steel.	
REPUBLIC OF KOREA: Large Diameter Welded Pipe, C–580–898	1/1/21 –12/31/21
AJU Besteel Co., Ltd.	
Chang Won Bending Co., Ltd.	
Daiduck Piping Co., Ltd.	
Dong Yang Steel Pipe Co., Ltd.	
Dongbu Incheon Steel Co., Ltd.	
EEW KHPC Co., Ltd.	
EEW Korea Co., Ltd.	
Hansol Metal Co. Ltd.	
HiSteel Co., Ltd.	
Husteel Co., Ltd. [17].	
Hyundai RB Co., Ltd.	
Hyundai Steel Company [18].	
Il Jin Nts Co. Ltd.	
Kem Solutions Co., Ltd.	
Kiduck Industries Co., Ltd.	
Kum Kang Kind. Co., Ltd.	
Kumsoo Connecting Co., Ltd.	
Nexteel Co., Ltd.	
POSCO International Corporation.	
Samkang M&T Co., Ltd.	
SeAH Steel Corporation.	
Seonghwa Industrial Co., Ltd.	
SIN-E B&P Co., Ltd.	
Steel Flower Co., Ltd.	
WELTECH Co., Ltd.	
SOUTH AFRICA: Stainless Steel Plate in Coils, C–791–806	1/1/21–12/31/21
Columbus Stainless (PTY) Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Aluminum Extrusions, C–570–968	1/1/21–12/31/21
American International Cargo Service Inc.	
Anhui Morden Living Co., Ltd.	
Anson.	
Beijing Kingpeng International Agriculture Corporation.	
Bisen Smart Access Co., Ltd.	
Caribbean Galaxy Aluminum, S.R.L.	
Changshu Liyuan Imp. & Exp. Co., Ltd.	
Changshu Wojun Machinery Equipment.	
Changzhou Hivalue Impex Co Ltd.	

	Period to be reviewed
Changzhou Infusion Plastics Industries.	
Changzhou Ryan-Al Door.	
Changzhou Yongming Machinery Manufacturing Co., Ltd.	
Chenming Industry and Commerce Shouguang Co., Ltd.	
Comau (Shanghai) Engineering Co., Ltd.	
Dalian Senmiao Wooden Products Co., Ltd.	
Dmax New Material Technology Co., Ltd.	
Dura Shower Enclosures Co., Ltd.	
Eastlinx Xiamen Co., Ltd.	
Epson Engineering (Shenzhen) Ltd.	
Foshan City Nanhai Yongfeng Aluminum.	
Fuzhou Sunmodo New Energy Equipment Co., Ltd.	
General Equipment Technology Development Ltd.	
Guangdong Canbo Electrical Co., Ltd.	
Guangdong JMA Aluminum Profile Factory (Group) Co., Ltd.	
Guangdong Victor Aluminum Co., Ltd.	
Guangdong Yaoyinshan Aluminum Co., Ltd.	
Guangzhou Graly Lighting Co., Ltd.	
Hangzhou Evernew Machinery & Equipment Co., Ltd.	
Hangzhou Siyi Imp.& Exp. Co., Ltd.	
Hota International Logistics Co., Ltd.	
HTL Furniture (China) Co., Ltd.	
Huazhijie Plastic Products.	
Hui Qian (Shanghai) International Trading Co., Ltd.	
Jer Education Technology.	
Ji & Da Trading Co, Ltd.	
Jiangsu Asia Pacific Aviation Technology Co., Ltd.	
Jiangsu Singcheer Intelligent Equipment Co., Ltd.	
Larkcop International Co Ltd.	
Lien Chiang Furniture Hardware Co.	
Maxable Global Company Limited.	
Mithras Glass Hardware Factory.	
Ningbo Baihui Furniture Co., Ltd.	
Ningbo Huige Metal Products Co., Ltd.	
Ningbo Mark One International.	
Ningbo Yinzhou Outdoor Equipment Co., Ltd.	
Novista Group Co., Ltd.	
Paleo Furniture Co., Ltd.	
Qingdao Huayu Hardware Products Co.	
Qingdao Mrp Industry Co., Ltd.	
Qingdao Sea Nova Building.	
Reifenhauser Plastics Machinery (Suzhou) Co., Ltd.	
Rubicon Impt & Expt Co., Limited.	
Shandong Golden Realm Industrial Co., Ltd.	
Shandong Mount Tai Sheng Li Yuan Glass Co., Ltd.	
Shanghai An Mao E-Commerce Co Ltd.	
Shanghai Jobbetter Plastic Machinery Co., Ltd.	
Shanghai Promise Metal Co Ltd.	
Shanghai Xindun Trade Co., Ltd.	
Shenyang Yuanda Aluminum Industry Engineering Co. Ltd.	
Shenzhen Beiruitong Trade Co., Ltd.	
Shenzhen Thomas Homeware Co., Limited.	
Shenzhen Wanduoyi Supply Chain Co., Ltd.	
Shenzhen Wision Industrial Co., Ltd.	
Shenzhen Xinjiayi Plastic & Metal, Co. Ltd.	
ShineLong Technology Corp., Ltd.	
Sichuan Hangxin New Glazing Material Co., Ltd.	
Suzhou Bonate Int. Trading Co., Ltd.	
Suzhou Futong New Materials and High-tech Co., Ltd.	
Suzhou Hengxiang Import & Export Co., Ltd.	
Suzhou Jwell Machinery Co., Ltd.	
Taizhou Meihua Work of Art Co., Ltd.	
The Tigereye International Trading Co. Ltd.	
Tianjin Hyosung Packaging Product Co., Ltd.	
Top Asian Resource Co., Ltd.	
Wuxi Longdet Imp. & Exp. Co., Ltd.	
Wuxi Rapid Scaffolding Engineering.	
Xiamen Hosetechnique Ltd.	
Yantai Jintai International Trade Co., Ltd.	
Jiangsu Yizheng Haitian Aluminum Industrial.	
Yonn Yuu Enterprise Co., Ltd.	
Yuyao Royal Industrial.	
Zhangjiagang Kingplas Machinery Co., Ltd.	
Zhejiang Hengfeng Technology Co., Ltd.	

	Period to be reviewed
Zhuji Wenfeng Import and Export Co.	
THE PEOPLE'S REPUBLIC OF CHINA: Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, C–570–125	5/26/20–12/31/21
Changzhou Kawasaki and Kwang Yang Engine Co., Ltd.	
ChongQing AM Pride Power & Machinery Co., Ltd.	
Chongqing Chen Hui Electric Machinery Co., Ltd.	
Chongqing Dinking Power Machinery Co., Ltd.	
Chongqing Ducar Power Equipment Co., Ltd.	
Chongqing Hwasdan Power Technology Co., Ltd.	
Chongqing Kohler Engines, Ltd.	
Chongqing Kohler Motors Co., Ltd.	
Chongqing Rato Technology Co., Ltd.	
Chongqing Senci Import & Export Trade Co., Ltd.	
Chongqing Shineray Agricultural Machinery Co., Ltd.	
Chongqing Zongshen General Power Machine Co., Ltd./Chongqing Dajiang Power Equipment Co., Ltd.	
Fujian Everstrong Lega Power Equipments Co., Ltd.	
Kawasaki Heavy Industries, Ltd.	
Lifan Technology (Group) Co., Ltd.	
Loncin Motor Co., Ltd.	
Qianjiang Group Wenling Jennfeng Industry Inc.	
Taizhou Sabo Electronics Co., Ltd.	
Wenling Qianjiang Imp. & Exp. Co., Ltd.	
Zhejiang Amerisun Technology Co., Ltd.	
Zhejiang Dobest Power Tools Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Mattresses, C–570–128	9/11/20–12/31/21
Aishu Shanghai Ltd, Mattress Co.	
Aonidisi Home Furniture Manufactory.	
Beijing Aris Furniture Co., Ltd.	
Chengdu Bayi Mattress Factory.	
Chongqing Wei Lan Mattress Furniture Co Ltd.	
De Rucci Beddings Co., Ltd.	
Foshan Eon Home Co., Ltd.	
Foshan Golden Furniture Co., Ltd.	
Guangdong Diglant Furniture Industrial Co., Ltd.	
Guangzhou Shangpin Home Collection Co., Ltd.	
Hangzhou Hansan Home Furniture Co. Ltd.	
Harbin Homey Industrial Group Co., Ltd.	
Healthcare Co. Ltd.	
Huaian Kanway Chemical Technology Co. Ltd (Wellcare).	
Hubei Lianle Bedding Mattress Group Co. Ltd.	
Hunan Goodnight Home Furnishings Industry Co., Ltd.	
Jason Furniture (Hangzhou) Co. Ltd.	
Jiangsu JSY Latex Products Co. Ltd.	
Jiaxing Yuan Chang Furniture Co., Ltd - Mellkit.	
Jinlongheng Furniture Co., Ltd.	
Kewei Furniture Co. Ltd..	
Landbond Furniture Group Co. Ltd.	
Lixing Industrial Co. Ltd.	
Megafeat Bedding Co. Ltd., also known as Ningbo Megafeat Bedding Co., Ltd.	
Ningbo Mengshen Mattress Machinery Co., Ltd.	
Quan Li Spring Hardware Factory.	
Quanyou Furniture Co Ltd.	
Rayson Global Co., Ltd.	
Relux Mattress Co., Ltd.	
Shandong Fengyang Group Co Ltd.	
Shandong Yantai Jisi Furniture Group Co Ltd.	
Shanghai Gaoyu Foam Products Co., Ltd.	
Shanghai King Koil Sleep System Co., Ltd.	
Shanghai Shenbao Mattress Factory.	
Shenzhen Hengang Industries Co., Ltd.	
Shenzhen Simmons Bedding & Furniture.	
Shenzhen Tiancheng Furniture Co., Ltd. Hong Ping Guo - Red Apple.	
Shenzhen Yuanchao Household Goods Co., Ltd - CBD.	
Shenzhen Zhanyue Furniture Co. Ltd.	
Shilikang Furniture Co., Ltd.	
Sinomax.	
South Huiton Co., Ltd. - Dazhiran.	
Stylution Int'l (China) Corp..	
Suibao Eurasia Mattress & Furniture Co., Ltd.	
Warm Universe Home Products Co. Ltd.	
Xilinmen Group Co. Ltd.	
YuanFangYuan Industry Development Co., Ltd - Shenzhen YFY Furniture.	
Zhejiang Huaweimei Group Co. Ltd.	
Zinus Xiamen.	

	Period to be reviewed
THE PEOPLE'S REPUBLIC OF CHINA: Non-Refillable Steel Cylinders, C–570–127	8/28/20–12/31/21
Ningbo Eagle Machinery & Technology Co., Ltd.	
Sanjiang Kai Yuan Co. Ltd. (SKY).	
Wuyi Xilinde Machinery Manufacture Co., Ltd.	
Zhejiang KIN–SHINE Technology Co., Ltd.	
THE PEOPLE'S REPUBLIC OF CHINA: Twist Ties,[19] C–570–132	12/01/20–12/31/21
TURKEY: Large Diameter Welded Pipe, C–489–834	1/1/21–12/31/21
Borusan Mannesmann Boru Sanayi ve Ticaret A.S.[20].	
Borusan Istikbal Ticaret.	
Cagil Makina San ve Tic A.S. AKA Cagil Makina A.S.	
HDM Celik Boru Sanayi ve Ticaret A.S./HDM Spiral Kaynakli Celik Boru A.S.[21].	
Spirally Welded Steel Pipe Inc.	
Çimtaş Boru Imalatiral Ticaret Ltd.	
Emek Boru Makina Sanayi ve Ticaret A.S.	
Eriyas Celik Boru Sanayi A.S.	
Mazlum Mangtay Boru Son. Ins. Tar. Urn. San. ve Tic. A.S.	
Noksel Celik Boru Sanayi A.S.	
Ozbal Celik Boru San. Tic. Ve TAAH A.S.	
Toscelik Profil ve Sac End. A.S.	
Toscelik Profile and Sheet Ind. Co.	
Toscelik Spiral Boru Uretim A.S.	
Umran Celik Boru Sanayii A.S.	

Suspension Agreements

None.

[5] In past reviews, Commerce has treated these companies as a single entity. *See, e.g., Certain Carbon and Alloy Steel Cut-To-Length Plate from Belgium: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2019–2020,* 87 FR 7116 (February 8, 2022). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[6] In the underlying investigation and past reviews, Commerce treated these companies as a single entity. *See, e.g., Large Diameter Welded Pipe from Canada: Antidumping Duty Order,* 84 FR 18775 (May 2, 2019); *Large Diameter Welded Pipe from Canada: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2018– 2020,* 87 FR 6497 (February 4, 2022). In its request for administrative review, the American Line Pipe Producers Association requested review of ''Canadian National Steel Corp.'' which appears to be an abbreviation of the full company name. Commerce included only the full name of this company within the single entity in this notice, as it appears in the company's request for review.

[7] Commerce hereby corrects the inadvertent omission of the full name of the proceeding as listed in *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 35165, 35167 (June 9, 2022) (*April Initiation Notice*).

[8] Commerce hereby corrects the inadvertent omission of this administrative review from the *April Initiation Notice.*

[9] Commerce has determined that POSCO, POSCO International Corporation, POSCO SPS, and certain distributors and service centers (Taechang Steel Co., Ltd., and Winsteel Co., Ltd.) should be treated as a single entity (collectively, the POSCO single entity). *See Carbon and Alloy Steel Cut-to-Length Plate From the Republic of Korea: Final Results of Antidumping Duty Administrative Review; 2019–2020,* 87 FR 6483 (February 4, 2022).

[10] Commerce hereby corrects the inadvertent omission of the full name of the proceeding as listed in the *April Initiation Notice.*

[11] Commerce hereby corrects the inadvertent omission of this administrative review from the *April Initiation Notice.*

[12] In the less-than-fair-value investigation, Commerce determined that these companies should be treated as a single entity. *See Certain Vertical Shaft Engines Between 99cc and Up To 225cc, and Parts Thereof, from the People's Republic of China: Final Affirmative Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 86 FR 14077 (March 12, 2021). Absent information to the contrary, we intend to continue to treat these companies as a single entity for the purpose of this administrative review.

[13] Commerce hereby corrects the misspelling of the full name of the proceeding as listed in *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 35165, 35170 (June 9, 2022).

[14] We note that subject merchandise produced and exported by Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) was excluded from the order effective June 1, 2020. *See Large Diameter Welded Pipe from the Republic of Turkey: Notice of Court Decision Not in Harmony With Amended Final Determination in the Less-Than-Fair-Value Investigation; Notice of Amended Final Determination Pursuant to Court Decision; and Notice of Revocation of Antidumping Duty Order, in Part,* 85 FR 35262, 35264 (June 9, 2020). Commerce also stated in this notice that it would not initiate any new reviews of Borusan's entries. Accordingly, we are initiating this administrative review with respect to Borusan only for subject merchandise produced in Turkey where Borusan acted as either the manufacturer or exporter (but not both).

[15] In English, the name of HDM Spiral Kaynakli Celik Boru A.S. is HDM Spirally Welded Steel Pipe Co. Inc.

[16] In their request for administrative review, Cleveland-Cliffs Steel LLC, Nucor Corporation, and SSAB Enterprises LLC requested review of ''POSCO International Corp.'' which appears to be an abbreviation of the full company name. We listed here only the full company name, as it appears in the company's request for review.

[17] Subject merchandise both produced and exported by Husteel Co., Ltd. (Husteel) is excluded from the countervailing duty order. *See Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order,* 84 FR 18773 (May 2, 2019). Thus, Husteel's inclusion in this administrative review is limited to entries for which Husteel was not both the producer and exporter of the subject merchandise.

Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an AD order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), Commerce, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether AD duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States

[18] Subject merchandise both produced and exported by Hyundai Steel Company (Hyundai Steel) and subject merchandise produced by Hyundai Steel and exported by Hyundai Corporation are excluded from the countervailing duty order. *See Large Diameter Welded Pipe from the Republic of Korea: Countervailing Duty Order,* 84 FR 18773 (May 2, 2019). Thus, Hyundai Steel's inclusion in this administrative review is limited to entries for which Hyundai Steel was not the producer and exporter of the subject merchandise and for which Hyundai Steel was not the producer and Hyundai Corporation was not the exporter of subject merchandise.

[19] Commerce hereby corrects the period of review for this proceeding as listed in *Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 87 FR 35165, 35176 (June 9, 2022).

[20] Subject merchandise produced and exported by Borusan Mannesmann Boru Sanayi ve Ticaret A.S. (Borusan) was excluded from the order. *See Large Diameter Welded Pipe From the Republic of Turkey: Countervailing Duty Order,* 84 FR 18771, 18772 (May 2, 2019). Accordingly, we are initiating this administrative review with respect to Borusan only for subject merchandise produced in Turkey where Borusan acted as either the manufacturer or exporter (but not both).

[21] In English, the name of HDM Spiral Kaynakli Celik Boru A.S. is HDM Spirally Welded Steel Pipe Co. Inc.

through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Gap Period Liquidation

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant ''gap'' period of the order (*i.e.,* the period following the expiry of provisional measures and before definitive measures were put into place), if such a gap period is applicable to the POR.

Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with the procedures outlined in Commerce's regulations at 19 CFR 351.305. Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

Factual Information Requirements

Commerce's regulations identify five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). These regulations require any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The regulations, at 19 CFR 351.301, also provide specific time limits for such factual submissions based on the type of factual information being submitted. Please review the *Final Rule,*[22] available at *www.govinfo.gov/content/pkg/FR-2013-07-17/pdf/2013-17045.pdf,* prior to submitting factual information in this segment. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.[23]

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information using the formats provided at the end of the *Final Rule.*[24] Commerce intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable certification requirements.

Extension of Time Limits Regulation

Parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by Commerce.[25] In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) Q&V questionnaires. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This policy also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which Commerce will grant untimely-filed requests for the extension of time limits. Please review the *Final Rule,* available at *https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: July 5, 2022.

James Maeder,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2022–15085 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–DS–P

[22] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*); *see also* the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[23] *See Temporary Rule Modifying AD/CVD Service Requirements Due to COVID–19,* 85 FR 41363 (July 10, 2020).

[24] *See* section 782(b) of the Act; *see also Final Rule;* and the frequently asked questions regarding the *Final Rule,* available at *https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[25] *See* 19 CFR 351.302.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–845]

Agreement Suspending the Antidumping Duty Investigation on Sugar From Mexico: Final Results of the 2019–2020 Administrative Review; Correction

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

ACTION: Notice; correction.

SUMMARY: The Department of Commerce (Commerce) published a notice in the **Federal Register** of July 6, 2022, in which Commerce announced the final results of the 2019–2020 administrative review of the Agreement Suspending the Antidumping Duty Investigation on Sugar from Mexico (AD Agreement). In this notice, Commerce inadvertently listed an incorrect period of review (POR) for the administrative review.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or David Cordell, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–0162 or (202) 482–0408, respectively.

SUPPLEMENTARY INFORMATION:

Correction

In the **Federal Register** of July 6, 2022, in FR Doc. 2022–14281, on page 40178, in the second column, correct the POR from ''January 1, 2020 through

December 31, 2020'' to ''December 1, 2019 through November 30, 2020.'' In addition, on page 40178, in the second column, in footnote 1, correct the **Federal Register** citation from ''87 FR 972'' to ''87 FR 932.''

Background

On July 6, 2022, Commerce published in the **Federal Register** notification of the final results of the 2019–2020 administrative review of the AD Agreement.[1] In this notice, we incorrectly listed the POR for the administrative review and cited an incorrect **Federal Register** page in footnote 1.

Notification to Interested Parties

We are issuing and publishing these results of review in accordance with sections 751(a)(l) and 777(i)(l) of the Act and 19 CFR 351.213 and 19 CFR 351.221(b)(5).

Dated: July 8, 2022.

Lisa W. Wang,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2022–15086 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC172]

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 Fishery Management Council will hold a public meeting of its Mackerel, Squid, and Butterfish (MSB) Monitoring Committee. See **SUPPLEMENTARY INFORMATION** for agenda details.

DATES: The meeting will be held on Thursday, July 28, 2022, from 11 a.m. to 1 p.m.

ADDRESSES: The meeting will be held via webinar. Connection information will be posted to the calendar prior to the meeting at *www.mafmc.org.*

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 Council's Mackerel, Squid, and Butterfish (MSB) Monitoring Committee will review recent fishery performance and the Scientific and Statistical Committee's (SSC) catch recommendations regarding butterfish and *Illex* squid. Based on the SSC's recommendations, the Monitoring Committee will develop recommendations about annual specifications and/or associated management measures.

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: July 8, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–14987 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC173]

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 Fishery Management Council's (MAFMC) Bluefish Advisory Panel (AP) will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Advisory Panel.

DATES: The meeting will be held on Monday, August 1, 2022, from 5 p.m. to 6:30 p.m. 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 or on their website at *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 purpose of this meeting is for the Advisory Panel to comment on bluefish recreational management measures for 2023. Feedback will be solicited on the current measures and the Monitoring Committee recommendations and AP feedback will be provided to inform the Council and Board's specifications discussions.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shelley Spedden at the Council Office, (302) 526–5251, at least 5 days prior to the meeting date.

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

Dated: July 8, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–14988 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC163]

Fisheries of the Exclusive Economic Zone off Alaska; Request for Information on Bristol Bay Red King Crab and Eastern Bering Sea Snow Crab Mortality Mitigation Measures

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

ACTION: Notification; Request for Information (RFI).

SUMMARY: The North Pacific Fishery Management Council (Council) is requesting information from the public on ways to reduce fishing-related mortality for Eastern Bering Sea (EBS) snow crab, a stock that is overfished. Information from the public is critical to that effort and, therefore, the Council is seeking public input. This notice invites the public to submit written comments on the topic generally and in response to specific questions outlined below.

[1] *See Agreement Suspending the Antidumping Duty Investigation on Sugar From Mexico: Final Results of the 2019–2020 Administrative Review,* 87 FR 40178 (July 6, 2022).

DATES: Comments must be received via the Council's eAgenda meeting portal by 5 p.m. AKT on September 23, 2022 at *https://meetings.npfmc.org/Meeting/Details/2941.*

ADDRESSES: Please submit written comments to the Council's' eAgenda meeting portal, at ''Request for Information (RFI)—Bristol Bay Red King Crab and Eastern Bering Sea Snow Crab'' *https://meetings.npfmc.org/Meeting/Details/2941* by the September 23, 2022, deadline.

Council address: North Pacific Fishery Management Council, 1007 W 3rd Ave., Anchorage, AK 99501–2252; telephone: (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Sarah Rheinsmith Council staff; email: *sarah.rheinsmith@noaa.gov* or Jon McCracken at *jon.mccracken@noaa.gov* or by telephone (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Background

On October 19, 2021, NMFS notified the Council that EBS snow crab status has been changed to overfished. The EBS snow crab assessment shows that mature male biomass (MMB) is 50,600 metric tons (mt), which is less than the minimum stock size threshold (MSST) of 76,700 mt, therefore the stock is overfished.

Total snow crab mature male biomass (MMB) has varied considerably since 1990 from a high of 626.7 kilotons (kt) to a low of 50.6 kt in 2021. Observed MMB in the survey increased to historical highs in the 1990s but then declined significantly later that decade. The stock was declared overfished in 1999 in response to the total mature biomass dropping below the 1999 MSST. Observed MMB slowly increased after 1999, and the stock was declared rebuilt in 2011 when estimated MMB at mating was above B35 percent. However, after 2011, the stock declined and the observed MMB at the time of the survey dropped to an all-time low in 2021. In recent years, MMB was increasing as a large recruitment moved through the size classes, but that recruitment event has since disappeared and the observed mature male biomass at the of the 2021 survey was 50.6 kt, a new all-time low. This is the first time a mass mortality event appears to have occurred for snow crab since the survey began and the biomass of important size categories of crab is at historic lows. Because EBS snow crab is overfished, the Council is working to develop a recommended rebuilding plan, consistent with section 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act.

In June 2022, the Council adopted draft alternatives for analysis to establish a rebuilding plan for EBS snow crab, which will be presented to the Council likely in December 2022, and available for public comment. As a separate but related component in response to the change in snow crab status, the Council also initiated a request for information on ways to reduce fishing-related mortality of EBS snow crab. This RFI is therefore seeking public comment on ways to reduce fishing-related mortality of EBS snow crab, and comment on this RFI is invited through September 23, 2022. Information on the Council's tentative agendas for the next three meetings can be found at *https://www.npfmc.org/3meeting/* (the Three Meeting Outlook).

Request for Information

This notice requests public comment on the motion put forward by the Council on June 10, 2022, which can be viewed at *https://tinyurl.com/C3EBScouncilmotion6-10-22.*

The scope of public comments is not limited, but questions that may be considered include:

1. Voluntary measures for implementation in 2023 and beyond to avoid EBS snow crab and reduce crab mortality in the non-directed fisheries;

2. Measures in the directed crab fishery to reduce discard mortality of EBS snow crab;

3. Description of research that would inform development of more flexible and effective spatial management measures; gear modifications to reduce impacts on the EBS snow crab stock, or to evaluate unobserved mortality in the trawl sector.

The Council will review comments submitted in response to this request for information during the October and December 2022 Council meetings. The October Council meeting is scheduled to begin on October 3, 2022. The schedule and agenda for both meetings will be available a month prior to the meeting. All responses to this request for information will be posted and publicly available on the Council agenda for the October and December 2022 meetings.

Public Comment

Responses to this request are voluntary. Respondents need not reply to all questions. All responses are a part of the public record and will be posted on a public website. Therefore, confidential business information, copyrighted information, or personally identifiable information (*e.g.,* name, address, etc.) should not be submitted in response to this request. NOAA and the Council will not pay for any information or administrative costs that you may incur in responding to this RFI, or for the use of any information contained in the response. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

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

Dated: July 8, 2022.

Jennifer M. Wallace,

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

[FR Doc. 2022–14989 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XC162]

Caribbean Fishery Management Council; Public Meeting

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

ACTION: Notice of a public hybrid (in person/virtual) meeting

SUMMARY: The Caribbean Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold a two-day public hybrid meeting to address the items contained in the tentative agenda included in the **SUPPLEMENTARY INFORMATION**.

DATES: The SSC two-day public hybrid meeting will be held on August 1, 2022, from 10 a.m. to 5 p.m. and August 2, 2022, from 10 a.m. to 5 p.m. The two-day meeting will be at Atlantic Standard Time (AST).

ADDRESSES:

Meeting address: The meeting will be held at the Courtyard by Marriott Isla Verde Resort, at 7012 Boca de Cangrejos Avenue, Carolina, Puerto Rico 00979.

You may join the SSC two-day public hybrid meeting via Zoom by entering the following address: *https://us02web.zoom.us/j/87345855856?pwd=SDc1V1NIK24xcEF0Zlhud0lTNlcvdz09*

Meeting ID: 873 4585 5856
Passcode: 793249
One tap mobile
+19399450244,,87345855856#,,,,
*793249# Puerto Rico
+17879451488,,87345855856#,,,,
*793249# Puerto Rico
Dial by your location
+1 939 945 0244 Puerto Rico
+1 787 945 1488 Puerto Rico
+1 787 966 7727 Puerto Rico
+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)
+1 646 558 8656 US (New York)
+1 669 900 9128 US (San Jose)
+1 253 215 8782 US (Tacoma)
+1 301 715 8592 US (Washington DC)
Meeting ID: 873 4585 5856
Passcode: 793249
Find your local number: *https://us02web.zoom.us/u/kKUpZ2IPc*

In case there are problems and we cannot reconnect via Zoom, the meeting will continue via GoToMeeting. You may join from a computer, tablet or smartphone by entering the following address: *https://meet.goto.com/474688061.*

You can also dial in using your phone.
United States: +1 (872) 240–3212
Access Code: 474–688–061
Join from a video-conferencing room or system.
Dial in or type: 67.217.95.2 or *inroomlink.goto.com*
Meeting ID: 474 688 061
Or dial directly: 474688061@67.217.95.2 or 67.217.95.2##474688061
Get the app now and be ready when the first meeting starts: *https://meet.goto.com/install*

FOR FURTHER INFORMATION CONTACT: Miguel Rolón, Executive Director, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico 00918–1903, telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The following items included in the tentative agenda will be discussed:

August 1, 2022

10 a.m.–10:15 a.m.

—Call to Order
—Roll Call
—Approval of Verbatim Transcriptions
—Adoption of Agenda

10:15 a.m.–12:30 p.m.

—SEDAR 80 Queen Triggerfish Assessments (Puerto Rico, St. Thomas/St. John, St. Croix)—SEFSC

12:30 p.m.–1:30 p.m.

—Lunch

1:30 p.m.–3 p.m.

—SEDAR 80 Queen Triggerfish Assessment (continuation)
—Discussion

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–5 p.m.

—SSC Recommendations to CFMC

August 2, 2022

10 a.m.–11 a.m.

—Continue Discussion and Recommendations to CFMC
—SEDAR-Stock Assessment Matrix—Kevin McCarthy, SEFSC

11 a.m.–12 p.m.

—Southeast Fishery Science Center (SEFSC) Caribbean Branch Update
—SSC Recommendations to CFMC
—Island-Based Fishery Management Plan and Amendments Update—María López-Mercer, SERO/NOAA Fisheries
—AM triggered for spiny lobster in Puerto Rico: July 12-September 30 2022 EEZ closure
—National SSC Update—Richard Appeldoorn, J.J. Cruz Motta
—Case Study 8: Multivariate approaches for EBFM implementation in the U.S. Caribbean
—SSC Recommendations to CFMC

12 p.m.–1 p.m.

—Lunch

1 p.m.–3 p.m.

—Discussion: SSC Research Plan Recommendations to CFMC

3 p.m.–3:15 p.m.

—Break

3:15 p.m.–5 p.m.

—Outreach and Education Advisory Panel Update—Alida Ortiz
—Finalize Research Priorities and Recommendations to CFMC
—SSC Recommendations to the CFMC
—Other Business
—Adjourn

The order of business may be adjusted as necessary to accommodate the completion of agenda items. The SSC two-days public hybrid meeting will begin on August 1, 2022, at 10 a.m. AST, and will end on August 2, 2022, at 5 p.m., AST. Other than the start time, interested parties should be aware that discussions may start earlier or later than indicated, at the discretion of the Chair. In addition, the meeting may be completed prior to the date established in this notice.

Special Accommodations

For any additional information on this public virtual meeting, please contact Dr. Graciela García-Moliner, Caribbean Fishery Management Council, 270 Muñoz Rivera Avenue, Suite 401, San Juan, Puerto Rico, 00918–1903, telephone: (787) 403–8337.

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

Dated: July 8, 2022.

Tracey L. Thompson,

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

[FR Doc. 2022–14993 Filed 7–13–22; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0054]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Safety Standard for Automatic Residential Garage Door Operators

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC, or Commission) announces that the Commission has submitted to the Office of Management and Budget (OMB) a request for extension of approval for information collection requirements regarding notifications under the safety standard for automatic residential garage door operators. OMB previously approved the collection of information under OMB Control No. 3041–0125. On May 5, 2022, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of this collection of information.

DATES: Submit written or electronic comments on the collection of information by August 15, 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. In addition, written comments that are sent to OMB also should be submitted electronically at: *http://www.regulations.gov,* under Docket No. CPSC–2012–0054.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7991, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On May 5, 2022, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. 87 FR 26738. The

Commission received no comments. Accordingly, CPSC seeks renewal approval for the following collection of information:

Title: Safety Standard for Automatic Residential Garage Door Operators.

OMB Number: 3041–0125.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Manufacturers and importers of automatic residential garage door operators.

Estimated Number of Respondents: An estimated 17 firms that conduct performance tests and maintain records based on the test results to retain UL certification and verify compliance with the rule.

Estimated Time per Response: Based on staff's review of industry sources, each respondent will spend an estimated 40 hours annually on the collection of information related to the rule.

Total Estimated Annual Burden: 680 hours (17 firms × 40 hours).

General Description of Collection: On December 22, 1992, the Commission issued rules prescribing requirements for a reasonable testing program to support certificates of compliance with the Safety Standard for Automatic Residential Garage Door Operators (57 FR 60449). These regulations also require manufacturers, importers, and private labelers of residential garage door operators to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR part 1211, subparts B and C.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–15048 Filed 7–13–22; 8:45 am]

BILLING CODE 6355–01–P

CONSUMER PRODUCT SAFETY COMMISSION

[Docket No. CPSC–2012–0026]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Requirements Pertaining to Third Party Conformity Assessment Bodies

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995, the Consumer Product Safety Commission (CPSC, or Commission) announces that it has submitted a request for extension of approval for information collection requirements to the Office of Management and Budget (OMB). The request concerns notification requirements pertaining to third party conformity assessment bodies. OMB previously approved the collection of information under OMB Control No. 3041–0156. On May 5, 2022, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. The Commission received no comments. Therefore, by publication of this notice, the Commission announces that CPSC has submitted to the OMB a request for extension of approval of this collection of information.

DATES: Submit written or electronic comments on the collection of information by August 15, 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. In addition, written comments that are sent to OMB also should be submitted electronically at: *https://www.regulations.gov,* under Docket No. CPSC–2012–0026.

FOR FURTHER INFORMATION CONTACT: Cynthia Gillham, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814; (301) 504–7991, or by email to: *cgillham@cpsc.gov.*

SUPPLEMENTARY INFORMATION: On May 5, 2022, CPSC published a notice in the **Federal Register** to announce the agency's intention to seek extension of approval of the collection of information. 87 FR 26738. The Commission received no comments. Accordingly, CPSC seeks renewal approval for the following collection of information:

Title: Notification Requirements Pertaining to Third Party Conformity Assessment Bodies.

OMB Number: 3041–0156.

Type of Review: Renewal of collection.

Frequency of Response: On occasion.

Affected Public: Third party conformity assessment bodies seeking acceptance of accreditation or continuing accreditation.

Estimated Burden:

- *New Applications from Third Party Conformity Assessment Bodies*

○ We estimate approximately 40 new applications from independent third party conformity assessment bodies will be submitted per year, each taking an estimated 75 minutes to complete the initial application materials, with an estimated burden of 50 hours per year.

○ We estimate approximately 3 firewalled third party conformity assessment bodies will apply per year, each taking an estimated 8.4 hours to complete the initial application materials, with an estimated burden of 25.2 hours per year.

○ We estimate approximately 4 governmental third party conformity assessment bodies will apply per year, each taking an estimated 3 hours to complete the initial application materials, with an estimated burden of 12 hours per year.

- *Third party conformity assessment bodies updating information*

○ We estimate that approximately 1 percent of third party conformity assessment bodies will take 15 minutes to update information for only those elements of information that need updating, with an estimated burden of 1.5 hours per year.

- *Third party conformity assessment bodies that subcontracts out tests*

○ We estimate that approximately 25 percent of third party conformity assessment bodies provide subcontracted testing and it will take 7 minutes to comply with the subcontracting recordkeeping requirement for an estimated 76,410 subcontracted tests, yielding an estimated burden of approximately 8,915 hours per year.

- *Third party conformity assessment bodies that voluntarily withdraw*

○ We estimate approximately 8 third party conformity assessment bodies will withdraw yearly, taking an estimated 30 minutes to create and submit the required documentation, with an estimated burden of 4 hours per year.

- *Third party conformity assessment bodies that are audited*

○ We estimate that approximately 253 independent third party conformity assessment bodies each year will be audited, taking approximately 4 minutes to resubmit their Form 223 and accreditation certificate, with an estimated burden of 17 hours per year.

○ We estimate that approximately 21 firewalled third party conformity assessment bodies will spend 226 minutes collecting and preparing the documentation to submit for an audit, with estimated burden of about 79 hours per year.

○ We estimate approximately 30 governmental third party conformity assessment bodies will spend 1 hour

collecting and preparing the documentation to submit for an audit, with estimated burden of 30 hours per year.

- *Total Annual Burden*

Adding all the annual estimated burden hours described above results in a total of 9,134 hours for third party conformity assessment bodies per year. At $40.35 per hour, the total cost of the recordkeeping associated with the Requirements Pertaining to Third Party Conformity Assessment Bodies is approximately $368,557 (9,134 hours × $40.35 = $368,557).

General Description of Collection: On March 12, 2013, the Commission issued a rule Pertaining to Third Party Conformity Assessment Bodies (78 FR 15836). The rule established the general requirements concerning third party conformity assessment bodies, such as the requirements and procedures for CPSC acceptance of the accreditation of a third party conformity assessment body, and the rule prescribed adverse actions that might be imposed against CPSC-accepted third party conformity assessment bodies. The rule also amended the audit requirements for third party conformity assessment bodies and amended the CPSC's regulation on inspections. CPSC's requirements pertaining to third party conformity assessment bodies can be found at 16 CFR part 1112.

Alberta E. Mills,

Secretary, Consumer Product Safety Commission.

[FR Doc. 2022–15047 Filed 7–13–22; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of 2022 Public Interface Control Working Group for NAVSTAR GPS Public Documents

AGENCY: Department of The Air Force, Department of Defense.

ACTION: Meeting notice.

SUMMARY: This notice informs the public that the Space Systems Command, Military Communications & Positioning, Navigation, Timing Directorate will host the 2022 Public Interface Control Working Group and Open Public Forum on September 28, 2022 for the following NAVSTAR GPS public documents: IS–GPS–200 (Navigation User Interfaces), IS–GPS–705 (User Segment L5 Interfaces), IS–GPS–800 (User Segment L1C Interface), and ICD–GPS–870 (Control Segment (OCX) to User Support Interface). Additional logistical details can be found below.

DATES: Open to the public Wednesday, September 28, 2022 from 8:30 a.m. to 4:00 p.m. (Pacific Time).

ADDRESSES: This virtual meeting can be accessed via the following dial-in numbers and links: Primary Dial In: +1 (571) 200–1700, Meeting ID: 161 996 3667, Passcode: 420440. Primary Screen Share URL: *https://saicweb conferencing.zoomgov.com/j/ 1619963667.*

Backup Dial In: +1 (410) 874–6740, Meeting ID: 326 120 515#

Backup Screen Share URL: *https:// dod.teams.microsoft.us/l/meetup-join/19%3adod%3ameeting_ c4dd5c38d0ae429191db25a307 db6d5e%40thread.v2/0?context=% 7b%22Tid%22%3a%228331b18d-2d87-48ef-a35f-ac8818ebf9b4% 22%2c%22Oid%22%3a%2239eaebff-b71b-4aad-8a01-55fa5d59953e %22%7d*

FOR FURTHER INFORMATION CONTACT: Captain Andrew Sweeten, telephone (310) 653–9603, Mr. Daniel Godwin, telephone (310) 653–3640; Los Angeles AFB, El Segundo, 90009; or Email: *SMCGPER@us.af.mil.*

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to update the public on proposed GPS public document changes, collect issues/ comments for analysis and adjudicate subject comments for possible incorporation into future GPS public document revisions. The 2022 Public Interface Control Working Group and Open Forum are open to the general public.

Comments to the proposed changes will be collected, catalogued, and adjudicated for potential inclusion. If accepted, these changes will be processed through the government change management process for IS–GPS–200, IS–GPS–705, IS–GPS–800, and ICD–GPS–870. All comments must be submitted in a Comments Resolution Matrix. This form along with the proposed change notices, public document baseline documents and the official meeting notice are posted at: *https://www.gps.gov/technical/icwg/ meetings/2022.*

Please submit comments to the Space Systems Command GPS Requirements Section (SSC/CGEPR) workflow at *SMCGPER@us.af.mil* by August 25, 2022. Special topics may also be considered for the Public Open Forum. If you wish to present a special topic, please submit your topic title, briefer name and organization by August 25, 2022. Any briefing materials will be due no later than September 21, 2022.

For those who would like to attend and participate, we request that you register no later than August 25, 2022. Please send the registration information to *SMCGPER@us.af.mil,* providing your name, organization, telephone number, email address, and country of citizenship. Meeting is being held virtually due to unpredictable restrictions associated with the ongoing COVID–19 pandemic. Backup dial-in & screen share website will only be used in case of primary system technical difficulties.

Adriane Paris,

Air Force Federal Register Liaison Officer.

[FR Doc. 2022–15083 Filed 7–13–22; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Research and Engineering, Department of Defense (DoD).

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The DoD is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board (DSB) will take place.

DATES: Closed to the public Tuesday, July 12, 2022 from 8:00 a.m. to 5:00 p.m. Closed to the public Wednesday, July 13, 2022 from 8:00 a.m. to 4:00 p.m.

ADDRESSES: The address of the closed meeting is the Executive Conference Center, 4075 Wilson Blvd., Floor 3, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin Doxey, (703) 571–0081 (voice), (703) 697–1860 (facsimile), *kevin.a.doxey.civ@mail.mil* (email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Website: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the website.

SUPPLEMENTARY INFORMATION: Due to circumstances beyond the control of the Department of Defense and the Designated Federal Officer, the Defense Science Board was unable to provide public notification required by 41 CFR 102–3.150(a) concerning its meeting of June 12 thru 13, 2022. Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b),

waives the 15-calendar day notification requirement. This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) (Title 5 United States Code (U.S.C), Appendix), the Government in the Sunshine Act (Title 5 U.S.C., Section 552b), and Title 41 Code of Federal Regulations (CFR), Sections 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the DoD's scientific and technical enterprise. The objective of the meeting is to obtain, review, and evaluate classified information related to the DSB's mission. DSB membership will meet to discuss the 2022 DSB Summer Study on Technology Superiority (''the Summer Study'').

Agenda: The DSB meeting on the Summer Study will begin on July 12, 2022 at 8:00 a.m. with administrative opening remarks from Mr. Kevin Doxey, the Executive Director and Designated Federal Officer, and a classified overview of the objectives of the 2022 Summer Study from Dr. Eric Evans, the DSB Chair. Next, the DSB members will meet in a plenary session to discuss classified concepts, capabilities, and strategies that may enhance the military technological advantage of the United States. Following a break, the DSB members will continue to meet to discuss classified concepts, capabilities, and strategies that may enhance the military technological advantage of the United States. The meeting will adjourn at 5:00 p.m. On July 13, 2022, beginning at 8:00 a.m., the DSB members will again meet to discuss classified concepts, capabilities, and strategies that may enhance the military technological advantage of the United States. Following a break, the DSB members will meet in a plenary session to discuss classified concepts, capabilities, and strategies that may enhance the military technological advantage of the United States. The meeting will adjourn at 4:00 p.m.

Meeting Accessibility: In accordance with Section 10(d) of the FACA and Title 41 CFR, Section 102–3.155, the DoD has determined that the DSB meeting will be closed to the public. Specifically, the Under Secretary of Defense for Research and Engineering, in consultation with the DoD Office of the General Counsel, has determined in writing that the meeting will be closed to the public because it will consider matters covered by title 5 U.S.C., section 552b(c)(1). The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Research and Engineering.

Written Statements: In accordance with Section 10(a)(3) of the FACA and Title 41 CFR, Sections 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the DSB at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB DFO provided above at any point; however, if a written statement is not received at least three calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DSB until a later date.

Dated: July 11, 2022.

Kayyonne T. Marston,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2022–15079 Filed 7–13–22; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Record of Decision for the Point Mugu Sea Range Environmental Impact Statement/ Overseas Environmental Impact Statement

AGENCY: Department of the Navy, Department of Defense (DoD).

ACTION: Notice of Availability.

SUMMARY: The United States Department of the Navy, after carefully weighing the strategic, operational, and environmental consequences of the Proposed Action (Point Mugu Sea Range Final Environmental Impact Statement/ Overseas Environmental Impact Statement (EIS/OEIS), published in the **Federal Register** on January 7, 2022), is announcing its decision to continue military readiness activities and increase research, development, acquisition, testing, evaluation, and training activities in the Point Mugu Sea Range as identified under Alternative 1 in the Point Mugu Sea Range Final EIS/ OEIS.

ADDRESSES: The complete text of the Record of Decision (ROD) is available on the project website at *www.pmsr-eis.com,* along with the January 2022 Final EIS/OEIS and supporting documents. Single copies of the ROD are available upon request by contacting: Commander, Naval Air Warfare Center Weapons Division, Range Sustainability Office/ Environmental, Code EB2R00M, 575 I Ave., Suite 1, PM53A, First Floor Room 101 (M/S0460), Point Mugu, CA 93042–5049, Attention: Point Mugu Sea Range EIS/OEIS Project Manager.

SUPPLEMENTARY INFORMATION: Implementation of Alternative 1 (Preferred Alternative) will enable the Navy, other U.S. military services, and its allies to meet their respective missions. The Navy's mission, under Title 10 United States Code (U.S.C.) Section 5062, is to maintain, train, and equip combat-ready military forces capable of winning wars, deterring aggression, and maintaining freedom of the seas. Alternative 1 includes activities that are the same or similar to those currently occurring, but that would occur at a more frequent level. Alternative 1 is based on increasing requirements to meet the current geopolitical environment, and supports the full spectrum of potential testing and training necessary to respond to a national emergency or crisis. The Navy will continue to implement the full suite of mitigation measures detailed in Chapter 5 (Standard Operating Procedures and Mitigation Measures) of the Point Mugu Sea Range Final EIS/ OEIS to avoid or reduce potential environmental impacts during testing and training activities.

Dated: July 8, 2022.

J.M. Pike,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2022–14975 Filed 7–13–22; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Service Contract Inventory for Fiscal Year (FY) 2020

AGENCY: Office of Finance and Operations, Department of Education.

ACTION: Notice of availability—FY 2020 service contract inventory.

SUMMARY: Through this notice, the Secretary announces the availability of the Department of Education's service contract inventory for FY 2020 on its

website, at *www2.ed.gov/fund/data/report/contracts/servicecontractinventoryappendix/servicecontractinventory.html.* A service contract inventory is a tool for assisting the agency in better understanding how contracted services are being used to support mission and operations and whether contract labor is being utilized in an appropriate and effective manner.

FOR FURTHER INFORMATION CONTACT: Nathan Watters, U.S. Department of Education, Office of Finance and Operations, 400 Maryland Avenue SW, Washington, DC 20202. Telephone: (202) 245–6942. Email: *Nathan.Watters@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service, toll-free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 743 of Division C of the Consolidated Appropriations Act of 2010, Public Law 111–117, requires civilian agencies, other than the Department of Defense, that are required to submit an inventory in accordance with the Federal Activities Inventory Reform Act of 1998 (Pub. L. 105–270, 31 U.S.C. 501 note) to submit their inventories to the Office of Federal Procurement Policy in the Office of Management and Budget. In addition, section 743 requires these agencies, which include the Department of Education, to (1) make the inventory available to the public, and (2) publish in the **Federal Register** a notice announcing that the inventory is available to the public along with the name, telephone number, and email address of the agency point of contact.

Through this notice, the Department announces the availability of its inventory for FY 2020 on the following website: *www2.ed.gov/fund/data/report/contracts/servicecontractinventoryappendix/servicecontractinventory.html.* The point of contact is provided under **FOR FURTHER INFORMATION CONTACT**.

Accessible Format: On request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov.* At this site, you can view this document, as well as all other documents of this Department, published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Denise Carter,

Acting Assistant Secretary, Office of Finance and Operations.

[FR Doc. 2022–15059 Filed 7–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0049]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Application for Approval To Participate in Federal Student Aid Programs

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 15, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Application for Approval to Participate in Federal Student Aid Programs.

OMB Control Number: 1845–0012.

Type of Review: A revision of a currently approved collection.

Respondents/Affected Public: State, Local, and Tribal Governments; Private Sector *Total Estimated Number of Annual Responses:* 7,286.

Total Estimated Number of Annual Burden Hours: 24,812.

Abstract: Section 487(c) of the Higher Education Act (HEA) of 1965, as amended, requires that the Secretary of Education prescribe regulations to ensure that any funds postsecondary institutions receive under the HEA are used solely for the purposes specified in and in accordance with the provision of the applicable programs. The concept of this federal gatekeeping has a long history, originating in 1952. Part H, Subpart 3, Section 498 of the HEA of 1965, as amended, gives the Secretary the responsibility for determining qualifications of institutions of higher education to participate in programs under the HEA. To comply with this requirement Section 498(b) of the HEA specified that the Secretary prepare and prescribe a single application form. The Department of Education (the Department) developed the Application for Approval to Participate in the Federal Student Financial Aid Programs to comply with the statutory requirements of collecting necessary information under the HEA. An institution must use this Application to

apply for approval to be determined to be eligible and if the institution wishes, to participate; to expand its eligibility; or to continue to participate in the Title IV programs. An institution must also use the Application to report certain required data as part of its recordkeeping requirements contained in the regulations under 34 CFR part 600 (Institutional Eligibility under the Higher Education Act of 1965, as amended). The Department uses the information reported on the Application in its determination of whether an institution meets the statutory and regulatory requirements. This request is for a revision of the current information collection. The Department is transitioning the current Application to an electronic webform housed within the FSA Partner Connect system (*fsapartners.ed.gov*).

Dated: July 11, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–15021 Filed 7–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0059]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; 2023–24 National Postsecondary Student Aid Study (NPSAS:24) Field Test—Institution Contacting and List Collection

AGENCY: Institute of Educational Science (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of a currently approved information collection.

DATES: Interested persons are invited to submit comments on or before August 15, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request (ICR) by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. *Reginfo.gov* provides two links to view documents related to this information collection request. Information collection forms and instructions may be found by clicking on the ''View Information Collection (IC) List'' link. Supporting statements and other supporting documentation may be found by clicking on the ''View Supporting Statement and Other Documents'' link.

Comments may also be sent to *ICDocketmgr@ed.gov*.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carrie Claraday, 202–245–6347.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: 2023–24 National Postsecondary Student Aid Study (NPSAS:24) Field Test—Institution Contacting and List Collection.

OMB Control Number: 1850–0666.

Type of Review: A revision of a currently approved information collection.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 505.

Total Estimated Number of Annual Burden Hours: 1,232.

Abstract: This request is to conduct the 2023–24 National Postsecondary Student Aid Study Institution Contacting and List Collection Field Test (NPSAS:24 FT). This study is being conducted by the National Center for Education Statistics (NCES), within the Institute of Education Sciences (IES), part of the U.S. Department of Education. This submission covers materials and procedures related to institution sampling, enrollment list collection, and matching to administrative data files as part of the NPSAS:24 FT data collection and includes details about the full-scale institution sampling and enrollment list data collection. NCES will submit a separate clearance package covering the student FT data collection, including the student record data abstraction and student surveys, in the summer of 2022. The materials and procedures for NPSAS:24 are based on those developed for previous institution-based data collections, including the 2019–20 National Postsecondary Student Aid Study (NPSAS:20) [OMB #1850–0666 v.23], and the 2017–18 National Postsecondary Student Aid Study Administrative Collection (NPSAS:18–AC) [1850–0666 v.21]. The first NPSAS was implemented by NCES during the 1986–87 academic year to meet the need for national data about significant financial aid issues. Since 1987, NPSAS has been fielded every 2 to 4 years, most recently during the 2019–20 academic year (NPSAS:20). NPSAS:24 will be nationally-representative. The NPSAS:24 field test sample size will be 6,000 students, and the full-scale sample will include 137,000 nationally representative undergraduate and 25,000 nationally representative graduate students who will be asked to complete a survey and for whom we will collect student records and administrative data. If the full-scale budget allows, we will include state-representative sampling for the full-scale collection and provide the budget for a state-representative sampling plan in the 30-day full-scale package, planned for 2023. Also, if exercised, NPSAS:24 will serve as the base year for the 2024 cohort of the Baccalaureate and Beyond (B&B) Longitudinal Study and will include a nationally representative sample of students who will complete requirements for the bachelor's degree during the NPSAS year (*i.e.,* completed at some point between July 1, 2022 and June 30, 2023 for the field test and July 1, 2023 to June 30, 2024 for the full-scale). Subsets of questions in the student survey will focus on describing aspects of the experience of students in their last year of postsecondary education, including student debt and education experiences. This submission is designed to adequately justify the

need for and overall practical utility of the full study, presenting the overarching plan for all of the phases of the institution sampling and enrollment list data collection and providing as much detail about the measures to be used as is available at the time of this submission. As part of this submission, NCES is publishing a notice in the **Federal Register** allowing first a 60- and then a 30-day public comment period. Field test materials, procedures, and results will inform the full-scale study. After completion of this field test, NCES will publish a notice in the **Federal Register** allowing additional 30-day public comment period on the final details of the NPSAS:24 full-scale institution sampling and enrollment list study.

Dated: July 11, 2022.

Stephanie Valentine,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–15023 Filed 7–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2022–SCC–0054]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Foreign Graduate Medical School Consumer Information Reporting Form

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension without change of a currently approved collection.

DATES: Interested persons are invited to submit comments on or before August 15, 2022.

ADDRESSES: Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this information collection request by selecting ''Department of Education'' under ''Currently Under Review,'' then check ''Only Show ICR for Public Comment'' checkbox. Comments may also be sent to *ICDocketmgr@ed.gov.*

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Foreign Graduate Medical School Consumer Information Reporting Form.

OMB Control Number: 1845–0117.

Type of Review: An extension without change of a currently approved collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 24.

Total Estimated Number of Annual Burden Hours: 384.

Abstract: This is a request for an extension of the information collection to obtain consumer information from foreign graduate medical institutions that participate in the William D. Ford Federal Direct Loan Program (Direct Loan Program) as authorized under Title IV of the Higher Education Act of 1963, as amended, (HEA). The form is used for reporting specific graduation information to the Department of Education (the Department) with a certification signed by the institution's President/CEO/Chancellor.

Dated: July 11, 2022.

Kun Mullan,

PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division, Office of Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2022–15022 Filed 7–13–22; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4472–031]

Union Falls Hydropower, L.P.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 4472–031.

c. *Date filed:* June 30, 2022.

d. *Applicant:* Union Falls Hydropower, L.P. (Union Falls).

e. *Name of Project:* Saranac Hydroelectric Project (Saranac Project).

f. *Location:* On the Saranac River, in the town of Franklin in Franklin County and the town of Black Brook in Clinton County, New York. The project does not include any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Ms. Sherri Loon, Coordinator—Operations USA, Kruger Energy, 423 Brunswick Ave., Gardiner, ME 04345; phone: (207) 203–3026; email: *Sherri.Loon@kruger.com;* and Mr. Lewis Loon, General Manager, Operations and Maintenance—USA, Kruger Energy, 432 Brunswick Ave., Gardiner, ME 04345; phone: (207) 203–3027; email: *Lewis.Loon@kruger.com.*

i. *FERC Contact:* Claire Rozdilski, 202–502–8529, or *claire.rozdilski@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental

document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: August 29, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Saranac Hydroelectric Project (P–4472–031).

m. The application is not ready for environmental analysis at this time.

n. The Saranac Project consists of the following existing facilities: (1) a 151-foot-long, 24-foot-high dam with a 147-foot-long spillway section at crest elevation 1,408.49 feet mean sea level (msl) with 1-foot-high flashboards; (2) a reservoir having a surface area of 1,630 acres and a gross storage capacity of 8,900 acre-feet at pool elevation 1,409.49 feet msl; (3) an integrated 36-foot-long gated intake structure at the dam's left (north) side; (4) an 11-foot-diameter, 1,433-foot-long steel penstock; (5) a surge vent; (6) a powerhouse containing two turbine generating units with a total rated capacity of 2.6 megawatts; (7) 4.16-kilovolt (kV) generator leads; (8) a 4.16/46-kV step-up transformer bank; (9) a 90-foot-long, 46-kV transmission line; (10) a tailrace; and (11) appurtenant facilities. Union Falls does not propose changes to project facilities. Average annual generation at the project was 745 megawatt-hours between 2017 and 2021.

The Saranac Project operates in a modified run-of-river mode through the use of a float control for the purpose of generating electric power. Union Falls proposes to increase the minimum flow in the bypassed reach from 30 cubic feet per second (cfs) from April 1 through June 30, and 10 cfs for the remainder of the year, to 50 cfs from March 2 to November 30 and 30 cfs for the remainder of the year.

o. A copy of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	August 2022.
Request Additional Information (if necessary)	August 2022.
Issue Acceptance Letter and Notice	November 2022.
Issue Scoping Document 1 for comments	December 2022.
Issue Scoping Document 2 (if necessary)	February 2023.
Issue Notice of Ready for Environmental Analysis	March 2023.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15052 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP22–1047–000.

Applicants: NEXUS Gas Transmission, LLC.

Description: § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 7–1–2022 to be effective 7/1/2022.

Filed Date: 7/7/22.

Accession Number: 20220707–5105.

Comment Date: 5 p.m. ET 7/19/22.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 8, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15061 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG22–159–000.
Applicants: Ector County Generation, LLC.
Description: Ector County Generation, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5098.
Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: EG22–160–000.
Applicants: SR Bell Buckle, LLC.
Description: SR Bell Buckle, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5160.
Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: EG22–161–000.
Applicants: SR Cedar Springs, LLC.
Description: SR Cedar Springs, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 7/8/22.
Accession Number: 20220708–5161.
Comment Date: 5 p.m. ET 7/29/22.

Take notice that the Commission received the following Complaints and Compliance filings in EL Dockets:

Docket Numbers: EL22–74–000.
Applicants: Ameresco, Inc.
Description: Petition for Declaratory Order of Ameresco, Inc.
Filed Date: 7/5/22.
Accession Number: 20220705–5199.
Comment Date: 5 p.m. ET 8/4/22.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2265–020; ER10–2354–011; ER11–1846–011; ER11–1847–011; ER11–1850–011; ER11–2062–028; ER11–2175–006; ER11–2176–005; ER11–2598–014; ER11–3188–006; ER11–3418–008; ER11–4307–029; ER11–4308–029; ER12–224–007; ER12–225–007; ER12–261–028; ER12–2301–006; ER13–1192–008; ER13–2020–013; ER13–2050–013; ER13–2107–013; ER17–764–006; ER17–765–006; ER17–767–006; ER21–2826–001.

Applicants: NRG Curtailment Solutions, Inc., Stream Energy Delaware, LLC, Stream Energy Illinois, LLC, Stream Ohio Gas & Electric, LLC, Solar Partners I, LLC, Solar Partners VIII, LLC, Solar Partners II, LLC, Direct Energy Business Marketing, LLC, Stream Energy New York, LLC, Independence Energy Group LLC, Stream Energy New Jersey, LLC, Stream Energy Columbia, LLC, Reliant Energy Northeast LLC, Green Mountain Energy Company, Xoom Energy, LLC, Stream Energy Maryland, LLC, Gateway Energy Services Corporation, Stream Energy Pennsylvania, LLC, SGE Energy Sourcing, LLC, Energy Plus Holdings LLC, Direct Energy Business, LLC, Direct Energy Marketing Inc., Direct Energy Services, LLC, Midway-Sunset Cogeneration Company, NRG Power Marketing LLC.
Description: Triennial Market Power Analysis for Southwest Region of NRG Power Marketing LLC, et al.
Filed Date: 6/30/22.
Accession Number: 20220630–5373.
Comment Date: 5 p.m. ET 8/29/22.

Docket Numbers: ER10–2590–009; ER20–2414–003; ER20–2415–003; ER10–2593–009; ER19–158–010; ER19–2803–007; ER19–2806–007; ER15–1596–015; ER14–1569–015; ER15–1599–015; ER10–2616–022; ER11–4400–019; ER19–2807–007; ER10–2421–008; ER12–1769–010; ER12–2250–009; ER19–102–008; ER11–2457–008; ER12–75–011; ER12–2253–009; ER12–2251–009; ER12–2252–010; ER14–2245–009; ER19–2811–007; ER19–2809–007; ER19–2810–007.

Applicants: Viridian Energy PA, LLC, Viridian Energy NY, LLC, Viridian Energy, LLC, TriEagle Energy, LP, Public Power (PA), LLC, Public Power & Utility of NY, Inc, Public Power & Utility of Maryland, LLC, Public Power, LLC, Massachusetts Gas & Electric, Inc., Luminant Energy Company LLC, Everyday Energy NJ, LLC, Everyday Energy, LLC, Energy Services Providers, Inc., Energy Rewards, LLC, Dynegy Power Marketing, LLC, Dynegy Marketing and Trade, LLC, Dynegy Energy Services (East), LLC, Dynegy Energy Services, LLC, Luminant Commercial Asset Management, LLC, Connecticut Gas & Electric, Inc., Cincinnati Bell Energy LLC, Ambit Northeast, LLC, Oakland Power Company LLC, Moss Landing Energy Storage 2, LLC, Moss Landing Energy Storage 1, LLC, Dynegy Moss Landing, LLC.
Description: Triennial Market Power Analysis for the Southwest Region of Moss Landing Power Company LLC, et al.
Filed Date: 6/30/22.
Accession Number: 20220630–5374.
Comment Date: 5 p.m. ET 8/29/22.

Docket Numbers: ER15–1582–018; ER15–1579–017; ER15–1914–019; ER22–414–002; ER16–1255–016; ER16–2201–012; ER16–1955–013; ER19–846–007; ER21–2156–001; ER18–1667–007; ER20–2065–002; ER20–2066–002; ER17–1864–011; ER17–1871–011; ER17–1909–011; ER17–544–012; ER17–306–012; ER16–1738–013; ER16–474–014; ER21–2766–001; ER21–2289–001; ER20–2519–001; ER16–1901–013; ER16–468–013; ER18–2492–007; ER20–1593–003; ER20–1594–003; ER16–1609–009; ER22–799–002; ER15–2679–015; ER21–1488–002; ER16–2578–013; ER16–2541–012; ER20–1596–003; ER20–1597–003; ER19–2527–002; ER20–1599–003; ER18–2327–005; ER15–2680–015; ER19–847–007; ER15–762–019; ER20–902–001; ER16–2224–012; ER16–890–014; ER15–760–018; ER16–1973–013; ER16–1956–013.
Applicants: Western Antelope Dry Ranch LLC, Western Antelope Blue Sky Ranch B LLC, Western Antelope Blue Sky Ranch A LLC, Summer Solar LLC, Solverde 1, LLC, sPower Energy Marketing, LLC, San Pablo Raceway, LLC, Sandstone Solar LLC, Riverhead Solar Farm, LLC, Richmond Spider Solar, LLC, Prevailing Wind Park, LLC, Pleinmont Solar 2, LLC, Pleinmont Solar 1, LLC, Pioneer Wind Park I, LLC, North Lancaster Ranch LLC, Luna Storage, LLC, Latigo Wind Park, LLC, Lancaster Area Battery Storage, LLC, ID SOLAR 1, LLC, Highlander IA, LLC, Highlander Solar Energy Station 1, LLC, FTS Master Tenant 2, LLC, FTS Master Tenant 1, LLC, Elevation Solar C LLC, East Line Solar, LLC, Clover Creek Solar, LLC, Central Line Solar, LLC, Central Antelope Dry Ranch C LLC, Beacon Solar 4, LLC, Beacon Solar 3, LLC, Beacon Solar 1, LLC, Bayshore Solar C, LLC, Bayshore Solar B, LLC, Bayshore Solar A, LLC, Antelope Expansion 3B, LLC, Antelope Expansion 3A, LLC, Antelope Expansion 2, LLC, Antelope Expansion 1B, LLC, Antelope DSR 3, LLC, Antelope DSR 2, LLC, Antelope DSR 1, LLC, Antelope Big Sky Ranch LLC, AES Marketing and Trading, LLC, 87RL 8me LLC, 67RK 8me LLC, 65HK 8me LLC.
Description: Triennial Market Power Analysis for the Southwest Region of 65HK 8me LLC, et al.
Filed Date: 7/1/22.
Accession Number: 20220701–5476.
Comment Date: 5 p.m. ET 8/30/22.

Docket Numbers: ER17–350–001.
Applicants: ITC Lake Erie Connector, LLC.
Description: ITC Lake Erie Connector LLC's Open Solicitation Compliance Filing as required by FERC's January 13, 2017 Order.
Filed Date: 7/1/22.
Accession Number: 20220701–5472.
Comment Date: 5 p.m. ET 7/22/22.

Docket Numbers: ER21–59–000.

Applicants: Brookfield Renewable Trading and Marketing LP.

Description: Refund Report: Refund Report to be effective N/A.

Filed Date: 7/8/22.

Accession Number: 20220708–5097.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER21–384–002.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc.

Description: Compliance filing: Compliance Filing—Partial Settlement to be effective 1/12/2021.

Filed Date: 7/8/22.

Accession Number: 20220708–5016.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER21–385–002.

Applicants: Upper Missouri G. & T. Electric Cooperative, Inc.

Description: Compliance filing: Compliance Filing—Partial Settlement to be effective 1/12/2021.

Filed Date: 7/8/22.

Accession Number: 20220708–5015.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2007–001.

Applicants: Duke Energy Florida, LLC, Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: Tariff Amendment: Duke Energy Carolinas, LLC submits tariff filing per 35.17(b): Response to Deficiency Letter—Gen Replacement to be effective 8/1/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5118.

Comment Date: 5 p.m. ET 7/29/22.

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: July 8, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15060 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC22–20–000]

Commission Information Collection Activity (FERC–740); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–740 (Availability of E-Tag Information to Commission Staff).

DATES: Comments on the collections of information are due September 12, 2022.

ADDRESSES: You may submit your comments (identified by Docket No. IC22–20–000) on FERC–740 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, 12225 Wilkins Avenue, Rockville, MD 20852.

Instructions: All 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.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* or by telephone at (202) 502–8663.

SUPPLEMENTARY INFORMATION:

Title: FERC–740, Availability of E-Tag Information to Commission Staff.

OMB Control No.: 1902–0254.

Type of Request: Three-year extension of the FERC–740 information collection requirements with no changes to the current reporting requirements.

Abstract: This collection of information is authorized by 18 CFR 366.2(d), which requires Commission access, on a non-public and view-only basis, to information that is located on ''electronic tags,'' also known as ''e-Tags.'' Each e-Tag consists of an electronic record of a transaction to transfer energy from a generation source to a Balancing Authority (BA). Each BA operates a portion of the grid, balancing supply and demand and assuring compliance with federal reliability standards. E-Tag ''authors'' are typically Purchasing-Selling Entities (PSEs). A PSE purchases or sells energy, capacity, and Interconnected Operations Services.

Transmission system operators, which are among the addressees of e-Tags, use e-Tags to ascertain the transactions affecting their local systems, and to prevent damage to the power grid. Commission access to e-Tags helps the Commission detect and prevent market manipulation and anti-competitive behavior, and monitor the efficiency of markets. Both transmission system operators and the Commission need the e-Tag information to understand the use of the interconnected electricity grid, particularly transactions occurring at interchanges. Due to the nature of the electric grid, an individual transaction's impact on an interchange cannot be assessed adequately in all cases without information from all connected systems, which is included in the e-Tags.

The inclusion of the Commission is completely automatic and is part of the normal business requirement. Thus, the time, effort, and financial resources necessary to comply with this collection of information are ''usual and customary'' within the meaning of the OMB regulation at 5 CFR 1320.3 (b)(2) (excluding such activities from the definition of ''burden''). In view of these circumstances, FERC is including only a ''placeholder'' burden of one hour to account for the rare event where a new BA qualifies for exemption under the Commission's regulations (*e.g.,* transmissions from a new non-U.S. BA into another non-U.S. BA using a path that does not go through a U.S. BA). In that case, this administrative function would be expected to require at most an hour of effort total from both the BA and e-Tag administrator to include the BA on the exemption list. New exempt BAs are not common—years may pass between them—but for the purpose of estimation, we will conservatively assume one appears each year creating

a burden and cost associated with the Commission's FERC–740 of one hour and $36.90.

Type of Respondents: Purchasing-Selling Entities and Balancing Authorities.

Estimate of Annual Burden: [1] The Commission estimates the burden and cost for FERC–740 as follows based on the distinct e-Tags submitted to the Commission in 2021 (the most recent full year available).

A Number of respondents	B Annual number of responses (E-tags) per respondent	C Total number of responses (Column A × Column B)	D Average burden & cost per response [2]	E Total annual burden hours & total annual cost (Column C × Column D)	F Cost per respondent ($) (Column E ÷ Column A)
435 PSE/BAs	3,403 E-Tags	1,480,305 E-Tags	Automatic, so 0 burden and cost.	Automatic, so 0 burden and cost.	Automatic, so 0 burden and cost.
1 E-Tag administrator	1 response to add new non-jurisdictional Balancing Authority.	1 response to add new non-jurisdictional Balancing Authority.	1 hr.; $36.90	1 hr.; $36.90	$36.90.
Totals	3,404	1,480,306	1 hr.; $36.90	1 hr.; $36.90	$36.90.

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: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15053 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP22–481–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization and Establishing Intervention and Protest Deadline

Take notice that on July 1, 2022, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 State Route 56, Owensboro, Kentucky 42301 filed in the above referenced docket a prior notice pursuant to Section 157.205, 157.208 and 157.213 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act, requesting that the Commission authorize its North Welda Well O–2 Conversion Project (Project) under Southern Star's blanket certificate authority issued in Docket No. CP82–479–000.[1]

Specifically, Southern Star requests authorization to convert Well O–2 from an observation well to an injection/withdrawal well at its North Welda Storage Field in Anderson County, Kansas. Southern Star states that the purpose of the proposed Project is to supplement Southern Star's ability to meet the current certificated deliverability level of its North Welda Storage Field. Southern Star asserts that requested changes will allow for greater reliability and redundancy in meeting the needs of Southern Star's storage customers without any change to working or cushion gas or to the certificated parameters of any storage field (*i.e.,* total inventory, reservoir pressure, reservoir and buffer boundaries, and certificated capacity of all fields will remain unchanged).

The total cost of the abandonment is estimated to be approximately $1.3 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 application should be directed to Cindy Thompson, Director, Regulatory, Compliance & Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301, by phone at (270) 852–4655 or by email to *cindy.thompson@southernstar.com*.

Pursuant to Section 157.9 of the Commission's Rules of Practice and Procedure,[2] 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

[1] ''Burden'' is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR part 1320.

[2] The estimated hourly cost (wages plus benefits) provided in this section is based on the figures for June 2022 posted by the Bureau of Labor Statistics for the Utilities sector (*available at https://www.bls.gov/oes/current/naics2_22.htm*), assuming:

—15 minutes legal (code 23–0000), at $73.09/hour median hourly wage.

—45 minutes information and record clerk (code 43–4199), at $24.84/hour median hourly wage.

—$36.90 = (15 minutes / 60 minutes) * $73.09/hour median hourly wage for legal + (45 minutes / 60 minutes) * $24.84/hour median hourly wage for information and record clerk.

[1] *Southern Star Central Gas Pipeline, Inc,* 20 FERC ¶ 62,592 (1982).

[2] 18 CFR (Code of Federal Regulations) § 157.9.

of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file a protest to the project, you can file a motion to intervene in the proceeding, and you can file comments on the project. There is no fee or cost for filing protests, motions to intervene, or comments. The deadline for filing protests, motions to intervene, and comments is 5:00 p.m. Eastern Time on September 6, 2022. How to file protests, motions to intervene, and comments is explained below.

Protests

Pursuant to section 157.205 of the Commission's regulations under the NGA,[3] any person [4] 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,[5] and must be submitted by the protest deadline, which is September 6, 2022. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

Interventions

Any person has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure [6] and the regulations under the NGA [7] by the intervention deadline for the project, which is September 6, 2022. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

All timely, unopposed motions to intervene are automatically granted by operation of Rule 214(c)(1). Motions to intervene that are filed after the intervention deadline are untimely and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Comments

Any person wishing to comment on the project may do so. The Commission considers all comments received about the project in determining the appropriate action to be taken. To ensure that your comments are timely and properly recorded, please submit your comments on or before September 6, 2022. The filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding.

How To File Protests, Interventions, and Comments

There are two ways to submit protests, motions to intervene, and comments. In both instances, please reference the Project docket number CP22–481–000 in your submission.

(1) You may file your protest, motion to intervene, and comments by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov)* under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Protest'', ''Intervention'', or ''Comment on a Filing''; or [8]

(2) You can file a paper copy of your submission by mailing it to the address below.[9] Your submission must reference the Project docket number CP22–481–000.

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.

The Commission encourages electronic filing of submissions (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail or email (with a link to the document) at: *cindy.thompson@southernstar.com* or Cindy Thompson, Director, Regulatory, Compliance & Information Governance, Southern Star Central Gas Pipeline, Inc., 4700 State Route 56, Owensboro, Kentucky 42301. 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

[3] 18 CFR 157.205.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 157.205(e).

[6] 18 CFR 385.214.

[7] 18 CFR 157.10.

[8] Additionally, you may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project.

[9] Hand-delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

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: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15054 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 15000–003]

Erie Boulevard Hydropower, L.P.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Major License.

b. *Project No.:* 15000–003.

c. *Date filed:* June 30, 2022.

d. *Applicant:* Erie Boulevard Hydropower, L.P. (Erie).

e. *Name of Project:* Franklin Falls Hydroelectric Project (Franklin Falls Project).

f. *Location:* On the Saranac River, in the town of St. Armand in Essex County and the town of Franklin in Franklin County, New York. The project does not include any federal land.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Steven Murphy, Director, U.S. Licensing, Erie Boulevard Hydropower, L.P., 33 West 1st Street South, Fulton, New York 13069; phone: (315) 598–6130; email: *steven.murphy@brookfieldrenewable.com;* and Patrick Storms, Director of Operations, Erie Boulevard Hydropower, L.P., 800 Starbuck Avenue, Suite 201, Watertown, New York 13601; phone: (315) 779–2410; email: *patrick.storms@brookfieldrenewable.com.*

i. *FERC Contact:* Claire Rozdilski, 202–502–8529, or *claire.rozdilski@ferc.gov.*

j. Cooperating agencies: Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: August 29, 2022.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. All filings must clearly identify the project name and docket number on the first page: Franklin Falls Hydroelectric Project (P–15000–003).

m. The application is not ready for environmental analysis at this time.

n. The Franklin Falls Project consists of the following existing facilities: (1) a 148-foot-long, 45-foot-high concrete overflow-type dam at a crest elevation of 1,463.2 feet mean sea level (msl) with 2-foot-high flashboards; (2) a reservoir with a surface area of 485 acres and a gross storage capacity of 5,580 acre-feet at pool elevation 1,465.2 feet msl; (3) an integrated 28-foot-long gated intake structure located on the dam's right (south) side; (4) a 10.5-foot-diameter, 300-foot-long steel pipeline; (5) a surge tank; (6) two 10-foot-diameter, 38-foot-long penstocks; (7) a powerhouse containing two generating units having a total rated capacity of 2.265 megawatts; (8) 85-foot-long, 2.3-kilovolt (kV) generator leads; (9) a 2.3/46-kV step-up transformer bank; (10) a 300-foot-long, 46-kV transmission line; (11) a tailrace; and (12) appurtenant facilities. Erie does not propose changes to project facilities or operations. Erie is proposing to make a minor adjustment to the project boundary by removing approximately 1.12 acres along the northern shoreline, which are not needed for project operations, and adding approximately 0.14 acre to include the project's existing hand-carry boat launch.

The Franklin Falls Project operates in a modified run-of-river mode. If inflow exceeds the hydraulic capacity of the units, the project operates continuously at full load. When the inflow is less than the hydraulic capacity of the project, the project is operated in a run-of-river mode utilizing pondage as needed for daily flow regulation and to suit power requirements of the New York Independent System Operator. Average annual generation at the project was 10,349 megawatt-hours between 2016 and 2020.

o. A copy of the application may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary schedule. Revisions to the schedule will be made as appropriate.

Milestone	Target date
Issue Deficiency Letter (if necessary)	August 2022.
Request Additional Information (if necessary)	August 2022.
Issue Acceptance Letter and Notice	November 2022.

Milestone	Target date
Issue Scoping Document 1 for comments	December 2022.
Issue Scoping Document 2 (if necessary)	February 2023.
Issue Notice of Ready for Environmental Analysis	March 2023.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15056 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER22–2296–000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: SA 944—Agreement to Provide Services with Beartooth Electric Co-op to be effective 7/8/2022.

Filed Date: 7/7/22.

Accession Number: 20220707–5181.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2297–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1276R27 Evergy Metro NITSA NOA to be effective 9/1/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5008.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2298–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to WMPA, Service Agreement No. 6081; Queue No. AF2–426 to be effective 5/4/2021.

Filed Date: 7/8/22.

Accession Number: 20220708–5011.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2299–000.

Applicants: Midcontinent Independent System Operator, Inc., Ameren Illinois Company.

Description: § 205(d) Rate Filing: Midcontinent Independent System Operator, Inc. submits tariff filing per 35.13(a)(2)(iii: 2022–07–08_SA 3028 Ameren IL-Prairie Power Project #17A Ishi 1st Rev to be effective 7/9/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5022.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2302–000.

Applicants: NedPower Mount Storm LLC, Pinnacle Wind, LLC, Black Rock Wind Force, LLC.

Description: Black Rock Wind Force, LLC, Nedpower Mount Storm LLC and Pinnacle Wind, LLC Submit Waiver Request of Tariff Provisions with Expedited Consideration.

Filed Date: 7/5/22.

Accession Number: 20220705–5208.

Comment Date: 5 p.m. ET 7/26/22.

Docket Numbers: ER22–2303–000.

Applicants: Black Hills Power, Inc.

Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5082.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2304–000.

Applicants: Nevada Power Company.

Description: Compliance filing: NPC Transmission Line Ratings to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5084.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2305–000.

Applicants: Louisville Gas and Electric Company.

Description: Compliance filing: Order 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5085.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2306–000.

Applicants: Black Hills Colorado Electric, LLC.

Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5086.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2307–000.

Applicants: Cheyenne Light, Fuel and Power Company.

Description: Compliance filing: Order No. 881 Compliance Filing to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5088.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2308–000.

Applicants: Physical Systems Integration, LLC.

Description: Notice of Cancellation of Market Based Rate Tariff of Physical Systems Integration, LLC.

Filed Date: 7/6/22.

Accession Number: 20220706–5160.

Comment Date: 5 p.m. ET 7/27/22.

Docket Numbers: ER22–2309–000.

Applicants: SIG Energy, LLLP.

Description: Notice of Cancellation of Market Based Rate Tariff of SIG Energy, LLLP.

Filed Date: 7/7/22.

Accession Number: 20220707–5210.

Comment Date: 5 p.m. ET 7/28/22.

Docket Numbers: ER22–2310–000.

Applicants: PacifiCorp.

Description: Compliance filing: OATT Order 881 Compliance Filing New Attachment X to be effective 7/12/2025.

Filed Date: 7/8/22.

Accession Number: 20220708–5117.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2311–000.

Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.

Description: Baseline eTariff Filing: Alabama Power Company submits tariff filing per 35.1: Origis Development (New Augusta Solar & Storage) LGIA Filing to be effective 7/8/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5121.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2312–000.

Applicants: Georgia Power Company.

Description: § 205(d) Rate Filing: Concurrence for Alabama Power. New OATT Associated Service Agreements 2 Database to be effective 7/8/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5125.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2313–000.

Applicants: Mississippi Power Company.

Description: § 205(d) Rate Filing: Concurrence for Alabama Power. New OATT Associated Service Agreements 2 Database to be effective 7/8/2022.

Filed Date: 7/8/22.

Accession Number: 20220708–5127.

Comment Date: 5 p.m. ET 7/29/22.

Docket Numbers: ER22–2314–000.

Applicants: Langdon Renewables, LLC.

Description: Baseline eTariff Filing: Langdon Renewables, LLC A&R Common Facilities Agreement to be effective 9/7/2022.

Filed Date: 7/8/22.
Accession Number: 20220708–5144.
Comment Date: 5 p.m. ET 7/29/22.

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: *https://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: July 8, 2022.

Debbie-Anne A. Reese,

Deputy Secretary.

[FR Doc. 2022–15050 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF22–5–000]

Notice of Scoping Period Requesting Comments on Environmental Issues for the Planned Wisconsin Reliability Project and Notice of Public Scoping Session; ANR Pipeline Company

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental document that will discuss the environmental impacts of the Wisconsin Reliability Project involving construction and operation of facilities by ANR Pipeline Company (ANR) in Sheboygan, Waupaca, Washington, Marathon, Portage, Manitowoc, Merrill, Oconto, Outagamie, and Winnebago counties Wisconsin, and McHenry County, Illinois. 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 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 p.m. Eastern Time on August 8, 2022. Comments may be submitted in written or oral 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 or oral 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 4, 2022, you will need to file those comments in Docket No. PF22–5–000 to ensure they are considered.

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 planned 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 planned 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.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' 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 links to Natural Gas Questions or Landowner Topics.

Public Participation

There are four 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 (PF22–5–000) on your letter. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

(4) In lieu of sending written comments, the Commission invites you to attend one of the virtual public scoping sessions its staff will conduct by telephone, scheduled as follows:

Date and Time

Wednesday, July 27, 2022, 6:00 p.m. CST, *Call in number:* 800–779–8625, *Participant passcode:* 3472916
Thursday, July 28, 2022, 5:00 p.m. CST, *Call in number:* 800–779–8625, *Participant passcode:* 3472916

The primary goal of these scoping sessions is to have you identify the specific environmental issues and concerns that should be considered in the environmental document. Note that the scoping sessions will start at the time stated above and will end once all participants wishing to comment have had the opportunity to do so, or at 8:00 p.m. CST on July 27, and 7:00 p.m. on July 28, whichever comes first. Individual oral comments will be taken one at a time with a court reporter present on the line.

There will be a brief introduction by Commission staff when the session opens, so please attempt to call in at the beginning of the session. All participants will be able to hear the comments provided by other participants; however, all lines will remain closed during the comments of others and then opened one at a time for providing comments. Once you call in, the operator will provide directions on how to indicate you would like to provide a comment. A time limit of three minutes may be implemented for each commentor.

Your oral comments will be recorded by the court reporter and become part of the public record for this proceeding. Transcripts of all comments received during the scoping sessions will be publicly available on FERC's eLibrary system (see the last page of this notice for instructions on using eLibrary).

It is important to note that the Commission provides equal consideration to all comments received, whether filed in written form or provided orally at a virtual scoping session.

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 Planned Project

ANR plans to construct and operate the facilities, detailed below, in Sheboygan, Waupaca, Oconto, Merrill, Winnebago, Marathon, Portage, Outagamie, and Manitowoc counties, Wisconsin, and McHenry County, Illinois. The Wisconsin Reliability Project would provide about 150,000 dekatherms of natural gas per day to the state of Wisconsin. According to ANR, its project would provide much needed natural gas supply to meet the increasing market demand of residential, commercial, and industrial consumers in the State of Wisconsin, while increasing the reliability and efficiency of ANR's existing system.

The Wisconsin Reliability Project would consist of the following facilities:

- Installation of two new 3,750 horsepower (hp) Dual Drive Technologies, Ltd.™ (dual-drive) [1] compressor units, removal of five existing compressor units, and uprate of one existing unit at the existing Kewaskum Compressor Station in Sheboygan County, Wisconsin;
- Installation of two new 3,750 hp dual-drive compressor units, removal of one existing compressor unit, and upsizing of station inlet and discharge piping at the existing Weyauwega Compressor Station in Waupaca County, Wisconsin;
- Replacement of approximately 48 miles of existing 14-inch-diameter and 22-inch-diameter Line 301 and 24-inch-diameter Line 226 with 30 and 36-inch-diameter pipeline in the counties of Washington, Waupaca, Outagamie, and Winnebago, Wisconsin, as well as McHenry County, Illinois;
- Expansion of the existing Lena, Merrill, Oshkosh, South Wausau, Stevens Point, and Two Rivers meter stations to accommodate deliveries of incremental capacity in the counties of Oconto, Merrill, Winnebago, Marathon, Portage, and Manitowoc, Wisconsin; and
- Other minor appurtenant facilities.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the planned facilities would disturb about 928.9 acres of land for the aboveground facilities upgrades and pipeline modifications. Following construction, ANR would maintain about 364.8 acres for permanent operation of the project's pipeline facilities, with the aboveground facilities operational land impacts to be determined; the remaining acreage would be restored and revert to former uses. Portions of the planned pipeline route parallels existing pipeline, utility, or road rights-of-way, or would be installed within the same footprint of the existing pipe segment to replaced.

NEPA Process and the Environmental Document

Any environmental document issued by Commission staff will discuss impacts that could occur as a result of the construction and operation of the planned project under the relevant general resource areas:

- Geology and soils;
- Water resources and wetlands;
- Vegetation and wildlife;
- Threatened and endangered species;
- Cultural resources;
- Socioeconomics and environmental justice;
- Land use;
- Air quality and noise; and
- Reliability and safety.

Community groups, schools, churches, and businesses within these environmental justice communities, along with known environmental justice organizations, have been included on the Commission's environmental mailing list for the project, as further explained in the *Environmental Mailing List* section of this notice.

Commission staff have already identified several issues that deserve attention based on a preliminary review of the planned facilities, open house comments, and the environmental information provided by ANR. This preliminary list of issues may change based on your comments and our analysis:

- Forested areas;
- Residential development;
- Agricultural land;

[1] Dual Drive Technologies, Ltd.™ units are redundant prime mover systems comprised of a combination electric motor connected to an engine for powering a gas compressor. These units can switch between electricity and natural gas in the event of an abnormal operating event (*e.g.,* power outage) to provide enhanced system reliability and maintain customer commitments.

[2] 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.

- Parkland; and
- Springs and wetlands.

Commission staff will also evaluate reasonable alternatives to the planned project or portions of the project and make recommendations on how to 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.

Although no formal application has been filed, Commission staff have already initiated a NEPA review under the Commission's pre-filing process. The purpose of the pre-filing process is to encourage early involvement of interested stakeholders and to identify and resolve issues before the Commission receives an application. As part of the pre-filing review, Commission staff will contact federal and state agencies to discuss their involvement in the scoping process and the preparation of the environmental document.

If a formal application is filed, Commission staff will then determine whether to prepare an Environmental Assessment (EA) or an Environmental Impact Statement (EIS). The EA or the EIS will present Commission staff's independent analysis of the environmental 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 determination on the proposed project. If Commission staff prepares an EIS, a *Notice of Intent to Prepare an EIS/ Notice of Schedule* will be issued once an application is filed, which will open an additional public comment period. Staff will then prepare a draft EIS that 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 [3] 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 related to this project to formally cooperate in the preparation of the environmental document.[4] 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.[5] The environmental document for this project will document our 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 planned 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 PF22–5–000 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).

Becoming an Intervenor

Once ANR files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Only intervenors have the right to seek rehearing of the Commission's decision and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Motions to intervene are more fully described at *https://www.ferc.gov/resources/guides/how-to.asp*. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project, after which the Commission will issue a public notice that establishes an intervention deadline.

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 (*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 (*i.e.,* PF22–5). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (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.

[3] For instructions on connecting to eLibrary, refer to the last page of this notice.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.8.

[5] The Advisory Council on Historic Preservation 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.

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: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15051 Filed 7–13–22; 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 Schedule for the Preparation of an Environmental Assessment for the Coco B Wells Replacement Project

On April 26, 2022, Columbia Gas Transmission, LLC (Columbia) filed an application in Docket No. CP22–227–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(b) and 7(c) of the Natural Gas Act to abandon, construct, and operate certain natural gas pipeline facilities. The proposed project is known as the Coco B Wells Replacement Project (Project) which Columbia states would maintain the integrity of the Coco B storage field in West Virginia, as well as Columbia's certificated facilities and services.

On May 10, 2022, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's environmental document for the Project.

This notice identifies Commission staff's intention to prepare an environmental assessment (EA) for the Project and the planned schedule for the completion of the environmental review.[1]

Schedule for Environmental Review

Issuance of EA October 20, 2022.

90-day Federal Authorization Decision Deadline[2] January 18, 2023.

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Columbia proposes to construct and operate two new Injection and Withdrawal Wells and related pipeline and appurtenances in a new well pad, and proposes to plug and abandon four existing Injection and Withdrawal wells and related pipeline and appurtenances within the Coco B Storage Field in Kanawha County, West Virginia.

Background

On June 14, 2022, the Commission issued a *Notice of Scoping Period Requesting Comments on Environmental Issues for the Proposed Coco B Wells Replacement Project (*Notice of Scoping). The Notice of Scoping was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. All substantive comments received in response to the Notice of Scoping will be addressed in the EA.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This service provides automatic notification of filings made to subscribed dockets, document summaries, and direct links to the documents. Go to *https://www.ferc.gov/ferc-online/overview* to register for eSubscription.

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP22–227), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

[1] 40 CFR 1501.10 (2020).

[2] The Commission's deadline applies to the decisions of other federal agencies, and state agencies acting under federally delegated authority, that are responsible for federal authorizations, permits, and other approvals necessary for proposed projects under the Natural Gas Act. Per 18 CFR 157.22(a), the Commission's deadline for other agency's decisions applies unless a schedule is otherwise established by federal law.

Dated: July 8, 2022.

Kimberly D. Bose,

Secretary.

[FR Doc. 2022–15055 Filed 7–13–22; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–XXXX; FR ID 95796]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: 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 control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before September 12, 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 *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–XXXX.

Title: Do Not Originate Requirements for Gateway Provider Report and Order.

Form Number: N/A.

Type of Review: New information collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 6,493 respondents; 77,916 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On-occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections are contained in sections 4(i), 4(j), 201, 202, 217, 227, 227b, 251(e), 303(r), and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, 202, 217, 227, 227b, 251(e), 303(r), 403.

Total Annual Burden: 77,916 hours.

Total Annual Cost: No cost.

Needs and Uses: This notice and request for comments seeks to establish a new information collection as it pertains to the Advanced Methods to Target and Eliminate Unlawful Robocalls Sixth Report and Order and Call Authentication Trust Anchor Fifth Report and Order (''Gateway Provider Report and Order''). Unwanted and illegal robocalls have long been the Federal Communication Commission's (''Commission'') top source of consumer complaints and one of the Commission's top consumer protection priorities. Foreign-originated robocalls represent a significant portion of illegal robocalls, and gateway providers serve as a critical choke-point for reducing the number of illegal robocalls received by American consumers. In the *Gateway Provider Report and Order,* the Commission took steps to prevent these foreign-originated illegal robocalls from reaching consumers and to help track these calls back to the source. Along with further extension of the Commission's caller ID authentication requirements and Robocall Mitigation Database filing requirements, the Commission adopted several robocall mitigation requirements, including a requirement for gateway providers to respond to traceback within 24 hours, mandatory blocking requirements, a ''know your upstream provider'' requirement, and a general mitigation requirement.

Gateway Provider Report and Order, FCC 22–37, paras. 87–91, 47 CFR 64.1200(o).

A provider that serves as a gateway provider for particular calls must, with respect to those calls, block any calls purporting to originate from a number on a reasonable do-not-originate list. A list so limited in scope that it leaves out obvious numbers that could be included with little effort may be deemed unreasonable. The do-not-originate list may include only

(i) Numbers for which the subscriber to which the number is assigned has requested that calls purporting to originate from that number be blocked because the number is used for inbound calls only;

(ii) North American Numbering Plan numbers that are not valid;

(iii) Valid North American Numbering Plan Numbers that are not allocated to a provider by the North American Numbering Plan Administrator; and

(iv) Valid North American Numbering Plan numbers that are allocated to a provider by the North American Numbering Plan Administrator, but are unused, so long as the provider blocking the calls is the allocatee of the number and confirms that the number is unused or has obtained verification from the allocatee that the number is unused at the time of blocking.

The new information collection for which OMB approval is sought comes from the requirement in the Gateway Provider Report and Order that all gateway providers must block calls using a reasonable DNO list. The categories of numbers that may be included on the reasonable DNO list are the same categories of numbers for which the Commission first authorized blocking in 2017. There is no valid reason for a caller to originate a call from these numbers calls purporting to originate from these numbers are highly likely to be illegal.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2022–14976 Filed 7–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 95864]

Open Commission Meeting Thursday, July 14, 2022

July 8, 2022.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, July 14, 2022, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access, and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	Wireless Tele-Communications.	*Title:* Enhanced Competition Incentive Program for Wireless Radio Services (WT Docket No. 19–38). *Summary:* The Commission will consider a Report and Order and Second Further Notice of Proposed Rulemaking that would incentivize beneficial transactions for small carriers, Tribal nations, and rural interests.
2	Wireline Competition	*Title:* Updating the Intercarrier Compensation Regime to Eliminate Access Arbitrage (WC Docket No. 18–155). *Summary:* The Commission will consider a Further Notice of Proposed Rulemaking to modify its access stimulation rules to address ongoing harmful arbitrage of the Commission's intercarrier compensation regime that imposes costs ultimately borne by interexchange carriers and their customers.
3	Wireline Competition	*Title:* Supporting Survivors of Domestic and Sexual Violence (WC Docket No. 22–238); Affordable Connectivity Program (WC Docket No. 21–450); Lifeline and Link Up Reform and Modernization (WC Docket No. 11–42).

Item No.	Bureau	Subject
		Summary: The Commission will consider a Notice of Inquiry seeking comment on ways in which it can assist survivors of domestic violence, sexual violence, dating violence, intimate partner violence, human trafficking, or stalking through the Commission's Lifeline and Affordable Connectivity Programs. The Notice also seeks comment on how the Commission might protect survivors' communications records with support organizations.
4	Media	*Title:* Updating Resources Used to Determine Local TV Markets (MB Docket No. 22–239). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would begin the process of updating its rules to use the most up-to-date market information for determining a television station's local market for carriage purposes.
5	Media	*Title:* Removing Obsolete Analog-Era Provisions from Part 74 Rules (MB Docket No. 03–185). *Summary:* The Commission will consider an Order and Sixth Notice of Proposed Rulemaking that would amend its Part 74 rules for low-power television and television translators to remove obsolete rules for analog TV operations.
6	Enforcement	*Title:* Enforcement Bureau Action. *Summary:* The Commission will consider an enforcement action.

* * * * *

The meeting will be webcast with open captioning at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Marlene Dortch,

Secretary.

[FR Doc. 2022–14980 Filed 7–13–22; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 22–16]

Goforth & Marti dba GM Business Interiors, Complainant v. Hsin Silk Road Shipping Limited; Notice of Filing of Complaint and Assignment

Served: July 11, 2022.

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by GOFORTH & MARTI dba GM BUSINESS INTERIORS, hereinafter ''Complainant'', against HSIN SILK ROAD SHIPPING LIMITED, hereinafter ''Respondent''. Complainant states that it is a California corporation. Complainant states that Respondent is an entity located in and organized and existing under the laws of Hong Kong, and that it is a non-vessel-common-carrier licensed by the Federal Maritime Commission.

Complainant alleges that Respondent violated 46 U.S.C. 41102(c) and 46 CFR 545.4 and 545.5 with regard to assessing fees against containers. The full text of the complaint can be found in the Commission's Electronic Reading Room at *https://www2.fmc.gov/readingroom/proceeding/22-16/.* This proceeding has been assigned to Office of Administrative Law Judges. The initial decision of the presiding office in this proceeding shall be issued by July 12, 2023, and the final decision of the Commission shall be issued by January 26, 2024.

William Cody,

Secretary.

[FR Doc. 2022–15030 Filed 7–13–22; 8:45 am]

BILLING CODE 6730–02–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 August 15, 2022.

A. Federal Reserve Bank of Boston (Prabal Chakrabarti, Senior Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02210–2204. Comments can also be sent electronically to *BOS.SRC.Applications.Comments@bos.frb.org:*

1. *Brookline Bancorp, Inc., Boston, Massachusetts;* to acquire PCSB Financial Corporation, and thereby indirectly acquire PCSB Bank, both of Yorktown Heights, New York.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–15089 Filed 7–13–22; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (Act) (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors

that are considered in acting on the applications are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The public portions of the applications listed below, as well as other related filings required by the Board, if any, are available for immediate inspection at the Federal Reserve Bank(s) indicated below and at the offices of the Board of Governors. This information may also be obtained on an expedited basis, upon request, by contacting the appropriate Federal Reserve Bank and from the Board's Freedom of Information Office at *https://www.federalreserve.gov/foia/request.htm.* Interested persons may express their views in writing on the standards enumerated in paragraph 7 of the Act.

Comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors, Ann E. Misback, Secretary of the Board, 20th Street and Constitution Avenue NW, Washington DC 20551–0001, not later than July 29, 2022

A. *Federal Reserve Bank of Dallas* (Karen Smith, Director, Applications) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *The Katherine A. Satel 2021 Family Trust One, The Katherine A. Satel 2021 Family Trust Two, the Emily G. Satel 2021 Family Trust One, the Emily G. Satel 2021 Family Trust Two, the Caroline M. Satel 2021 Family Trust One, the Caroline M. Satel 2021 Family Trust Two, 14 trusts fbo minor children, and Jefferson Bank, as trustee for all of the forementioned trusts, all of San Antonio, Texas;* to join the McSween Family Control Group, a group acting in concert, to retain voting shares of Jefferson Bancshares, Inc., and thereby retain voting shares of Jefferson Bank, both of San Antonio, Texas.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

[FR Doc. 2022–15088 Filed 7–13–22; 8:45 am]

BILLING CODE P

GENERAL SERVICES ADMINISTRATION

[Notice-PBS–2022–03; Docket No. 2022–0002; Sequence No. 17]

Notice of Intent To Prepare an Environmental Impact Statement (EIS) for the Expansion and Modernization of the Raul Hector Castro Land Port of Entry and Proposed Commercial Land Port of Entry in Douglas, Arizona

AGENCY: Public Buildings Service (PBS), General Services Administration (GSA).

ACTION: Notice of intent; announcement of meeting.

SUMMARY: Pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality Regulations, and the GSA Public Buildings Service NEPA Desk Guide, GSA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared to analyze potential environmental impacts from the expansion and modernization of the Raul Hector Castro (RHC) Land Port of Entry (LPOE) and construction of a new commercial LPOE in Douglas, Arizona to address traffic safety and hazard concerns resulting from space constraints, inefficient traffic flows, and increasing traffic demands.

DATES: *Public Scoping*—The Public Scoping Period will begin on July 14th, 2022. Interested parties are encouraged to provide written comments regarding the scope of the EIS. Written comments must be received by August 22, 2022 (see **ADDRESSES** section for where to submit comments).

Meeting Date—A public scoping meeting will be held on Thursday, August 11, 2022, from 4 p.m. to 6 p.m. PDT. The meeting will be held in the Douglas Visitor Center (see **ADDRESSES** section for location address), where GSA will meet with governmental and public stakeholders to explain the project and obtain input on the scoping of the project. The meeting will be an informal open house, where visitors may come, receive information, and provide written comments.

ADDRESSES: *Public Scoping Comments*—You may send comments, identified by Notice PBS–2022–03, by one of the following methods:

- *Email: Osmahn.Kadri@gsa.gov.* Include Notice PBS–2022–03 in the subject line of the message.
- *Mail: Attention:* Osmahn Kadri, NEPA Project Manager, U.S. General Services Administration, c/o Potomac-Hudson Engineering, Inc., 77 Upper Rock Circle, Suite 302, Rockville MD 20850.

Meeting Location—A public scoping meeting will be held at the Douglas Visitor Center, 345 16th St, Douglas, AZ 85607.

FOR FURTHER INFORMATION CONTACT: Osmahn Kadri, 415–522–3617, *Osmahn.Kadri@gsa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Raul Hector Castro Land Port of Entry (RHC LPOE) is a full-service, multi-modal port, where Customs and Border Protection (CBP) currently inspects commercially-owned vehicles (COVs), privately-owned vehicles (POVs), and pedestrians at the U.S.-Mexico border in Douglas, Arizona. The RHC LPOE has been operating since 1914 and construction of the current facility began in the 1930s. The existing Main Building and the Garage were built in 1933 and are listed on the National Register of Historic Places.

The current facilities at the RHC LPOE no longer function adequately given the site constraints, steady increase in traffic, and outdated facilities and technologies. The interaction between COVs, POVs, and pedestrian traffic is also a concern at the RHC LPOE. Inadequate pathways and separations between traffic types cause safety and security issues for CBP officers and the general public. As downtown Douglas is located just north of the RHC LPOE, traffic congestion and trucks hauling hazardous materials through the city are also a concern in the community.

To improve public and worker safety and to increase the capacity at the RHC LPOE, the proposed expansion and modernization would comprise of: (1) the construction of a new port facility dedicated to COVs; and (2) expanding and modernizing the existing RHC LPOE facilities to serve as a non-commercial facility for the POVs and pedestrians. GSA intends to prepare an EIS to analyze the potential environmental impacts resulting from the proposed construction of a new commercial LPOE and expansion and modernization of the RHC LPOE.

The project would first involve the construction of a new commercial facility located approximately five miles west of the existing RHC LPOE facilities. Subsequently, expansion and modernization of the existing RHC LPOE facilities would begin and would require a multi-phase construction plan to ensure that operations are continuous and that safety and security of the RHC LPOE is maintained. The possible phasing during the expansion and modernization to the existing RHC LPOE includes:

• Phase 1.1: After a New Standalone Commercial Facility is built, transfer commercial operations to the new facility. Acquire land to north, vacate existing stores, and demolish vacated facilities associated with commercial activities.

• Phase 1.2: Build new Non-Commercial Inspection area, Main Building, Public Facing/Trusted Traveler Building, and Family Unit/Unaccompanied Juvenile Processing Facility.

• Phase 2.1: Transfer all existing Non-Commercial Operations to new Non-Commercial Facilities. Transfer existing Historic Main Building to new Main Building. Demolish Non-Commercial Inspection Lanes and prepare existing port-owned Parking Lot for upgrades.

• Phase 2.2: Build additional Main Building Parking and Outbound Facilities. Upgrade Overflow Parking Lot as needed. Remodel, relocate, or demolish existing Historic Main Building and Garage.

• Phase 3.1: Transfer existing outbound operations to new Outbound Facilities. Demolish existing Outbound Lanes. If remodeled, occupy Historic Main Building and Garage.

• Phase 3.2: Improve existing outbound Pedestrian Walkway.

Alternatives Under Consideration

The EIS will consider two ''action'' alternatives and one ''no action'' alternative. Alternative 1 consists of building a new Standalone Commercial Facility for COVs and expanding and modernizing the existing RHC LPOE as a non-commercial facility for POVs and pedestrians, as described in the above Phases. Alternative 2 includes expanding and modernizing the existing RHC LPOE only and continuing to utilize the LPOE for both commercial and non-commercial functions. Sub-alternatives may be considered for each alternative with respect to the management of the historic structures located at the existing RHC LPOE.

The ''no action'' alternative assumes that GSA would not expand and modernize the RHC LPOE or construct a new commercial LPOE and that operations would continue under current conditions.

The EIS will address the potential environmental impacts of the proposed alternatives on environmental resources including aesthetics, air quality during construction and operation, geology and soils, hazards and hazardous materials, hydrology and water quality, cultural resources, biological resources, land use, noise during construction and operation, utilities, and traffic. The EIS will also address the socioeconomic effects of the project as well as impacts on Environmental Justice populations.

Scoping Process

The views and comments of the public are necessary in helping to determine the scope and content of the environmental analysis. The scoping process will be accomplished through a public scoping meeting, direct mail correspondence to appropriate federal, state, and local agencies, and to private organizations and citizens who have previously expressed, or are known to have, an interest in the project.

A public scoping meeting will be announced in the local newspaper, the *Herald Review.* Agencies and the public are encouraged to provide written comments regarding the scope of the EIS. See information provided above for dates, addresses, and contact information.

Russell Larson,

Director, Portfolio Management Division, Pacific Rim Region, Public Buildings Service.

[FR Doc. 2022–14815 Filed 7–13–22; 8:45 am]

BILLING CODE 6820–YF–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2022–0066; Docket Number NIOSH–346]

Draft National Institute for Occupational Safety and Health (NIOSH) Healthcare Personal Protective Technology (PPT) Targets for 2020 to 2030; Extension of Comment Period

AGENCY: Agency: The Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Extension of public comment period.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) in the Centers for Disease Control and Prevention (CDC), an Operating Division of the Department of Health and Human Services (HHS), announces the extension of the comment period to obtain public comment on draft personal protective technology (PPT) targets for 2020 to 2030.

DATES: The comment period is extended through August 31, 2022.

ADDRESSES: You may submit comments, identified by CDC–2022–0066 and docket number NIOSH–346, by either of the following two methods:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments.

• Mail: National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue, MS C–34, Cincinnati, Ohio 45226–1998.

FOR FURTHER INFORMATION CONTACT: Dr. Susan M. Moore, NIOSH NPPTL, Building 141, 626 Cochrans Mill Road, Pittsburgh, PA 15236; Telephone: 412–386–6111.

SUPPLEMENTARY INFORMATION: On May 16, 2022, NIOSH published a notice in the **Federal Register** (87 FR 29748) announcing a draft document entitled Draft NIOSH Healthcare Personal Protective Technology (PPT) Targets for 2020 to 2030 available for public comment. Written comments were to be received by July 15, 2022. In response to a request from the public, NIOSH is extending the public comment period to August 31, 2022.

John J. Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2022–15084 Filed 7–13–22; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Racial and Ethnic Disparities in Human Services Analysis Execution Project (New Collection)

AGENCY: Office of Planning, Research, and Evaluation, Administration for Children and Families, Health and Human Services (HHS).

ACTION: Request for public comments.

SUMMARY: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) is proposing to collect data to explore how one state's changes to Temporary Assistance for Needy Families (TANF) policies and services in response to the COVID–19 pandemic were experienced by different racial and ethnic groups in that state. The goal is to obtain an in-depth understanding of how TANF participants of different racial and ethnic backgrounds experienced these policy and programmatic changes by comparing those experiences within one state, and to assess whether those changes may have helped to ameliorate challenges

around program and benefit access for different populations or potentially created new challenges.

DATES: *Comments due within 60 days of publication.* In compliance with the requirements of the Paperwork Reduction Act of 1995, ACF is soliciting public comment on the specific aspects of the information collection described above.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *OPREinfocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: The Racial and Ethnic Disparities in Human Services Analysis Execution project is proposing to collect information for a qualitative study to explore how families of different ethnic and racial backgrounds have experienced changes that one state made to TANF policies and services in response to the COVID–19 pandemic. We will explore policies such as job-search and other participation requirements, virtual resources and services, and the provision of tablet computers to TANF participants. We will collect information at the state level and from three purposively selected sites in one state, selected to represent the racial and ethnic diversity within the state. The state-level data collection will include (1) TANF program administrators and (2) representatives from the program partnering with the state in the provision of tablet computers to TANF program participants. Information collection at each of the three sites will include semi-structured interviews or focus groups with: (1) TANF program administrators, frontline staff, and participants; and (2) community partner organizations that serve TANF-eligible families and individuals served by those organizations. Site visits will be conducted in-person or virtually, depending on the state of the COVID–19 pandemic at the time of the site visits.

This study is part of a larger project to help ACF identify racial and ethnic disparities related to the delivery of human services.

This study is intended to present an internally-valid description of how different racial and ethnic groups experience TANF policies, practices, and service delivery in one state at selected sites, not to promote statistical generalization to other sites or service populations.

Respondents: (1) State and regional TANF agency administrators, (2) TANF frontline staff at the site-level, (3) staff at community agencies that serve TANF-eligible families, (4) staff from the computer tablet program and from program partner organizations, (5) TANF participants, (6) tablet program participants, and (7) individuals who are eligible for TANF but not enrolled.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents (total over request period)	Number of responses per respondent (total over request period)	Avg. burden per response (in hours)	Total burden (in hours)	Annual burden (in hours)
Instrument A: State and Regional TANF Administrators Guide (Interviews)	8	1	1	8	4
Instrument B: Local Frontline Staff Guide (Interviews)	10	1	1	10	5
Instrument B: Local Frontline Staff Guide (Focus Groups)	10	1	1.5	15	8
Instrument C: Community-Based Organizations Guide (Interviews)	6	1	1	6	3
Instrument D: Tablet Providers and Program Partners Guide (Interviews)	6	1	1	6	3
Instrument E: TANF Participants Guide (Interviews)	40	1	1	40	20
Instrument E: TANF Participants Guide(Focus Groups)	20	1	1.5	30	15
Instrument F: Tablet Program Participants Guide (Focus Groups)	10	1	1.5	15	8
Instrument G: Individuals Eligible but Not Receiving TANF Guide (Interviews)	15	1	1	15	8
Instrument G: Individuals Eligible but Not Receiving TANF Guide (Focus Groups)	15	1	1.5	23	12

Estimated Total Annual Burden Hours: 86.

Comments: The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Authority: Section 413 of the Social Security Act, as amended by the FY 2017 Consolidated Appropriations Act, 2017 (Pub. L. 115–31).

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–15057 Filed 7–13–22; 8:45 am]

BILLING CODE 4184–09–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Supplementary Comment Period; Placement and Transfer of Unaccompanied Children (UC) Into ORR Care Provider Facilities (Office of Management and Budget (OMB) #0970–0554)

AGENCY: Office of Refugee Resettlement, Administration for Children and Families, Health and Human Services (HHS).

ACTION: Request for Public Comment.

SUMMARY: The Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS), recently requested public comment on proposed revisions to forms that allow the UC Program to place UC referred to ORR by federal agencies into care provider facilities and to transfer UC within the ORR care provider network. In response to comments received, ORR is now providing a supplemental opportunity to provide comments on versions of revised forms that display the available options for dropdown fields. ORR invites any supplementary or new public comments that may arise with the added context of the dropdown options.

DATES: *Comments due no later than* August 15, 2022.

ADDRESSES: You can obtain copies of the proposed collection of information and submit comments by emailing *infocollection@acf.hhs.gov.* Identify all requests by the title of the information collection.

SUPPLEMENTARY INFORMATION:

Description: ORR received several comments on this information collection in response to the **Federal Register** (FR) notice published on January 19, 2021, (86 FR 5196) and provided responses to those comments in its final submission to OMB. Summaries of the comments and ORR's responses can be accessed at *https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202110-0970-001.* Some of the comments requested that ORR make available copies of the revised forms that display the available options for dropdown fields. In response to this request, ORR updated the screenshots for the forms that contain dropdown fields. Those forms are

- UC Referral (formerly titled Intakes Placement Checklist and Add New UC) (Form P–7) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=242791*)
- Transfer Request (Form P–10A) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=242795*)
- Influx Transfer Request (Form P–10B) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=249640*)
- Program Entity (formerly titled UC Portal Capacity Report) (Form P–12) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=242797*)
- UC Profile (formerly titled Add New UC) (Form P–13) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=242798*)
- Influx Transfer Manifest (Form P–16) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=249642*)
- Influx Transfer Manual and Prescreen Criteria Review (Form P–17) (*https://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=202110-0970-001&icID=249643*)

ORR invites supplementary comments from those who previously submitted comments, as well as new comments from anyone who did not previously submit comments.

Respondents: ORR grantee and contractor staff, and released children and sponsors.

ANNUAL BURDEN ESTIMATES

Instrument	Annual number of respondents	Annual number of responses per respondent	Average burden minutes per response	Annual total burden hours
Placement Authorization (Form P–1)	216	278	5	5,004
Authorization for Medical, Dental, and Mental Health Care (Form P–2)	216	278	5	5,004
Notice of Placement in a Restrictive Setting (Form P–4/4s)	15	34	20	170
Long Term Foster Care Placement Memo (Form P–5)	30	3	15	23
UC Referral (Form P–7)	16	3,250	60	52,000
UC Referral—Intakes Placement Checklist (Form P–7)	16	9	30	72
Care Provider Checklist for Transfers to Influx Care Facilities (Form P–8)	216	10	15	540
Medical Checklist for Transfers (Form P–9A)	216	27	5	486
Medical Checklist for Influx Transfers (Form P–9B)	216	63	10	2,268
Transfer Request (Form P–10A)—Grantee Case Manager	216	37	25	3,330
Transfer Request (Form P–10A)—Contractor Case Coordinator	250	37	20	3,083
Influx Transfer Request (Form P–10B)	216	63	25	5,670
Transfer Summary and Tracking (Form P–11)	216	37	10	1,332
Program Entity (Form P–12)	216	12	30	1,296
UC Profile (Form P–13)	216	241	45	39,042
ORR Transfer Notification-ORR Notification to ICE Chief Counsel of Transfer of UC and Request to Change Address/Venue (Form P–14)	216	37	10	1,332
Family Group Entity (Form P–15)	16	188	5	251
Influx Transfer Manifest (Form P–16)	3	12	20	12
Influx Transfer Manual and Prescreen Criteria Review (Form P–17)	216	43,333	30	4,679,964
Estimated Annual Burden Hours Total				4,800,879

Authority: 6 U.S.C. 279; 8 U.S.C. 1232; *Flores* v. *Reno Settlement Agreement,* No. CV85–4544–RJK (C.D. Cal. 1996)

Mary B. Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2022–15063 Filed 7–13–22; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request Information Collection Request Title: The Maternal, Infant, and Early Childhood Home Visiting Program: Advancing Health Equity in Response to the COVID–19 Public Health Emergency, 0906–XXXX, New

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30 day comment period for this Notice has closed.

DATES: Comments on this ICR should be received no later than August 15, 2022.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, 14N136B, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the acting HRSA Information Collection Clearance Officer at *paperwork@hrsa.gov* or call (301) 443–9094.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: The Maternal, Infant, and Early Childhood Home Visiting (MIECHV) Program: Advancing Health Equity in Response to the COVID–19 Public Health Emergency, OMB No. 0906–XXXX, NEW.

Abstract: The MIECHV Program is authorized by Social Security Act, Title V, § 511 (42 U.S.C. 711) and Congress made available supplemental appropriations to carry out the program through the American Rescue Plan Act (Pub. L. 117–2). American Rescue Plan Act funds are being used to support the MIECHV: Advancing Health Equity in Response to the COVID–19 Public Health Emergency project. The MIECHV Program: Advancing Health Equity in Response to the COVID–19 Public Health Emergency project aims to understand how health equity can be advanced during the COVID–19 public health emergency in communities with MIECHV-funded home visiting programs. The project includes five case studies to be conducted in communities across the United States. Communities will be selected based on a county level assessment from the County Response Index to Support Equity in Home Visiting (County RISE–HV), the variation in COVID–19 patterns including indicating disproportionality in experiences of COVID–19, and the presence of MIECHV-funded local implementing agencies. The five communities will represent a mix of urban and rural counties, will include a Tribal community, and will include communities with existing health disparities by race and ethnicity. The case studies will lead to a deeper understanding of the ways in which COVID–19 has shaped families' experiences, and the role home visiting plays (and could play) in addressing the inequities that continue to accrue from the pandemic within a community. Information gained from these case studies can inform the development of more responsive home visiting systems and more equitable health and family support systems, in general. Data collection activities include key informant interviews, focus groups, and online surveys. The data collection activities have been revised based on the public comments received during the 60-day comment period. The purpose of these changes is to address concerns with the burden estimate and to modify items for clarity. To address the burden estimates, the number of items on each of the data collection instruments has been reduced. To reduce items, the project team identified item content where there was unnecessary overlap across instruments and identified items that were extraneous to addressing research questions. The burden estimate was only increased for the completion of the program data tool. All specific recommendations for revisions to item wording and instructions for participants to improve clarity have been incorporated into the revised data collection instruments. All necessary human subjects protections will be adhered to, including seeking Institutional Review Board approval of data collection and analysis plans prior to commencing any data collection activities.

A 60-day notice for public comments on the proposed data collection activities required by Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 was published in the **Federal Register** on March 17, 2022, (Document Number 2022–05635; document citation 87 FR 15254, pages 15254–15255). Public comments were requested by May 16, 2022. There were public comments from three organizations.

Need and Proposed Use of the Information: HRSA is seeking additional information about the strategies and partners home visiting programs have used to advance health equity in communities disproportionately impacted by the COVID–19 public health emergency. HRSA intends to use this information to provide technical assistance and disseminate best practices to MIECHV awardees, publish findings for lay and research audiences to advance the field's knowledge of home visiting's role in COVID–19 response, and to prepare state and local home visiting programs for future public health emergencies.

Likely Respondents: MIECHV Program awardees that are states, territories, and, where applicable, nonprofit organizations receiving MIECHV funding to provide home visiting services within states; state and local representatives from home visiting, public health, health care, and other human service agencies in the early childhood system; community organizers, Tribal elders, religious leaders; families (including families participating in MIECHV-funded home visiting services and those with shared experiences); community members, including community-based program administrators and community service providers, including home visitors.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train

personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. Compared to the versions submitted for the 60-day approval process in March, estimated burden hours have increased as a result of implementing the feedback provided in public comments during the 60-day comment period and pre-testing data collection protocols. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS [1]

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Community Interview Protocol	60	1	60	1.50	90
Family and Community Focus Group Guide	240	1	240	2.00	480
Community and Home Visitor Survey Instrument	500	1	500	0.75	375
Program Data	15	1	15	10.00	150
Total	815		815		1095

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2022–15082 Filed 7–13–22; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Self-Governance Negotiation Cooperative Agreement Program

Announcement Type: New.

Funding Announcement Number: HHS–2022–IHS–TSGN–0002.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.444.

Key Dates

Application Deadline Date: August 31, 2022.

Earliest Anticipated Start Date: September 30, 2022.

[1] There may be variation in the number of study participants and home visiting programs in each community (*e.g.,* some selected communities may have fewer home visitors). The total burden hours presented here provide information assuming the maximum number of respondents in each community.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting applications for Negotiation Cooperative Agreements for the Tribal Self-Governance Program (TSGP). This program is authorized under the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001(a); and Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5383(e). This program is described in the Assistance Listings located at *https://sam.gov/content/home* (formerly known as Catalog of Federal Domestic Assistance) under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the government-to-government relationship between the United States (U.S.) and Indian Tribes. Through the TSGP, Tribes negotiate with the IHS to assume Programs, Services, Functions, and Activities (PSFAs), or portions thereof, which gives Tribes the authority to manage and tailor health care programs in a manner that best fits the needs of their communities.

Participation in the TSGP affords Tribes the most flexibility to tailor their health care needs by choosing one of three ways to obtain health care from the Federal Government for their citizens. Specifically, Tribes can choose to: (1) receive health care services directly from the IHS; (2) contract with the IHS to administer individual programs and services the IHS would otherwise provide (referred to as Title I Self-Determination Contracting); and (3) compact with the IHS to assume control over health care programs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive and Tribes may choose to combine options based on their individual needs and circumstances.

The TSGP is a tribally-driven initiative and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the Office of Tribal Self-Governance (OTSG) to implement the Tribal Self-Governance authorities under the ISDEAA. The primary OTSG functions are to: (1) serve as the primary liaison and advocate for Tribes participating in the TSGP; (2) develop, direct, and implement TSGP policies and procedures; (3) provide information and technical assistance to Self-Governance Tribes; and (4) advise the IHS Director on compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator (ALN), designated by the IHS Director to act on his or her behalf, who has authority to negotiate Self-Governance Compacts and Funding Agreements (FA). Tribes interested in participating in the TSGP should contact their respective ALN to begin the Self-Governance planning and negotiation process. Tribes currently participating in the TSGP that are interested in expanding existing or adding new PSFAs should also contact their respective ALN to discuss the best methods for expanding or adding new PSFAs.

Purpose

The purpose of this Negotiation Cooperative Agreement is to provide Tribes with resources to help defray the costs associated with preparing for and engaging in TSGP negotiations. TSGP negotiations are a dynamic, evolving, and tribally-driven process that requires careful planning, preparation, and sharing of precise, up-to-date information by both Tribal and Federal parties. Because each Tribal situation is unique, a Tribe's successful transition

into the TSGP, or expansion of their current program, requires focused discussions between the Federal and Tribal negotiation teams about the Tribe's specific health care concerns and plans. One of the hallmarks of the TSGP is the collaborative nature of the negotiations process, which is designed to: (1) enable a Tribe to set its own priorities when assuming responsibility for IHS PSFAs; (2) observe and respect the government-to-government relationship between the U.S. and each Tribe; and (3) involve the active participation of both Tribal and IHS representatives, including the OTSG. Negotiations are a method of determining and agreeing upon the terms and provisions of a Tribe's Compact and FA, the implementation documents required for the Tribe to enter into the TSGP. The Compact sets forth the general terms of the government-to-government relationship between the Tribe and the Secretary of the U.S. Department of Health and Human Services (HHS). The FA: (1) describes the length of the agreement (whether it will be annual or multi-year); (2) identifies the PSFAs, or portions thereof, the Tribe will assume; (3) specifies the amount of funding associated with the Tribal assumption; and (4) includes terms required by Federal statutes and other terms agreed to by the parties. Both documents are required to participate in the TSGP and they are mutually negotiated agreements that become legally binding and mutually enforceable after both parties sign the documents. Either document can be renegotiated at the request of the Tribe.

The negotiation process has four major stages, including: (1) planning; (2) pre-negotiations; (3) negotiations; and (4) post-negotiations. Title V of the ISDEAA requires that a Tribe or Tribal Organization (T/TO) complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organizational preparation relating to the administration of health care programs. See 25 U.S.C. 5383(d). The planning phase is critical to the negotiation process and assists Tribes with making informed decisions about which PSFAs to assume and what organizational changes or modifications are necessary to support those PSFAs. A thorough planning phase improves timeliness and efficient negotiations and ensures that the Tribe is fully prepared to assume the transfer of IHS PSFAs to the Tribal health program.

During pre-negotiations, the Tribal and Federal negotiation teams review and discuss issues identified during the planning phase. Pre-negotiations provide an opportunity for the Tribe and the IHS to identify and discuss issues directly related to the Tribe's Compact, FA, and Tribal shares.

In advance of final negotiations, the Tribe should work with the IHS to secure the following: (1) program titles and descriptions; (2) financial tables and information; (3) information related to the identification and justification of residuals; and (4) the basis for determining Tribal shares (distribution formula). The Tribe may also wish to discuss financial materials that show estimated funding for next year and the increases or decreases in funding it may receive in the current year, as well as the basis for those changes.

During the final negotiation, both the Federal and Tribal negotiation teams work together in good faith to determine and agree upon the terms and provisions of the Tribe's Compact and FA. Negotiations are not an allocation process; they provide an opportunity to mutually review and discuss budget and program issues to reach agreement and finalize documents.

There are various entities involved throughout the negotiation process. For example, a Tribal government selects its representative(s) for the Tribal negotiation team, which may include a Tribal leader from the governing body, a Tribal health director, technical and program staff, legal counsel, and other consultants. Regardless of the composition of the Tribal team, Tribal representatives must have decision-making authority from the Tribal governing body to successfully negotiate and agree to the provisions within the agreements. The Federal negotiation team is led by the ALN and may include area and headquarters subject matter experts, OTSG staff, the Office of Finance and Accounting, and the Office of the General Counsel. The ALN is the only member of the Federal negotiation team with delegated authority to negotiate on behalf of the IHS Director. The ALN is the designated official that provides Tribes with Self-Governance information, assists Tribes in planning, organizes meetings between the Tribe and the IHS, and coordinates the agency's response to Tribal questions during the negotiation process.

The ALN role requires detailed knowledge of the IHS, awareness of current policy and practice, and understanding of the rights and authorities available to a Tribe under Title V of the ISDEAA.

In post-negotiations, the mutually agreed to and negotiated Compact and FA are signed by the authorizing Tribal official and submitted to the OTSG in preparation for the IHS Director's signature. Once the Compact and FA have been signed by both parties, they become legally binding and enforceable agreements. A signed Compact and FA are necessary for the payment process to begin. The negotiating Tribe then becomes a ''Self-Governance Tribe'' and a participant in the TSGP.

Acquiring a Negotiation Cooperative Agreement is not a prerequisite to enter the TSGP. A Tribe may use other resources to develop and negotiate its Compact and FA. See 42 CFR 137.26. Tribes that receive a Negotiation Cooperative Agreement are not obligated to participate in Title V and may choose to delay or decline participation or expansion in the TSGP.

II. Award Information

Funding Instrument—Cooperative Agreement

Estimated Funds Available

The total funding identified for fiscal year (FY) 2022 is approximately $420,000. Individual award amounts are anticipated to be $84,000. The funding available for competing awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Period of Performance

The period of performance is for 1 year.

Cooperative Agreement

Cooperative agreements awarded by the HHS are administered under the same policies as grants. However, the funding agency, IHS, is anticipated to have substantial programmatic involvement in the project during the entire period of performance. Below is a detailed description of the level of involvement required of the IHS.

Substantial Agency Involvement Description for Cooperative Agreement

A. Provide descriptions of PSFAs and associated funding at all organizational levels (Service Unit, Area, and Headquarters) including funding formulas and methodologies related to determining Tribal shares.

B. Meet with Negotiation Cooperative Agreement recipients to provide program information and discuss

methods currently used to manage and deliver health care.

C. Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

D. Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

III. Eligibility Information

1. Eligibility

To be eligible for this opportunity, applicant must meet the following criteria:

- Applicant must be an ''Indian Tribe'' as defined in 25 U.S.C. 5304(e); a ''Tribal Organization'' as defined in 25 U.S.C. 5304(l); or an ''Inter-Tribal Consortium'' as defined at 42 CFR 137.10. Please note that Tribes prohibited from contracting pursuant to the ISDEAA are not eligible. See section 424(a) of the Consolidated Appropriations Act, 2014, Public Law 113–76, as amended by section 428 of the Consolidated Appropriations Act, 2018, Public Law 115–141, and section 1201 of the Consolidated Appropriations Act, 2021, Public Law 116–260.
- Pursuant to 25 U.S.C. 5383(c)(1)(B), applicant must request participation in self-governance by resolution or other official action by the governing body of each Indian Tribe to be served.
- Pursuant to 25 U.S.C. 5383(c)(1)(C), applicant must demonstrate financial stability and financial management capability for 3 fiscal years.

Please see Section IV.2, Application and Submission Information, Content and Form Application Submission for details on required documentation.

Meeting the eligibility criteria for a Negotiation Cooperative Agreement does not mean that a T/TO is eligible for participation in the IHS TSGP under Title V of the ISDEAA. See 25 U.S.C. 5383, 42 CFR 137.15–23. For additional information on the eligibility for the IHS TSGP, please visit the ''Eligibility and Funding'' page on the OTSG website located at *https://www.ihs.gov/SelfGovernance*.

The program office will notify any applicants deemed ineligible.

Note: Please refer to Section IV.2 (Application and Submission Information/Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal Resolutions, proof of nonprofit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Applications with budget requests that exceed the highest dollar amount outlined under Section II Award Information, Estimated Funds Available, or exceed the period of performance outlined under Section II Award Information, Period of Performance, are considered not responsive and will not be reviewed. The Division of Grants Management (DGM) will notify the applicant.

Additional Required Documentation

Tribal Resolution

The DGM must receive an official, signed Tribal Resolution prior to issuing a Notice of Award (NoA) to any Tribe or Tribal organization selected for funding. An applicant that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. However, if an official signed Tribal Resolution cannot be submitted with the application prior to the application deadline date, a draft Tribal Resolution must be submitted with the application by the deadline date in order for the application to be considered complete and eligible for review. The draft Tribal Resolution is not in lieu of the required signed resolution but is acceptable until a signed resolution is received. If an application without a signed Tribal Resolution is selected for funding, the applicant will be contacted by the Grants Management Specialist (GMS) listed in this funding announcement and given 90 days to submit an official, signed Tribal Resolution to the GMS. If the signed Tribal Resolution is not received within 90 days, the award will be forfeited.

Tribes organized with a governing structure other than a Tribal council may submit an equivalent document commensurate with their governing organization.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are available at *https://www.Grants.gov*.

Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

Mandatory documents for all applicants include:

- Application forms:

1. SF–424, Application for Federal Assistance.

2. SF–424A, Budget Information—Non-Construction Programs.

3. SF–424B, Assurances—Non-Construction Programs.

4. Project Abstract Summary form.

- Project Narrative (not to exceed 10 pages). See Section IV.2.A, Project Narrative for instructions.
- Budget Justification and Narrative (not to exceed five pages). See Section IV.2.B, Budget Narrative for instructions.
- One-page Timeframe Chart.
- Tribal Resolution(s), which must explicitly authorize participation in a Self-Governance Negotiation Cooperative Agreement.
- Letters of Support from organization's Board of Directors (Optional).
- 501(c)(3) Certificate.
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL), if applicant conducts reportable lobbying.
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation sufficient to demonstrate financial stability and financial management capability for 3 fiscal years. The Indian Tribe must provide evidence that, for the 3 fiscal years prior to requesting participation in the TSGP, the Indian Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal agency. See 25 U.S.C. 5383, 42 CFR 137.15–23. For Tribes or Tribal organizations (T/TO) that expended $500,000 or more in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse. For T/TO that expended less than $500,000 in Federal awards, the T/TO must provide evidence of the program review correspondence from the IHS or Bureau of Indian Affairs officials. See 42 CFR 137.21–23.
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

1. Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

2. Face sheets from audit reports. Applicants can find these on the FAC website at *https://harvester.census.gov/facdissem/Main.aspx*.

Public Policy Requirements

All Federal public policies apply to IHS grants and cooperative agreements. Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of their exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. See *https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html.*

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate document that is no more than 10 pages and must: (1) have consecutively numbered pages; (2) use black font 12 points or larger; (3) be single-spaced; and 4) be formatted to fit standard letter paper (8–1/2 × 11 inches). Do not combine this document with any others.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria) and place all responses and required information in the correct section noted below or they will not be considered or scored. If the narrative exceeds the overall page limit, the application will be considered not responsive and will not be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal Resolutions, budget, budget justifications, narratives, and/or other appendix items. Page limits for each section within the project narrative are guidelines, not hard limits.

There are three parts to the narrative: Part 1—Program Information; Part 2—Program Planning and Evaluation; and Part 3—Program Report. See below for additional details about what must be included in the narrative.

The page limits below are for each narrative and budget submitted.

Part 1: Program Information (Limit—4 Pages)

Section 1: Introduction and Need for Assistance

Demonstrate that the Tribe has conducted previous Self-Governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the knowledge and expertise to assume or expand PSFAs and the administrative infrastructure to support the assumption of PSFAs. Identify the need for assistance and how the Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

Part 2: Program Planning and Evaluation (Limit—4 Pages)

Section 1: Project Objective(s), Work Plan, and Approach

State in measureable terms the objectives and appropriate activities to achieve the following Negotiation Cooperative Agreement recipient award activities:

(A) Determine the PSFAs that will be negotiated into the Tribe's Compact and FA. Prepare and discuss each PSFA in comparison to the current level of services provided so that an informed decision can be made on new or expanded program assumption.

(B) Identify Tribal shares associated with the PSFAs that will be included in the FA.

(C) Develop the terms and conditions that will be set forth in both the Compact and FA to submit to the ALN prior to negotiations.

Describe fully and clearly how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded. Include how the Tribe plans to demonstrate improved health services to the community and incorporate the proposed timelines for negotiations.

Section 2: Organizational Capabilities, Key Personnel, and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 3: Program Evaluation

Describe fully and clearly how the goals and proposed activities will improve the health care system and identify the anticipated or expected benefits for the Tribe. Define the criteria to be used to evaluate objectives associated with the project using a model for tracking.

Part 3: Program Report (Limit—2 Pages)

Section 1: Describe your organization's significant program activities and accomplishments over the past several years associated with the goals of this announcement and leading up to the negotiation phase.

Please identify and describe significant program activities and achievements associated with the delivery of quality health services. Provide a comparison of the actual accomplishments to the goals established for the project period or, if applicable, provide justification for the lack of progress.

B. Budget Narrative (Limit—5 Pages)

Provide a budget narrative that explains the amounts requested for each line item of the budget from the SF–424A (Budget Information for Non-Construction Programs). The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the ''Other'' category is justified. Do NOT use the budget narrative to expand the project narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Time on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), Deputy Director, DGM, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least 10 days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and indirect costs.
- Only one cooperative agreement may be awarded per applicant.

6. Electronic Submission Requirements

All applications must be submitted via *Grants.gov.* Please use the *https://www.Grants.gov* website to submit an application. Find the application by selecting the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If you cannot submit an application through *Grants.gov,* you must request a

waiver prior to the application due date. This contact must be initiated prior to the application due date or your waiver request will be denied. Prior approval must be requested and obtained from Mr. Paul Gettys, Deputy Director, DGM. You must send a written waiver request to *GrantsPolicy@ihs.gov* with a copy to *Paul.Gettys@ihs.gov*. The waiver request must be documented in writing (emails are acceptable) before submitting an application by some other method, and must include clear justification for the need to deviate from the required application submission process.

If the DGM approves your waiver request, you will receive a confirmation of approval email containing submission instructions. You must include a copy of the written approval with the application submitted to the DGM. Applications that do not include a copy of the signed waiver from the Deputy Director of the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m. Eastern Time on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *https://www.Grants.gov* by entering the Assistance Listing (CFDA) number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*).
- Upon contacting *Grants.gov,* obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, the applicant will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify you that the application has been received.

System for Award Management (SAM)

Organizations that are not registered with SAM must access the SAM online registration through the SAM home page at *https://sam.gov.* United States (U.S.) organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge but can take several weeks to process. Applicants may register online at *https://sam.gov.*

Unique Entity Identifier

Your *SAM.gov* registration now includes a Unique Entity Identifier (UEI), generated by *SAM.gov,* which replaces the DUNS number obtained from Dun and Bradstreet. *SAM.gov* registration no longer requires a DUNS number.

Check your organization's *SAM.gov* registration as soon as you decide to apply for this program. If your *SAM.gov* registration is expired, you will not be able to submit an application. It can take several weeks to renew it or resolve any issues with your registration, so do not wait.

Check your *Grants.gov* registration. Registration and role assignments in *Grants.gov* are self-serve functions. One user for your organization will have the authority to approve role assignments, and these must be approved for active users in order to ensure someone in your organization has the necessary access to submit an application.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS awardees to report information on sub-awards. Accordingly, all IHS awardees must notify potential first-tier sub-awardees that no entity may receive a first-tier sub-award unless the entity has provided its UEI number to the prime awardee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

Additional information on implementing the Transparency Act, including the specific requirements for SAM, are available on the DGM Grants Management, Policy Topics web page at *https://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Possible points assigned to each section are noted in parentheses. The project narrative and budget narrative should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to fully understand the project. Attachments requested in the criteria do not count toward the page limit for the project narrative. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

1. Evaluation Criteria

A. Introduction and Need for Assistance (25 Points)

Demonstrate that the Tribe has conducted previous Self-Governance planning activities by clearly stating the results of what was learned during the planning process. Explain how the Tribe has determined it has the knowledge and expertise to assume or expand PSFAs and the administrative infrastructure to support the assumption of PSFAs. Identify the need for assistance and how the Negotiation Cooperative Agreement would benefit the health activities the Tribe is preparing to assume or expand.

B. Project Objective(s), Work Plan, and Approach (25 Points)

State in measurable terms the objectives and appropriate activities to achieve the following Negotiation Cooperative Agreement recipient award activities:

(1) Determine the PSFAs that will be negotiated into the Tribe's Compact and FA. Prepare and discuss each PSFA in comparison to the level of services provided so that an informed decision can be made on new or expanded program assumption.

(2) Identify Tribal shares associated with the PSFAs that will be included in the FA.

(3) Develop the terms and conditions that will be set forth in both the Compact and FA to submit to the ALN prior to negotiations. Clearly describe how the Tribe's proposal will result in an improved approach to managing the PSFAs to be assumed or expanded. Include how the Tribe plans to demonstrate improved health care services to the community and incorporate the proposed timelines for negotiations.

C. Program Evaluation (25 Points)

Describe fully the improvements that will be made by the Tribe to manage the health care system and identify the anticipated or expected benefits for the Tribe. Define the criteria to be used to evaluate objectives associated with the project and how they will be measured.

D. Organizational Capabilities, Key Personnel, and Qualifications (15 Points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (10 Points)

Submit a budget with a narrative describing the budget request and matching the scope of work described in the project narrative. Justify all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional documents can be uploaded as Other Attachments in *Grants.gov.* These can include:

- Work plan, logic model, and/or timeline for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Rate Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.,* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the Objective Review Committee (ORC) based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds (budget limit, period of performance limit) will not be referred to the ORC and will not be funded. The applicant will be notified by the program office of this determination.

Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS OTSG within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the award, the terms and conditions of the award, the effective date of the award, the budget period, and period of performance. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for 1 year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence, other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization, is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Awards issued under this announcement are subject to, and are administered in accordance with, the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. *Administrative Regulations for Grants:*

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards currently in effect or implemented during the period of award, other Department regulations and policies in effect at the time of award, and applicable statutory provisions. At the time of publication, this includes 45 CFR part 75, at *https://www.govinfo.gov/content/pkg/CFR-2020-title45-vol1/pdf/CFR-2020-title45-vol1-part75.pdf.*
- Please review all HHS regulatory provisions for Termination at 45 CFR 75.372, at *https://www.ecfr.gov/cgi-bin/retrieveECFR?gp&SID=2970eec67399fab1413ede53d7895d99&mc=true&n=pt45.1.75&r=PART&ty=HTML&se45.1.75_1372#se45.1.75_1372.*

C. *Grants Policy:*

- HHS Grants Policy Statement, Revised January 2007, at *https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. *Cost Principles:*

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' at 45 CFR part 75 subpart E.

E. *Audit Requirements:*

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' at 45 CFR part 75 subpart F.

F. As of August 13, 2020, 2 CFR 200 was updated to include a prohibition on certain telecommunications and video surveillance services or equipment. This prohibition is described in 2 CFR 200.216. This will also be described in the terms and conditions of every IHS grant and cooperative agreement awarded on or after August 13, 2020.

2. Indirect Costs

This section applies to all recipients that request reimbursement of IDC in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, the IHS requires applicants to obtain a current IDC rate agreement and submit it to the DGM prior to the DGM issuing an award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Per 45 CFR 75.414(f) Indirect (F&A) costs, ''any non-Federal entity (NFE) [*i.e.,* applicant] that has never received a negotiated indirect cost rate, . . . may elect to charge a de minimis rate of 10 percent of modified total direct costs which may be used indefinitely. As described in Section 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used

consistently for all Federal awards until such time as the NFE chooses to negotiate for a rate, which the NFE may apply to do at any time.''

Electing to charge a de minimis rate of 10 percent only applies to applicants that have never received an approved negotiated indirect cost rate from HHS or another cognizant Federal agency. Applicants awaiting approval of their indirect cost proposal may request the 10 percent de minimis rate. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Available funds are inclusive of direct and appropriate indirect costs. Approved indirect funds are awarded as part of the award amount, and no additional funds will be provided.

Generally, IDC rates for IHS awardees are negotiated with the Division of Cost Allocation at *https://rates.psc.gov/* or the Department of the Interior (Interior Business Center) at *https://ibc.doi.gov/ICS/tribal.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

3. Reporting Requirements

The awardee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in the imposition of special award provisions and/or the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the awardee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports must be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in Section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually. The progress report is due within 30 days after the reporting period ends (specific dates will be listed in the NoA Terms and Conditions). These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

Federal Financial Reports are due 30 days after the end of each budget period, and a final report is due 90 days after the end of the Period of Performance.

Awardees are responsible and accountable for reporting accurate information on all required reports: the Progress Reports and Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

The IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs, and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation threshold met for any specific reporting period.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Management website at *https://www.ihs.gov/dgm/policytopics/.*

D. Non-Discrimination Legal Requirements for Awardees of Federal Financial Assistance

Should you successfully compete for an award, recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes ensuring programs are accessible to persons with limited English proficiency and persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. Please see *https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html* and *https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html.*

- Recipients of FFA must ensure that their programs are accessible to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficiency individuals, see *https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html* and *https://www.lep.gov.*
- For information on your specific legal obligations for serving qualified individuals with disabilities, including reasonable modifications and making services accessible to them, see *https://www.hhs.gov/civil-rights/for-individuals/disability/index.html.*
- HHS funded health and education programs must be administered in an environment free of sexual harassment. See *https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html.*
- For guidance on administering your program in compliance with applicable Federal religious nondiscrimination laws and applicable Federal conscience protection and associated anti-discrimination laws, see *https://www.hhs.gov/conscience/conscience-protections/index.html* and *https://www.hhs.gov/conscience/religious-freedom/index.html.*

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the FAPIIS at *https://www.fapiis.gov/fapiis/#/home* before making any award in excess of the simplified acquisition threshold (currently $250,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards

when completing the review of risk posed by applicants, as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, NFEs are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require an NFE or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

All applicants and recipients must disclose in writing, in a timely manner, to the IHS and to the HHS Office of Inspector General of all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Marsha Brookins, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line), Office: (301) 443–5204, Fax: (301) 594–0899, Email: *DGM@ihs.gov,*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *https://oig.hhs.gov/fraud/report-fraud/,* (Include ''Mandatory Grant Disclosures'' in subject line), Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or, Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 and 2 CFR part 376).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Roxanne Houston, Program Officer, Indian Health Service, Office of Tribal Self-Governance, 5600 Fishers Lane, Mail Stop: 08E09B, Rockville, MD 20857, Phone: (301) 443–7821, Email: *Roxanne.Houston@ihs.gov,* Website: *https://www.ihs.gov/SelfGovernance/.*

2. Questions on grants management and fiscal matters may be directed to: Sheila Little Miller, Grants Management Specialist, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (240) 535–9308, Email: *Sheila.Miller@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Deputy Director, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all grant, cooperative agreement, and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Elizabeth A. Fowler,

Acting Director, Indian Health Service.

[FR Doc. 2022–15074 Filed 7–13–22; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Tribal Self-Governance Planning Cooperative Agreement Program

Announcement Type: New.

Funding Announcement Number: HHS–2022–IHS–TSGP–0002.

Assistance Listing (Catalog of Federal Domestic Assistance or CFDA) Number: 93.444.

Key Dates

Application Deadline Date: August 31, 2022.

Earliest Anticipated Start Date: September 30, 2022.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting applications for Planning Cooperative Agreements for the Tribal Self-Governance Program (TSGP). This program is authorized under the Snyder Act, 25 U.S.C. 13; the Transfer Act, 42 U.S.C. 2001(a); and Title V of the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. 5383(e). This program is described in the Assistance Listings located at *https://sam.gov/content/home* (formerly known as Catalog of Federal Domestic Assistance) under 93.444.

Background

The TSGP is more than an IHS program; it is an expression of the Government-to-Government relationship between the United States (U.S.) and Indian Tribes. Through the TSGP Tribes negotiate with the IHS to assume Programs, Services, Functions, and Activities (PSFAs), or portions thereof, which gives Tribes the authority to manage and tailor health care programs in a manner that best fits the needs of their communities.

Participation in the TSGP affords Tribes the most flexibility to tailor their health care needs by choosing one of three ways to obtain health care from the Federal government for their citizens. Specifically, Tribes can choose to: (1) receive health care services directly from the IHS; (2) contract with the IHS to administer individual programs and services the IHS would otherwise provide (referred to as Title I Self-Determination Contracting); and (3) compact with the IHS to assume control over health care programs the IHS would otherwise provide (referred to as Title V Self-Governance Compacting or the TSGP). These options are not exclusive and Tribes may choose to combine options based on their individual needs and circumstances.

The TSGP is a tribally-driven initiative and strong Federal-Tribal partnerships are essential to the program's success. The IHS established the Office of Tribal Self-Governance (OTSG) to implement the Self-Governance authorities under the ISDEAA. The primary OTSG functions are to: (1) serve as the primary liaison and advocate for Tribes participating in the TSGP; (2) develop, direct, and implement TSGP policies and procedures; (3) provide information and technical assistance to Self-Governance Tribes; and (4) advise the IHS Director on compliance with TSGP policies, regulations, and guidelines. Each IHS Area has an Agency Lead Negotiator

(ALN), designated by the IHS Director to act on his or her behalf, who has authority to negotiate Self-Governance Compacts and Funding Agreements. Tribes interested in participating in the TSGP should contact their respective ALN to begin the Self-Governance planning and negotiation process. Tribes currently participating in the TSGP that are interested in expanding existing or adding new PSFAs should also contact their respective ALN to discuss the best methods for expanding or adding new PSFAs.

Purpose

The purpose of this Planning Cooperative Agreement is to provide resources to Tribes interested in entering the TSGP and to existing Self-Governance Tribes interested in assuming new or expanded PSFAs. Title V of the ISDEAA requires a Tribe or Tribal organization (T/TO) to complete a planning phase to the satisfaction of the Tribe. The planning phase must include legal and budgetary research and internal Tribal government planning and organizational preparation relating to the administration of health care programs. See 25 U.S.C. 5383(d).

The planning phase is critical to negotiations and helps Tribes make informed decisions about which PSFAs to assume and what organizational changes or modifications are necessary to successfully support those PSFAs. A thorough planning phase improves timeliness and efficient negotiations and ensures that the Tribe is fully prepared to assume the transfer of IHS PSFAs to the Tribal health program.

A Planning Cooperative Agreement is not a prerequisite to enter the TSGP and a Tribe may use other resources to meet the planning requirement. Tribes that receive Planning Cooperative Agreements are not obligated to participate in the TSGP and may choose to delay or decline participation based on the outcome of their planning activities. This also applies to existing Self-Governance Tribes exploring the option to expand their current PSFAs or assume additional PSFAs.

II. Award Information

Funding Instrument—Cooperative Agreement

Estimated Funds Available

The total funding identified for fiscal year (FY) 2022 is approximately $900,000. Individual award amounts are anticipated to be $180,000. The funding available for competing awards issued under this announcement is subject to the availability of appropriations and budgetary priorities of the Agency. The IHS is under no obligation to make awards that are selected for funding under this announcement.

Anticipated Number of Awards

Approximately five awards will be issued under this program announcement.

Period of Performance

The period of performance is for 1 year.

Cooperative Agreement

Cooperative agreements awarded by the Department of Health and Human Services (HHS) are administered under the same policies as grants. However, the funding agency, IHS, is anticipated to have substantial programmatic involvement in the project during the entire period of performance. Below is a detailed description of the level of involvement required of the IHS.

Substantial Agency Involvement Description for Cooperative Agreement

A. Provide descriptions of PSFAs and associated funding at all organizational levels (service unit, area, and headquarters) including funding formulas and methodologies related to determining Tribal shares.

B. Meet with Planning Cooperative Agreement recipients to provide program information and discuss methods currently used to manage and deliver health care.

C. Identify and provide statutes, regulations, and policies that provide authority for administering IHS programs.

D. Provide technical assistance on the IHS budget, Tribal shares, and other topics as needed.

III. Eligibility Information

1. Eligibility

To be eligible for this opportunity, applicant must meet the following criteria:

- Applicant must be an ''Indian Tribe'' as defined in 25 U.S.C. 5304(e); a ''Tribal Organization'' as defined in 25 U.S.C. 5304(l); or an ''Inter-Tribal Consortium'' as defined at 42 CFR 137.10. Please note that Tribes prohibited from contracting pursuant to the ISDEAA are not eligible. See section 424(a) of the Consolidated Appropriations Act, 2014, Public Law 113–76, as amended by section 428 of the Consolidated Appropriations Act, 2018, Public Law 115–141, and section 1201 of the Consolidated Appropriations Act, 2021, Public Law 116–260.
- Pursuant to 25 U.S.C. 5383(c)(1)(B), applicant must request participation in self-governance by resolution or other official action by the governing body of each Indian Tribe to be served. Note: If the applicant has already successfully completed the planning phase required and requested participation in the IHS Tribal Self-Governance Program by official Tribal action, then the applicant is not eligible for this funding opportunity.
- Pursuant to 25 U.S.C. 5383(c)(1)(C), applicant must demonstrate financial stability and financial management capability for 3 fiscal years.

Please see Section IV.2, Application and Submission Information, Content and Form Application Submission for details on required documentation.

Meeting the eligibility criteria for a Planning Cooperative Agreement does not mean that a T/TO is eligible for participation in the IHS TSGP under Title V of the ISDEAA. See 25 U.S.C. 5383, 42 CFR 137.15–23. For additional information on the eligibility for the IHS TSGP, please visit the ''Eligibility and Funding'' page on the OTSG website located at *http://www.ihs.gov/SelfGovernance.*

The program office will notify any applicants deemed ineligible.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as Tribal Resolutions, proof of nonprofit status, etc.

2. Cost Sharing or Matching

The IHS does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

Applications with budget requests that exceed the highest dollar amount outlined under Section II Award Information, Estimated Funds Available, or exceed the period of performance outlined under Section II Award Information, Period of Performance, are considered not responsive and will not be reviewed. The Division of Grants Management (DGM) will notify the applicant.

Additional Required Documentation

Tribal Resolution

The DGM must receive an official, signed Tribal Resolution prior to issuing a Notice of Award (NoA) to any Tribe or Tribal organization selected for funding. An applicant that is proposing a project affecting another Indian Tribe must include resolutions from all affected Tribes to be served. However, if an official signed Tribal Resolution

cannot be submitted with the application prior to the application deadline date, a draft Tribal Resolution must be submitted with the application by the deadline date in order for the application to be considered complete and eligible for review. The draft Tribal Resolution is not in lieu of the required signed resolution, but is acceptable until a signed resolution is received. If an application without a signed Tribal Resolution is selected for funding, the applicant will be contacted by the Grants Management Specialist (GMS) listed in this funding announcement and given 90 days to submit an official, signed Tribal Resolution to the GMS. If the signed Tribal Resolution is not received within 90 days, the award will be forfeited.

Tribes organized with a governing structure other than a Tribal council may submit an equivalent document commensurate with their governing organization.

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement are available at *https://www.Grants.gov.*

Please direct questions regarding the application process to Mr. Paul Gettys at (301) 443–2114 or (301) 443–5204.

2. Content and Form Application Submission

Mandatory documents for all applicants include:

- Application forms:

1. SF–424, Application for Federal Assistance.

2. SF–424A, Budget Information—Non-Construction Programs.

3. SF–424B, Assurances—Non-Construction Programs.

4. Project Abstract Summary form.

- Project Narrative (not to exceed 10 pages). See Section IV.2.A, Project Narrative for instructions.
- Budget Justification and Narrative (not to exceed five pages). See Section IV.2.B, Budget Narrative for instructions.
- One-page Timeframe Chart.
- Tribal Resolution(s), which must explicitly authorize participation in a Self-Governance Planning Cooperative Agreement.
- Letters of Support from organization's Board of Directors (optional).
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL), if applicant conducts reportable lobbying.
- Certification Regarding Lobbying (GG-Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required in order to receive IDC).
- Organizational Chart (optional).
- Documentation sufficient to demonstrate financial stability and financial management capability for 3 fiscal years. The Indian Tribe must provide evidence that, for the 3 fiscal years prior to requesting participation in the TSGP, the Indian Tribe has had no uncorrected significant and material audit exceptions in the required annual audit of the Indian Tribe's Self-Determination Contracts or Self-Governance Funding Agreements with any Federal agency. See 25 U.S.C. 5383, 42 CFR 137.15–23. For T/TOs that expended $500,000 or more in Federal awards, the OTSG shall retrieve the audits directly from the Federal Audit Clearinghouse. For T/TO that expended less than $500,000 in Federal awards, the T/TO must provide evidence of the program review correspondence from IHS or Bureau of Indian Affairs officials. See 42 CFR 137.21–23.
- Documentation of current Office of Management and Budget (OMB) Financial Audit (if applicable).

Acceptable forms of documentation include:

1. Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or

2. Face sheets from audit reports. Applicants can find these on the FAC website at *https://harvester.census.gov/facdissem/Main.aspx.*

Public Policy Requirements

All Federal public policies apply to IHS grants and cooperative agreements. Pursuant to 45 CFR 80.3(d), an individual shall not be deemed subjected to discrimination by reason of their exclusion from benefits limited by Federal law to individuals eligible for benefits and services from the IHS. See *https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html.*

Requirements for Project and Budget Narratives

A. *Project Narrative:* This narrative should be a separate document that is no more than 10 pages and must: (1) have consecutively numbered pages; (2) use black font 12 points or larger; (3) be single-spaced; and (4) be formatted to fit standard letter paper (8½ x 11 inches). Do not combine this document with any others.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation Criteria) and place all responses and required information in the correct section noted below or they will not be considered or scored. If the narrative exceeds the overall page limit, the application will be considered not responsive and will not be reviewed. The 10-page limit for the narrative does not include the work plan, standard forms, Tribal Resolutions, budget, budget justifications, narratives, and/or other items. Page limits for each section within the project narrative are guidelines, not hard limits.

There are three parts to the narrative: Part 1—Program Information; Part 2—Program Planning and Evaluation; and Part 3—Program Report. See below for additional details about what must be included in the narrative.

The page limits below are for each narrative and budget submitted.

Part 1: Program Information (Limit—4 Pages)

Section 1: Needs

Describe the Tribe's current health program activities, including: how long it has been operating; what programs or services are currently being provided; and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit the health activities the Tribe is currently administering or looking to expand.

Part 2: Program Planning and Evaluation (Limit—4 Pages)

Section 1: Program Plans

Project Objective(s), Work Plan, and Approach

State in measureable terms the objectives and appropriate activities to achieve the following Planning Cooperative Agreement recipient award activities:

(A) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and determine which PSFAs the Tribe may elect to assume or expand.

(B) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(C) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new or expanded program assumption.

(D) Describe how the objectives are consistent with the purpose of the program, the needs of the people to be served, and how they will be achieved within the proposed timeframe. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project and how they will be measured.

Organizational Capabilities, Key Personnel, and Qualifications

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

Section 2: Program Evaluation

Define the criteria to be used to evaluate planning activities and how they will be measured. Describe fully and clearly the methodology that will be used to determine if the needs identified are being met and if the outcomes are being achieved. This section must address the following questions:

(A) Are the goals and objectives measurable and consistent with the purpose of the program and the needs of the people to be served?

(B) Are the goals achievable within the proposed timeframe?

Part 3: Program Report (Limit—2 Pages)

Section 1: Describe your organization's significant program activities and accomplishments over the past 6–12 months associated with the goals of this announcement.

Please identify and describe significant program activities and achievements associated with the delivery of quality health services. Provide a comparison of the actual accomplishments to the goals established for the project period or, if applicable, provide justification for the lack of progress.

B. Budget Narrative (Limit—5 Pages)

Provide a budget narrative that explains the amounts requested for each line item of the budget from the SF–424A (Budget Information for Non-Construction Programs). The budget narrative should specifically describe how each item will support the achievement of proposed objectives. Be very careful about showing how each item in the ''Other'' category is justified. Do NOT use the budget narrative to expand the project narrative.

3. Submission Dates and Times

Applications must be submitted through *Grants.gov* by 11:59 p.m. Eastern Time on the Application Deadline Date. Any application received after the application deadline will not be accepted for review. *Grants.gov* will notify the applicant via email if the application is rejected.

If technical challenges arise and assistance is required with the application process, contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*). If problems persist, contact Mr. Paul Gettys (*Paul.Gettys@ihs.gov*), Deputy Director, DGM, by telephone at (301) 443–2114 or (301) 443–5204. Please be sure to contact Mr. Gettys at least 10 days prior to the application deadline. Please do not contact the DGM until you have received a *Grants.gov* tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

The IHS will not acknowledge receipt of applications.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and indirect costs.
- Only one cooperative agreement may be awarded per applicant.

6. Electronic Submission Requirements

All applications must be submitted via *Grants.gov*. Please use the *https://www.Grants.gov* website to submit an application. Find the application by selecting the ''Search Grants'' link on the homepage. Follow the instructions for submitting an application under the Package tab. No other method of application submission is acceptable.

If you cannot submit an application through *Grants.gov*, you must request a waiver prior to the application due date. This contact must be initiated prior to the application due date or your waiver request will be denied. Prior approval must be requested and obtained from Mr. Paul Gettys, Deputy Director, DGM. You must send a written waiver request to *GrantsPolicy@ihs.gov* with a copy to *Paul.Gettys@ihs.gov*. The waiver request must be documented in writing (emails are acceptable) before submitting an application by some other method, and must include clear justification for the need to deviate from the required application submission process.

If the DGM approves your waiver request, you will receive a confirmation of approval email containing submission instructions. You must include a copy of the written approval with the application submitted to the DGM. Applications that do not include a copy of the signed waiver from the Deputy Director of the DGM will not be reviewed. The Grants Management Officer of the DGM will notify the applicant via email of this decision. Applications submitted under waiver must be received by the DGM no later than 5:00 p.m. Eastern Time on the Application Deadline Date. Late applications will not be accepted for processing. Applicants that do not register for both the System for Award Management (SAM) and *Grants.gov* and/or fail to request timely assistance with technical issues will not be considered for a waiver to submit an application via alternative method.

Please be aware of the following:

- Please search for the application package in *https://www.Grants.gov* by entering the Assistance Listing (CFDA) number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application, please contact *Grants.gov* Customer Support (see contact information at *https://www.Grants.gov*).
- Upon contacting *Grants.gov*, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and a waiver from the agency must be obtained.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through *Grants.gov* as the registration process for SAM and *Grants.gov* could take up to 20 working days.
- Please follow the instructions on *Grants.gov* to include additional documentation that may be requested by this funding announcement.
- Applicants must comply with any page limits described in this funding announcement.
- After submitting the application, you will receive an automatic acknowledgment from *Grants.gov* that contains a *Grants.gov* tracking number. The IHS will not notify you that the application has been received.

System for Award Management (SAM)

Organizations that are not registered with SAM must access the SAM online registration through the SAM home page at *https://sam.gov.* United States (U.S.) organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to

become active. Please see *SAM.gov* for details on the registration process and timeline. Registration with the SAM is free of charge but can take several weeks to process. Applicants may register online at *https://sam.gov.*

Unique Entity Identifier

Your *SAM.gov* registration now includes a Unique Entity Identifier (UEI), generated by *SAM.gov*, which replaces the DUNS number obtained from Dun and Bradstreet. *SAM.gov* registration no longer requires a DUNS number.

Check your organization's *SAM.gov* registration as soon as you decide to apply for this program. If your *SAM.gov* registration is expired, you will not be able to submit an application. It can take several weeks to renew it or resolve any issues with your registration, so do not wait.

Check your *Grants.gov* registration. Registration and role assignments in *Grants.gov* are self-serve functions. One user for your organization will have the authority to approve role assignments, and these must be approved for active users in order to ensure someone in your organization has the necessary access to submit an application.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires all HHS awardees to report information on sub-awards. Accordingly, all IHS awardees must notify potential first-tier sub-awardees that no entity may receive a first-tier sub-award unless the entity has provided its UEI number to the prime awardee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the Transparency Act.

Additional information on implementing the Transparency Act, including the specific requirements for SAM, are available on the DGM Grants Management, Policy Topics web page at *https://www.ihs.gov/dgm/policytopics/.*

V. Application Review Information

Possible points assigned to each section are noted in parentheses. The project narrative and budget narrative should be written in a manner that is clear to outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to fully understand the project. Attachments requested in the criteria do not count toward the page limit for the project narrative. Points will be assigned to each evaluation criteria adding up to a total of 100 possible points. Points are assigned as follows:

1. Evaluation Criteria

A. Introduction and Need for Assistance (25 Points)

Describe the Tribe's current health program activities, including: how long it has been operating, what programs or services are currently being provided, and if the applicant is currently administering any ISDEAA Title I Self-Determination Contracts or Title V Self-Governance Compacts. Identify the need for assistance and how the Planning Cooperative Agreement would benefit the health activities the Tribe is currently administering and/or looking to expand.

B. Project Objective(s), Work Plan, and Approach (25 Points)

State in measurable terms the objectives and appropriate activities to achieve the following Planning Cooperative Agreement recipient award activities:

(1) Research and analyze the complex IHS budget to gain a thorough understanding of funding distribution at all organizational levels and determine which PSFAs the Tribe may elect to assume or expand.

(2) Establish a process to identify PSFAs and associated funding that may be incorporated into current programs.

(3) Determine the Tribe's share of each PSFA and evaluate the current level of health care services being provided to make an informed decision on new or expanded program assumption.

(4) Describe how the objectives are consistent with the purpose of the program, the needs of the people to be served, and how they will be achieved within the proposed timeframe. Identify the expected results, benefits, and outcomes or products to be derived from each objective of the project.

C. Program Evaluation (25 Points)

Define the criteria to be used to evaluate planning activities and how they will be measured. Clearly describe the methodologies and parameters that will be used to determine if the needs identified are being met and if the outcomes identified are being achieved. Are the goals and objectives measurable and consistent with the purpose of the program and meet the needs of the people to be served? Are they achievable within the proposed timeframe? Describe how the assumption of PSFAs enhances sustainable health delivery. Ensure the measurement includes activities that will lead to sustainability.

D. Organizational Capabilities, Key Personnel, and Qualifications (15 Points)

Describe the organizational structure of the Tribe and its ability to manage the proposed project. Include resumes or position descriptions of key staff showing requisite experience and expertise. If applicable, include resumes and scope of work for consultants that demonstrate experience and expertise relevant to the project.

E. Categorical Budget and Budget Justification (10 Points)

Submit a budget with a narrative describing the budget request and matching the scope of work described in the project narrative. Justify all expenditures identifying reasonable and allowable costs necessary to accomplish the goals and objectives as outlined in the project narrative.

Additional documents can be uploaded as Other Attachments in *Grants.gov*. These can include:

- Work plan, logic model, and/or timeline for proposed objectives.
- Position descriptions for key staff.
- Resumes of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Rate Agreement.
- Organizational chart.
- Map of area identifying project location(s).
- Additional documents to support narrative (*i.e.,* data tables, key news articles, etc.).

2. Review and Selection

Each application will be prescreened for eligibility and completeness as outlined in the funding announcement. Applications that meet the eligibility criteria shall be reviewed for merit by the Objective Review Committee (ORC) based on evaluation criteria. Incomplete applications and applications that are not responsive to the administrative thresholds (budget limit, period of performance limit) will not be referred to the ORC and will not be funded. The applicant will be notified by the program office of this determination. Applicants must address all program requirements and provide all required documentation.

3. Notifications of Disposition

All applicants will receive an Executive Summary Statement from the IHS OTSG within 30 days of the conclusion of the ORC outlining the strengths and weaknesses of their application. The summary statement

will be sent to the Authorizing Official identified on the face page (SF–424) of the application.

A. Award Notices for Funded Applications

The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the award, the terms and conditions of the award, the effective date of the award, the budget period, and period of performance. Each entity approved for funding must have a user account in GrantSolutions in order to retrieve the NoA. Please see the Agency Contacts list in Section VII for the systems contact information.

B. Approved but Unfunded Applications

Approved applications not funded due to lack of available funds will be held for 1 year. If funding becomes available during the course of the year, the application may be reconsidered.

Note: Any correspondence, other than the official NoA executed by an IHS grants management official announcing to the project director that an award has been made to their organization, is not an authorization to implement their program on behalf of the IHS.

VI. Award Administration Information

1. Administrative Requirements

Awards issued under this announcement are subject to, and are administered in accordance with, the following regulations and policies:

A. The criteria as outlined in this program announcement.

B. Administrative Regulations for Grants:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards currently in effect or implemented during the period of award, other Department regulations and policies in effect at the time of award, and applicable statutory provisions. At the time of publication, this includes 45 CFR part 75, at *https://www.govinfo.gov/content/pkg/CFR-2020-title45-vol1/pdf/CFR-2020-title45-vol1-part75.pdf.*
- Please review all HHS regulatory provisions for Termination at 45 CFR 75.372, at *https://www.ecfr.gov/cgi-bin/retrieveECFR?gp&SID=2970eec67399fab1413ede53d7895d99&mc=true&n=pt45.1.75&r=PART&ty=HTML&se45.1.75_1372#se45.1.75_1372.*

C. Grants Policy:

- HHS Grants Policy Statement, Revised January 2007, at *https://www.hhs.gov/sites/default/files/grants/grants/policies-regulations/hhsgps107.pdf.*

D. Cost Principles:

- Uniform Administrative Requirements for HHS Awards, ''Cost Principles,'' at 45 CFR part 75 subpart E.

E. Audit Requirements:

- Uniform Administrative Requirements for HHS Awards, ''Audit Requirements,'' at 45 CFR part 75 subpart F.

F. As of August 13, 2020, 2 CFR 200 was updated to include a prohibition on certain telecommunications and video surveillance services or equipment. This prohibition is described in 2 CFR 200.216. This will also be described in the terms and conditions of every IHS grant and cooperative agreement awarded on or after August 13, 2020.

2. Indirect Costs

This section applies to all recipients that request reimbursement of IDC in their application budget. In accordance with HHS Grants Policy Statement, Part II–27, the IHS requires applicants to obtain a current IDC rate agreement and submit it to the DGM prior to the DGM issuing an award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate agreement is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate agreement is provided to the DGM.

Per 45 CFR 75.414(f) Indirect (F&A) costs, ''any non-Federal entity (NFE) [*i.e.,* applicant] that has never received a negotiated indirect cost rate, ... may elect to charge a de minimis rate of 10 percent of modified total direct costs which may be used indefinitely. As described in Section 75.403, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as the NFE chooses to negotiate for a rate, which the NFE may apply to do at any time.''

Electing to charge a de minimis rate of 10 percent only applies to applicants that have never received an approved negotiated indirect cost rate from HHS or another cognizant federal agency. Applicants awaiting approval of their indirect cost proposal may request the 10 percent de minimis rate. When the applicant chooses this method, costs included in the indirect cost pool must not be charged as direct costs to the grant.

Available funds are inclusive of direct and appropriate indirect costs. Approved indirect funds are awarded as part of the award amount, and no additional funds will be provided.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation at *https://rates.psc.gov/* or the Department of the Interior (Interior Business Center) at *https://ibc.doi.gov/ICS/tribal.* For questions regarding the indirect cost policy, please call the Grants Management Specialist listed under ''Agency Contacts'' or the main DGM office at (301) 443–5204.

3. Reporting Requirements

The awardee must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in the imposition of special award provisions and/or the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the awardee organization or the individual responsible for preparation of the reports. Per DGM policy, all reports must be submitted electronically by attaching them as a ''Grant Note'' in GrantSolutions. Personnel responsible for submitting reports will be required to obtain a login and password for GrantSolutions. Please see the Agency Contacts list in Section VII for the systems contact information.

The reporting requirements for this program are noted below.

A. Progress Reports

Program progress reports are required semi-annually. The progress reports are due within 30 days after the reporting period ends (specific dates will be listed in the NoA Terms and Conditions). These reports must include a brief comparison of actual accomplishments to the goals established for the period, a summary of progress to date or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. A final report must be submitted within 90 days of expiration of the period of performance.

B. Financial Reports

A Federal Financial Report is due 90 days after the end of the Period of Performance.

Grantees are responsible and accountable for reporting accurate information on all required reports: the Progress Reports and the Federal Financial Report.

C. Federal Sub-Award Reporting System (FSRS)

This award may be subject to the Transparency Act sub-award and executive compensation reporting requirements of 2 CFR part 170.

The Transparency Act requires the OMB to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier sub-awards and executive compensation under Federal assistance awards.

The IHS has implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs, and funding announcements regarding the FSRS reporting requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 sub-award obligation threshold met for any specific reporting period.

For the full IHS award term implementing this requirement and additional award applicability information, visit the DGM Grants Management website at *https://www.ihs.gov/dgm/policytopics/.*

D. Non-Discrimination Legal Requirements for Awardees of Federal Financial Assistance

Should you successfully compete for an award, recipients of Federal financial assistance (FFA) from HHS must administer their programs in compliance with Federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes ensuring programs are accessible to persons with limited English proficiency and persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. Please see *https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html* and *https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html.*

- Recipients of FFA must ensure that their programs are accessible to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficiency individuals, see *https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html* and *https://www.lep.gov.*
- For information on your specific legal obligations for serving qualified individuals with disabilities, including reasonable modifications and making services accessible to them, see *https://www.hhs.gov/civil-rights/for-individuals/disability/index.html.*
- HHS funded health and education programs must be administered in an environment free of sexual harassment. See *https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html.*
- For guidance on administering your program in compliance with applicable Federal religious nondiscrimination laws and applicable Federal conscience protection and associated anti-discrimination laws, see *https://www.hhs.gov/conscience/conscience-protections/index.html* and *https://www.hhs.gov/conscience/religious-freedom/index.html.*

E. Federal Awardee Performance and Integrity Information System (FAPIIS)

The IHS is required to review and consider any information about the applicant that is in the FAPIIS at *https://www.fapiis.gov/fapiis/#/home* before making any award in excess of the simplified acquisition threshold (currently $250,000) over the period of performance. An applicant may review and comment on any information about itself that a Federal awarding agency previously entered. The IHS will consider any comments by the applicant, in addition to other information in FAPIIS, in making a judgment about the applicant's integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants, as described in 45 CFR 75.205.

As required by 45 CFR part 75 Appendix XII of the Uniform Guidance, NFEs are required to disclose in FAPIIS any information about criminal, civil, and administrative proceedings, and/or affirm that there is no new information to provide. This applies to NFEs that receive Federal awards (currently active grants, cooperative agreements, and procurement contracts) greater than $10,000,000 for any period of time during the period of performance of an award/project.

Mandatory Disclosure Requirements

As required by 2 CFR part 200 of the Uniform Guidance, and the HHS implementing regulations at 45 CFR part 75, the IHS must require an NFE or an applicant for a Federal award to disclose, in a timely manner, in writing to the IHS or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

All applicants and recipients must disclose in writing, in a timely manner, to the IHS and to the HHS Office of Inspector General of all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. 45 CFR 75.113.

Disclosures must be sent in writing to:

U.S. Department of Health and Human Services, Indian Health Service, Division of Grants Management, ATTN: Marsha Brookins, Director, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, (Include ''Mandatory Grant Disclosures'' in subject line), Office: (301) 443–5204, Fax: (301) 594–0899, Email: *DGM@ihs.gov.*

AND

U.S. Department of Health and Human Services, Office of Inspector General, ATTN: Mandatory Grant Disclosures, Intake Coordinator, 330 Independence Avenue SW, Cohen Building, Room 5527, Washington, DC 20201, URL: *https://oig.hhs.gov/fraud/report-fraud/*, (Include ''Mandatory Grant Disclosures'' in subject line), Fax: (202) 205–0604 (Include ''Mandatory Grant Disclosures'' in subject line) or Email: *MandatoryGranteeDisclosures@oig.hhs.gov.*

Failure to make required disclosures can result in any of the remedies described in 45 CFR 75.371 Remedies for noncompliance, including suspension or debarment (see 2 CFR parts 180 and 2 CFR part 376).

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to: Roxanne Houston, Program Officer, Indian Health Service, Office of Tribal Self-Governance, 5600 Fishers Lane, Mail Stop: 08E05, Rockville, MD 20857, Phone: (301) 443–7821, Email: *Roxanne.Houston@ihs.gov.*

2. Questions on grants management and fiscal matters may be directed to:

Sheila A.L. Miller, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (240) 535–9308, Fax: (301) 594–0899, Email: *Sheila.Miller@ihs.gov.*

3. Questions on systems matters may be directed to: Paul Gettys, Deputy Director, Indian Health Service, Division of Grants Management, 5600 Fishers Lane, Mail Stop: 09E70, Rockville, MD 20857, Phone: (301) 443–2114, Fax: (301) 594–0899, Email: *Paul.Gettys@ihs.gov.*

VIII. Other Information

The Public Health Service strongly encourages all grant, cooperative agreement, and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Elizabeth A. Fowler,

Acting Director, Indian Health Service.

[FR Doc. 2022–15075 Filed 7–13–22; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Research Education Program, Advancing the Careers of a Diverse Research Workforce (R25 Clinical trial Not Allowed).

Date: August 9, 2022.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31B, Rockville, MD 20892 (Virtual Meeting).

Contact Person: James T. Snyder, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3G31B, Rockville, MD 20852, (240) 669–5060, *james.snyder@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15069 Filed 7–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Neurological Disorders and Stroke Council.

The meeting will be open to the public as indicated below. Individuals who plan to participate and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable 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 Advisory Neurological Disorders and Stroke Council.

Date: September 7–8, 2022.

Open: September 7, 2022, 1:00 p.m. to 5:30 p.m.

Agenda: Report by the Director, NINDS; Report by the Director, Division of Extramural Activities; and Administrative and Program Developments.

Open session will be videocast from this link: *https://videocast.nih.gov/.*

Closed: September 8, 2022, 1:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Blvd., Rockville, MD 20852, (Virtual Meeting).

Contact Person: Robert Finkelstein, Ph.D., Director of Extramural Research, National Institute of Neurological Disorders and Stroke, NIH, 6001 Executive Blvd., Suite 3309, MSC 9531, Bethesda, MD 20892, (301) 496–9248, *finkelsr@ninds.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice at least 10 days in advance of the meeting. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.ninds.nih.gov,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: July 8, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15072 Filed 7–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which

would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID 2022 DMID Omnibus BAA (HHS–NIH–NIAID–BAA2022–1) Research Area 001: Development of Vaccine Candidates for Biodefense, Antimicrobial Resistant (AMR) Infections and Emerging Infectious Diseases (N01)–2.

Date: August 9–10, 2022.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E72A, Rockville, MD 20892 (Virtual Meeting).

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, 5601 Fishers Lane, Room 3E72A, Rockville, MD 20852, (240) 669–5023, *fdesilva@niaid.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: July 8, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15070 Filed 7–13–22; 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; Antiviral Drug Discovery and Mechanisms of Resistance.

Date: August 8, 2022.

Time: 1:00 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: Shinako Takada, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–402–9448, *shinako.takada@nih.gov.*

Name of Committee: Center for Scientific Review; Special Emphasis Panel PAR: 20–181, Limited Competition National Primate Research Program Projects.

Date: August 10–12, 2022.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Elaine Sierra-Rivera, Ph.D., Scientific Review Officer, EMNR IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, 301 435–2514, *riverase@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: July 8, 2022.

Tyeshia M. Roberson-Curtis,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2022–15071 Filed 7–13–22; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meeting for the Interdepartmental Serious Mental Illness Coordinating Committee

AGENCY: Substance Abuse and Mental Health Services Administration, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Secretary of Health and Human Services announces a meeting of the Interdepartmental Serious Mental Illness Coordinating Committee (ISMICC).

The meeting will provide information on federal efforts related to serious mental illness (SMI) and serious emotional disturbance (SED).

DATES: October 28, 2022, 10 a.m.–4:30 p.m. (EDT)/Open.

ADDRESSES: The meeting will be held virtually and can be accessed via Zoom at: *https://www.zoomgov.com/j/1617075418?pwd=T3RqeHFUS1p6ZFhOVUpaSFdQRno3UT09,* or by dialing 669–254–5252, webinar ID: 161 707 5418, passcode: 151059. 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, ISMICC Designated Federal Officer, SAMHSA, 5600 Fishers Lane, 14E53C, Rockville, MD 20857; telephone: 240–276–1279; email: *pamela.foote@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background and Authority

The ISMICC was established on March 15, 2017, in accordance with section 6031 of the 21st Century Cures Act, and the Federal Advisory Committee Act, 5 U.S.C. App., as amended, to report to the Secretary, Congress, and any other relevant federal department or agency on advances in SMI and SED, research related to the prevention of, diagnosis of, intervention in, and treatment and recovery of SMIs, SEDs, and advances in access to services and supports for adults with SMI or children with SED. In addition, the ISMICC will evaluate the effect federal programs related to SMI and SED have on public health, including public health outcomes such as: (A) rates of suicide, suicide attempts, incidence and prevalence of SMIs, SEDs, and substance use disorders, overdose, overdose deaths, emergency hospitalizations, emergency room boarding, preventable emergency room visits, interaction with the criminal justice system, homelessness, and unemployment; (B) increased rates of employment and enrollment in educational and vocational programs; (C) quality of mental and substance use disorders treatment services; or (D) any other criteria determined by the Secretary. Finally, the ISMICC will make specific recommendations for actions that agencies can take to better coordinate the administration of mental health services for adults with SMI or children with SED. Not later than one (1) year after the date of enactment of the 21st Century Cures Act, and five (5) years after such date of enactment, the ISMICC shall submit a report to Congress and any other relevant federal department or agency.

II. Membership

This ISMICC consists of federal members listed below or their designees, and non-federal public members.

Federal Membership: Members include, The Secretary of Health and Human Services; The Assistant

Secretary for Mental Health and Substance Use; The Attorney General; The Secretary of the Department of Veterans Affairs; The Secretary of the Department of Defense; The Secretary of the Department of Housing and Urban Development; The Secretary of the Department of Education; The Secretary of the Department of Labor; The Administrator of the Centers for Medicare and Medicaid Services; and The Commissioner of the Social Security Administration.

Non-federal Membership: Members include, not less than 14 non-federal public members appointed by the Secretary, representing psychologists, psychiatrists, social workers, peer support specialists, and other providers, patients, family of patients, law enforcement, the judiciary, and leading research, advocacy, or service organizations.

The ISMICC is required to meet at least twice per 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 October 10, 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.

Substantive meeting information and a roster of Committee members is available at the Committee's website: *https://www.samhsa.gov/about-us/advisory-councils/ismicc.*

Dated: July 8, 2022.

Carlos Castillo,

Committee Management Officer.

[FR Doc. 2022–14984 Filed 7–13–22; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R4–ES–2022–0089; FXES11130400000–223–FF04EF4000]

Renewal of an Incidental Take Permit for Florida Key Deer and Other Protected Species on Big Pine Key and No Name Key, Monroe County, FL; Categorical Exclusion

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment and information.

SUMMARY: We, the Fish and Wildlife Service, announce receipt of an application from Monroe County (applicant) for a renewal of incidental take permit (ITP) under the Endangered Species Act. If granted, the expiration date of the existing ITP, which authorizes take of the Florida Key deer, the Lower Keys marsh rabbit, and the eastern indigo snake incidental to commercial and residential construction in Monroe County, Florida, would be extended for an additional 3 years. The applicant is seeking an extension of the ITP expiration date from June 30, 2023, to June 30, 2026. The application for renewal does not include a request to increase the amount of take authorized by the ITP or to modify the covered activities under the ITP and the associated habitat conservation plan (HCP). We request public comment on the application, which includes the applicant's existing HCP and the Service's preliminary determination that this ITP renewal qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act. To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

DATES: We must receive your written comments on or before August 15, 2022.

ADDRESSES:

Obtaining Documents: You may obtain copies of the documents online in Docket No. FWS–R4–ES–2022–0089 at *https://www.regulations.gov.*

Submitting Comments: If you wish to submit comments on any of the documents, you may do so in writing by one of the following methods:

- *Online: https://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–R4–ES–2022–0089.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–R4–ES–2022–0089; U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

FOR FURTHER INFORMATION CONTACT: Brian Powell, by telephone at (772) 469–4315 or via email at *brian_powell@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION: We, the Fish and Wildlife Service (Service), announce receipt of an application from Monroe County (applicant) for renewal of incidental take permit (ITP) TE083411–0 under the Endangered Species Act by extending the permit expiration date by 3 years. The ITP authorizes take of the Florida Key deer (*Odocoileus virginianus clavium*), the Lower Keys marsh rabbit (*Sylvilagus palustris hefneri*), and the eastern indigo snake (*Drymarchon corais couperi*), via destruction of these species' feeding, breeding, and sheltering habitat incidental to commercial and residential construction (covered activity). The renewal of the ITP would not change the amount of covered area, the covered activity, or the amount or type of take or the species covered by the HCP and permit. The applicant's mitigation for the incidental take of the species also would not change.

The requested extension will allow the term of the ITP to match the County's Rate of Growth Ordinance (ROGO) timeframe (*i.e.,* the timeframe for the County to issue building permits for new houses commensurate with the ability to safely evacuate the population in the event of a major storm). On January 22, 2020, the Monroe County Board of County Commissioners (BOCC) extended the timeframe for issuing the remaining building permits to match the ROGO for an additional 3 years, from 2023 to 2026, to provide the County additional time to distribute ROGO allocations while the new hurricane evacuation model is run. The extension also would allow the County to implement other strategies to help transition land into public ownership, reducing the potential for fifth amendment takings claims and addressing the overall future build-out of the Florida Keys.

We request public comment on the application, which includes the applicant's HCP and the Service's preliminary determination that renewal of the ITP qualifies as ''low-effect,'' categorically excluded, under the National Environmental Policy Act

(NEPA; 42 U.S.C. 4231 *et seq.*). To make this determination, we used our environmental action statement and low-effect screening form, both of which are also available for public review.

Project

The applicant requests only to extend the ITP expiration date for 3 years, from June 30, 2023, to June 30, 2026, and does not seek any other modifications, including but not limited to alterations of the FWS's original and analyses of the initial ITP application.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, be aware that your entire comment, including your personal identifying information, may be made available to the public. While you may request that we withhold your personal identifying information, we cannot guarantee that we will be able to do so.

Our Preliminary Determination

The Service has made a preliminary determination that extending the expiration date of the ITP by three additional years would individually and cumulatively have a minor or negligible effect on the covered species and the environment. Therefore, we have preliminarily concluded that renewal of the ITP would qualify for categorical exclusion and that this action is low effect under our NEPA regulations at 43 CFR 46.205 and 46.210. A low-effect action is one that would result in (1) minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) minor or negligible effects on other environmental values or resources; and (3) impacts that, when considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not over time result in significant cumulative effects to environmental values or resources.

Next Steps

The Service will evaluate the application and the comments received to determine whether to renew the ITP by extending the expiration date. We will also conduct an intra-Service consultation pursuant to section 7 of the ESA to evaluate the effects of the requested renewal. After considering the above findings, we will determine whether the issuance criteria for ITP renewal in 50 CFR 13.22 have been met. If met, the Service will renew Monroe County, Florida's ITP number PER 0039939 by extending the expiration date by 3 years (from June 30, 2023, to June 30, 2026. The ITP number has been updated to reflect the Service's new permit tracking system (ePermits).

Authority

The Service provides this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6 and 43 CFR 46.305).

Robert L. Carey,

Division Manager, Environmental Review, Florida Ecological Services Office.

[FR Doc. 2022–15099 Filed 7–13–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2022–0053; FXIA16710900000–223–FF09A30000]

Foreign Endangered Species; Receipt of Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications to conduct certain activities with foreign species that are listed as endangered under the Endangered Species Act (ESA). With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is issued that allows such activities. The ESA also requires that we invite public comment before issuing permits for any activity otherwise prohibited by the ESA with respect to any endangered species.

DATES: We must receive comments by August 15, 2022.

ADDRESSES:

Obtaining Documents: The applications, application supporting materials, and any comments and other materials that we receive will be available for public inspection at *https://www.regulations.gov* in Docket No. FWS–HQ–IA–2022–0053.

Submitting Comments: When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. You may submit comments by one of the following methods:

- *Internet: https://www.regulations.gov.* Search for and submit comments on Docket No. FWS–HQ–IA–2022–0053.
- *U.S. mail:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2022–0053; U.S. Fish and Wildlife Service Headquarters, MS: PRB/3W; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

For more information, see Public Comment Procedures under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, by phone at 703–358–2185, or via email at *DMAFR@fws.gov.* Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I comment on submitted applications?

We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

You may submit your comments and materials by one of the methods in **ADDRESSES**. We will not consider comments sent by email or fax, or to an address not in **ADDRESSES**. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**).

When submitting comments, please specify the name of the applicant and the permit number at the beginning of your comment. Provide sufficient information to allow us to authenticate any scientific or commercial data you include. The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations.

B. May I review comments submitted by others?

You may view and comment on others' public comments at *https://www.regulations.gov,* unless our allowing so would violate the Privacy Act (5 U.S.C. 552a) or Freedom of Information Act (5 U.S.C. 552).

C. Who will see my comments?

If you submit a comment at *https://www.regulations.gov,* your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, such as your address, phone number, or email address, 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. Moreover, all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(c) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), we invite public comments on permit applications before final action is taken. With some exceptions, the ESA prohibits certain activities with listed species unless Federal authorization is issued that allows such activities. Permits issued under section 10(a)(1)(A) of the ESA allow otherwise prohibited activities for scientific purposes or to enhance the propagation or survival of the affected species. Service regulations regarding prohibited activities with endangered species, captive-bred wildlife registrations, and permits for any activity otherwise prohibited by the ESA with respect to any endangered species are available in title 50 of the Code of Federal Regulations in part 17.

III. Permit Applications

We invite comments on the following applications.

Endangered Species

Applicant: Gulf Breeze Zoo, Gulf Breeze, FL; Permit No. PER0036985

The applicant requests a permit to import one male captive-bred siamang (*Symphalangus syndactylus*) from Nature Resource Network, S.R.O., Czech Republic for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Gulf Breeze Zoo, Gulf Breeze, FL; Permit No. PER0036987

The applicant requests a permit to import two female captive-bred siamang (*Symphalangus syndactylus*) from the Mykolaiv Zoo, Mykolaiv, Ukraine, for the purpose of enhancing the propagation or survival of the species. This notification is for a single import.

Applicant: Southeastern Louisiana University, Hammond, LA; Permit No. PER0032028

The applicant requests authorization to import biological samples of free ranging and captive-held loggerhead sea turtles (*Caretta caretta*), green sea turtles (*Chelonia mydas*), and hawksbill sea turtles (*Eretmochelys imbricata*) from multiple locations for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Florida State University, Tallahassee, FL; Permit No. PER0037858

The applicant requests authorization to import biological samples collected from wild hawksbill sea turtles (*Eretmochelys imbricata*) from Brazil for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: IUCN Iguana Specialist Group, c/o John G. Shedd Aquarium, Chicago, IL; Permit No. PER0038127

The applicant requests to amend and renew authorization to import biological samples collected from captive-hatched, captive-held, and wild specimens of iguanas within the *Cyclura* genus for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Evan Rosenoff, Cary, NC; Permit No. PER0038417

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for Madagascar radiated tortoise (*Geochelone radiata* syn. *Astrochelys radiata*), to enhance the propagation or survival of the species: This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Utica Zoological Society, Utica, NY; Permit No. 83956D

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the lar gibbon (*Hylobates lar*), Hartmann's Mountain zebra (*Equus zebra hartmannae*), and white-naped crane (*Grus vipio*), to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Indianapolis Zoological Society, Inc., dba Indianapolis Zoo, Indianapolis, IN; Permit No. PER0042461

The applicant requests a permit to export two male captive-bred ring-tailed lemurs (*Lemur catta*) to the Calgary Zoo, Calgary, Canada, for the purpose of enhancing the propagation or survival of the species. This notification is for a single export.

Multiple Trophy Applicants

The following applicants request permits to import sport-hunted trophies of male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Brian Bailey, Roswell, NM; Permit No. 33361D

Applicant: Charles Bowlin, Shreveport, LA; Permit No. 02359D

Applicant: Edwin Hartman, Ovid, NY; Permit No. 73030C

Applicant: Jeffery Hammond, Burns, WY; Permit No. 02623D

Applicant: Richard Roark, Marshall, TX; Permit No. 72865D

IV. Next Steps

After the comment period closes, we will make decisions regarding permit issuance. If we issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the notice announcing the permit issuance by searching *https://www.regulations.gov* for the permit number listed above in this document. For example, to find information about the potential issuance of Permit No. 12345A, you would go to *regulations.gov* and search for ''12345A''.

V. Authority

We issue this notice under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and its implementing regulations.

Brenda Tapia,

Supervisory Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2022–15098 Filed 7–13–22; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034192; PPWOCRADN0–PCU00RP14.R50000]

Notice of Intent To Repatriate Cultural Items: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Peabody Museum of Archaeology and Ethnology, Harvard University, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Peabody Museum of Archaeology and Ethnology. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Peabody Museum of Archaeology and Ethnology at the address in this notice by August 15, 2022.

ADDRESSES: Patricia Capone, Curator and NAGPRA Director, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

History and Description of the Cultural Items

In 1903, 17 unassociated funerary objects were removed from Erie County, NY, during a Peabody Museum expedition led by M.R. Harrington and A.C. Parker. Museum records indicate that these unassociated funerary objects were recovered from the Silverheels site. This site is located within the town of Brant, 1.5 miles east of the village of Irving, on the Cattaraugus Indian Reservation, approximately 2.5 miles upstream of Lake Erie on Cattaraugus Creek. The 17 unassociated funerary objects are six sherds, one ceramic jar, five flakes, one pipe stem fragment, one point, two strands of beads, and one iron knife. Other unassociated funerary objects from the site were reported in a Notice of Intent to Repatriate Cultural Items published in the **Federal Register** on October 5, 2001, and have subsequently been transferred to the culturally affiliated Tribes.

These interments most likely date to the early Contact period (A.D. 1500–1700). Museum documentation and consultation information indicate that the unassociated funerary objects were removed from specific burials of Native American individuals.

Historical and geographical information indicate that these cultural items are from areas considered to be the aboriginal homelands and traditional burial grounds of the Haudenosaunee. The present-day Indian Tribes who represent the Haudenosaunee are the Cayuga Nation; Oneida Indian Nation (*previously* listed as Oneida Nation of New York); Oneida Nation (*previously* listed as Oneida Tribe of Indians of Wisconsin); Onondaga Nation; Saint Regis Mohawk Tribe (*previously* listed as St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (*previously* listed as Seneca Nation of New York); Seneca-Cayuga Nation (*previously* listed as Seneca-Cayuga Tribe of Oklahoma); Tonawanda Band of Seneca (*previously* listed as Tonawanda Band of Seneca Indians of New York); and the Tuscarora Nation (hereafter referred to as ''The Tribes'').

Determinations Made by the Peabody Museum of Archaeology and Ethnology, Harvard University

Officials of Peabody Museum of Archaeology and Ethnology, Harvard University have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the 17 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Patricia Capone, Curator and NAGPRA Director, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu,* by August 15, 2022. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to The Tribes may proceed.

The Peabody Museum of Archaeology and Ethnology, Harvard University is responsible for notifying The Tribes that this notice has been published.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15039 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034191; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Peabody Museum of Archaeology and Ethnology, Harvard University has completed an inventory of associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not

identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request to the Peabody Museum of Archaeology and Ethnology. If no additional requestors come forward, transfer of control of the associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to the Peabody Museum of Archaeology and Ethnology at the address in this notice by August 15, 2022.

ADDRESSES: Patricia Capone, Curator and NAGPRA Director, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of associated funerary objects under the control of the Peabody Museum of Archaeology and Ethnology, Harvard University, Cambridge, MA. The associated funerary objects and the human remains with which they are associated were removed from Erie County, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the associated funerary objects was made by the Peabody Museum of Archaeology and Ethnology professional staff in consultation with representatives of the Cayuga Nation; Oneida Indian Nation (*previously* listed as Oneida Nation of New York); Oneida Nation (*previously* listed as Oneida Tribe of Indians of Wisconsin); Onondaga Nation; Saint Regis Mohawk Tribe (*previously* listed as St. Regis Band of Mohawk Indians of New York); Seneca Nation of Indians (*previously* listed as Seneca Nation of New York); Seneca-Cayuga Nation (*previously* listed as Seneca-Cayuga Tribe of Oklahoma); Tonawanda Band of Seneca (*previously* listed as Tonawanda Band of Seneca Indians of New York); and the Tuscarora Nation (hereafter referred to as ''The Tribes'').

History and Description of the Associated Funerary Objects

In 1903, 28 associated funerary objects were removed from Erie County, NY, during a Peabody Museum expedition led by M.R. Harrington and A.C. Parker. Museum records indicate that these associated funerary objects were recovered from the Silverheels site. This site is located within the town of Brant, 1.5 miles east of the village of Irving, on the Cattaraugus Indian Reservation, approximately 2.5 miles upstream of Lake Erie on Cattaraugus Creek. These interments most likely date to the early Contact period (A.D. 1500–1700). Museum documentation and consultation information indicate that the associated funerary objects were removed from specific burials of Native American individuals. The 28 associated funerary objects are: five sherds, one stone, one faunal remain, one lot of faunal remains, one nut, one animal tooth, two lots of sherds, five bones, one point, two iron knife fragments, one fragment of scissors, one metal sheet fragment, three iron knives, and three lithics.

The associated human remains together with other associated funerary objects from the site were reported in a Notice of Inventory Completion published in the **Federal Register** on October 5, 2001, and have subsequently been transferred to the culturally affiliated Indian Tribes.

Historical and geographical information indicate that these cultural items are from areas considered to be aboriginal homelands and traditional burial grounds of the Haudenosaunee. The present-day Indian Tribes who represent the Haudenosaunee are The Tribes.

Determinations Made by the Peabody Museum of Archaeology and Ethnology, Harvard University

Officials of Peabody Museum of Archaeology and Ethnology, Harvard University have determined that:

- Pursuant to 25 U.S.C. 3001(3)(A), the 28 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the associated funerary objects and The Tribes.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these associated funerary objects should submit a written request with information in support of the request to Patricia Capone, Curator and NAGPRA Director, Peabody Museum of Archaeology and Ethnology, 11 Divinity Avenue, Cambridge, MA 02138, telephone (617) 496–3702, email *pcapone@fas.harvard.edu,* by August 15, 2022. After that date, if no additional requestors have come forward, transfer of control of the associated funerary objects to The Tribes may proceed.

The Peabody Museum of Archaeology and Ethnology, Harvard University is responsible for notifying The Tribes that this notice has been published.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15038 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034194; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mississippi Department of Archives and History, Jackson, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Mississippi Department of Archives and History (MDAH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from DeSoto, Lee, Tunica, Union, and/or Coahoma counties in MS.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 15, 2022.

ADDRESSES: Meg Cook, Director of Archaeology Collections, Mississippi

Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 576–6927, email *mcook@mdah.ms.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the MDAH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the MDAH.

Description

On July 30, 2021, the MDAH acquired the following collections from the University of Mississippi.

At an unknown date, human remains representing, at minimum, five individuals were removed from the Walls (22DS500) and Woodlyn (22DS517) sites in DeSoto County, MS. The one associated funerary object is one lot faunal bone.

In 1990, two individuals, at minimum, were removed from Meadowbrook site (22LE912) in Lee County, MS. The one associated funerary object is one lot of burial matrix.

In 2001, two individuals, at minimum, were removed from Hollywood (22TU500) and Perry (22TU514) in Tunica County, MS. The one associated funerary object is one lot of ceramics.

At an unknown date, one individual, at minimum, was removed from Ingomar (22UN500) in Union County, MS. The one associated funerary object is one lot of faunal bone.

At an unknown date, one individual, at minimum, was removed from ''22DS517 or CO19 or Grenada Lake Survey'' in an unknown county, MS. The three associated funerary objects include one lot of faunal bone, one lot of ceramics, and one lot of matrix.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, Tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, Tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, biological information, and geographical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the MDAH has determined that:

- The human remains described in this notice represent the physical remains of 11 individuals of Native American ancestry.
- The seven objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Miami Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation (*previously* listed as Osage Tribe); and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects described in this notice to a requestor may occur on or after August 15, 2022. If competing requests for repatriation are received, the MDAH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The MDAH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15041 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034193; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mississippi Department of Archives and History, Jackson, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Mississippi Department of Archives and History (MDAH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from Hancock County, MS.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 15, 2022.

ADDRESSES: Meg Cook, Director of Archaeology Collections, Mississippi Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 576–6927, email *mcook@mdah.ms.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the MDAH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the MDAH.

Description

Human remains representing, at minimum, one individual were removed from Hancock County, MS. On November 24, 2021, Bay St. Louis Police Department responded to a report detailing human remains found in a wooded area on Chapman Road near Longfellow Road in Bay St. Louis, MS. On December 8, 2021, the Hancock County Chief Medical Examiner Investigator was notified of the discovery and arranged to have the human remains sent to the State Medical Examiner's Office in Biloxi, MS. The human remains were examined prior to transport to the Office of the State Medical Examiner in Pearl, MS, for forensic anthropological analysis. Completed analysis determined the human remains were removed adjacent to a known archeological site and the human remains have biological markers consistent with Native American ancestry. On May 16, 2022, the Office of the State Medical Examiner transferred legal control of the individual to the MDAH. No associated funerary objects are present.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, Tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, Tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: biological information, geographical information, historical information, and other relevant information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the MDAH has determined that:

- The human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Jena Band of Choctaw Indians; Mississippi Band of Choctaw Indians; and The Choctaw Nation of Oklahoma.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.
2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after August 15, 2022. If competing requests for repatriation are received, the MDAH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The MDAH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15040 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034195; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Mississippi Department of Archives and History, Jackson, MS

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), the Mississippi Department of Archives and History (MDAH) has completed an inventory of human remains and associated funerary objects and has determined that there is a cultural affiliation between the human remains and associated funerary objects and Indian Tribes or Native Hawaiian organizations in this notice. The human remains and associated funerary objects were removed from multiple counties in Mississippi.

DATES: Repatriation of the human remains and associated funerary objects in this notice may occur on or after August 15, 2022.

ADDRESSES: Meg Cook, Director of Archaeology Collections, Mississippi Department of Archives and History, Museum Division, 222 North Street, P.O. Box 571, Jackson, MS 39205, telephone (601) 576–6927, email *mcook@mdah.ms.gov.*

SUPPLEMENTARY INFORMATION: This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA. The determinations in this notice are the sole responsibility of the MDAH. The National Park Service is not responsible for the determinations in this notice. Additional information on the determinations in this notice, including the results of consultation, can be found in the inventory or related records held by the MDAH.

Description

In 1961 and 1965, human remains representing, at minimum, nine individuals were removed from 22LA509 and 22LA517 during excavations conducted by the University of Mississippi in Lafayette County, MS. These collections were transferred to MDAH on July 30, 2021. The six associated funerary objects are two lots of ceramics, two lots lithic material, one lot of charcoal, and one lot of faunal remains.

Before 1990, human remains representing, at minimum, six individuals were removed during excavations by the University of Mississippi (22LE519) and the Mississippi Department of Transportation (22LE?) from Lee County, MS. These collections were transferred to MDAH on July 30, 2021, and May 4, 2022. The one associated funerary object is one lot of shell.

At an unknown date, human remains representing, at minimum, one individual were removed from Panola County, MS. The individual was transferred to MDAH on July 30, 2021. The one associated funerary object is one lot of faunal remains.

At an unknown date, human remains representing, at minimum, one individual was removed from 22PO552 in Pontotoc County, MS. Skeletal elements in the foot have possible copper staining. The two associated

funerary objects are one lot of metal and one lot of wood.

At an unknown date, human remains representing, at minimum, one individual were removed from 22PS101 in Prentiss County, MS. The one associated funerary object is one lot of shell.

At an unknown date, human remains representing, at minimum, six individuals were removed from 22QU501, 502, 531, and 570 in Quitman County, MS. These collections were transferred to MDAH on July 30, 2021. The seven associated funerary objects are two lots of burial matrix, two lots of faunal remains, one lot of ceramics, one lot of fired clay, and one lot of shell.

In or around 1964 and at an unknown date, human remains representing, at minimum, 17 individuals were removed from 22YA500 and an unknown site in Yalobusha County, MS. The eight associated funerary objects are two lots of ceramics, one lot of daub, one lot of fossils, two lots of lithic materials, one lot of unidentified clay, and one lot of faunal remains.

Cultural Affiliation

The human remains and associated funerary objects in this notice are connected to one or more identifiable earlier groups, Tribes, peoples, or cultures. There is a relationship of shared group identity between the identifiable earlier groups, Tribes, peoples, or cultures and one or more Indian Tribes or Native Hawaiian organizations. The following types of information were used to reasonably trace the relationship: archeological information, biological information, and geographical information.

Determinations

Pursuant to NAGPRA and its implementing regulations, and after consultation with the appropriate Indian Tribes and Native Hawaiian organizations, the MDAH has determined that:

- The human remains described in this notice represent the physical remains of 41 individuals of Native American ancestry.
- The 26 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- There is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary objects described in this notice and the Alabama-Coushatta Tribe of Texas (*previously* listed as Alabama-Coushatta Tribes of Texas); Alabama-Quassarte Tribal Town; Coushatta Tribe of Louisiana; Eastern Band of Cherokee Indians; Jena Band of Choctaw Indians; Miami Tribe of Oklahoma; Mississippi Band of Choctaw Indians; Quapaw Nation (*previously* listed as The Quapaw Tribe of Indians); The Chickasaw Nation; The Choctaw Nation of Oklahoma; The Muscogee (Creek) Nation; The Osage Nation (*previously* listed as Osage Tribe); and the Tunica-Biloxi Indian Tribe.

Requests for Repatriation

Written requests for repatriation of the human remains and associated funerary objects in this notice must be sent to the Responsible Official identified in **ADDRESSES**. Requests for repatriation may be submitted by:

1. Any one or more of the Indian Tribes or Native Hawaiian organizations identified in this notice.

2. Any lineal descendant, Indian Tribe, or Native Hawaiian organization not identified in this notice who shows, by a preponderance of the evidence, that the requestor is a lineal descendant or a culturally affiliated Indian Tribe or Native Hawaiian organization.

Repatriation of the human remains and associated funerary objects in this notice to a requestor may occur on or after August 15, 2022. If competing requests for repatriation are received, the MDAH must determine the most appropriate requestor prior to repatriation. Requests for joint repatriation of the human remains and associated funerary objects are considered a single request and not competing requests. The MDAH is responsible for sending a copy of this notice to the Indian Tribes and Native Hawaiian organizations identified in this notice.

Authority: Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003, and the implementing regulations, 43 CFR 10.9, 10.10, and 10.14.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15042 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–NPS0034196; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Albany, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian Tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian Tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Pacific Southwest Research Station. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian Tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Pacific Southwest Research Station at the address in this notice by August 15, 2022.

ADDRESSES: Jeff Irwin, Heritage Program Manager, Sierra National Forest, 29688 Auberry Road, Prather, CA 93651, telephone (559) 855–5355 Ext. 3335, email *jeffrey.irwin@usda.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station, Albany, CA, and in the physical custody of Fresno City College, Fresno, CA. The human remains and associated

funerary objects were removed from site CA–MAD–546, located on the San Joaquin Experimental Range, Madera County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by Fresno City College (FCC) and Forest Service professional staff in consultation with representatives of the Big Sandy Rancheria of Western Mono Indians of California (*previously* listed as Big Sandy Rancheria of Mono Indians of California); Buena Vista Rancheria of Me-Wuk Indians of California; Cold Springs Rancheria of Mono Indians of California; Middletown Rancheria of Pomo Indians of California; Northfork Rancheria of Mono Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria (*previously* listed as Table Mountain Rancheria of California); Tejon Indian Tribe; Tule River Indian Tribe of the Tule River Reservation, California; and the Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California. In addition, the California Valley Miwok Tribe, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Ione Band of Miwok Indians of California; and the Jackson Band of Miwuk Indians (*previously* listed as Jackson Rancheria of Me-Wuk Indians of California) were invited to consult, but did not participate. Hereafter, all the Indian Tribes listed in this section are referred to as ''The Consulted Tribes.''

History and Description of the Remains

Between 1986 and 1990, human remains representing, at minimum, four individuals were removed by Don Wren of Fresno Community College from site CA–MAD–546 on the San Joaquin Experimental Range in Madera County, CA. The excavations were part of an archeological field school led by Wren. In January of 2017, an osteological examination of faunal collections curated at FCC was conducted to determine if human remains were present. That examination resulted in the identification of the human remains listed in this notice. All the human remains are fragmentary. A total of 79 bone fragments and teeth, representing a minimum of four individuals, were identified. No known individuals were identified. The 136 associated funerary objects include 117 beads (19 glass, 44 shell, 51 steatite, one bone, two unknown), 12 steatite sherds, one steatite ring fragment, and six unmodified steatite fragments.

Site CA–MAD–546 lies in the lower foothills of lands managed by the Forest Service, in an area well-documented ethnographically as the territory of foothill Yokuts peoples and situated in proximity to the traditional territory and contemporary land of the Picayune Rancheria of Chukchansi Indians of California. It includes features and artifacts indicative of late-precontact through late 19th century indigenous occupation.

Determinations Made by the U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station

Officials of the U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of four individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 136 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Picayune Rancheria of Chukchansi Indians of California.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian Tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Jeff Irwin, Heritage Program Manager, Sierra National Forest, 29688 Auberry Road, Prather, CA 93651, telephone (559) 855–5355 Ext. 3335, email *jeffrey.irwin@usda.gov,* by August 15, 2022. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Picayune Rancheria of Chukchansi Indians of California may proceed.

The U.S. Department of Agriculture, Forest Service, Pacific Southwest Research Station is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: July 6, 2022.

Melanie O'Brien,

Manager, National NAGPRA Program.

[FR Doc. 2022–15043 Filed 7–13–22; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Temporary Labor Camps Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Occupational Safety & Health Administration (OSHA)-sponsored information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that the agency receives on or before August 15, 2022.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

Comments are invited on: (1) whether the collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: Nicole Bouchet by telephone at 202–693–0213, or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This information collection is used to limit the incidence of communicable disease among temporary labor camp residents. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 27, 2022 (87 FR 25047).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless the OMB approves it and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

DOL seeks PRA authorization for this information collection for three (3) years. OMB authorization for an ICR cannot be for more than three (3) years without renewal. The DOL notes that information collection requirements submitted to the OMB for existing ICRs receive a month-to-month extension while they undergo review.

Agency: DOL–OSHA.

Title of Collection: Temporary Labor Camps Standard.

OMB Control Number: 1218–0096.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 577.

Total Estimated Number of Responses: 577.

Total Estimated Annual Time Burden: 48 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Nicole Bouchet,

Senior PRA Analyst.

[FR Doc. 2022–15012 Filed 7–13–22; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Code Assignment

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting this Employment and Training Administration (ETA)-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 August 15, 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 308 of the Workforce Innovation and Opportunity Act authorizes this information collection. The Occupational Information Network (O*NET) system classifies nearly all jobs in the United States economy. However, new specializations are constantly evolving and emerging. The Occupational Code Assignment form (ETA 741) was developed as a public service to the users of O*NET in an effort to help them in obtaining occupational codes and titles for jobs that they are unable to locate in O*NET. The use of the OCA is voluntary and is provided: (1) as a uniform format to the public and private sector to submit information in order to receive assistance in identifying an occupational code; (2) to assist the O*NET system in identifying potential occupations that may need to be included in future O*NET data collection efforts; and (3) to provide input to a database of alternative (lay) titles to facilitate searches for occupational information in the O*NET websites. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 6, 2022 (87 FR 19975).

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–ETA.

Title of Collection: Occupational Code Assignment.

OMB Control Number: 1205–0137.

Affected Public: State, Local, and Tribal Governments; Private Sector—Businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 60.

Total Estimated Number of Responses: 60.

Total Estimated Annual Time Burden: 36 hours.

Total Estimated Annual Other Costs Burden: $0.

(Authority: 44 U.S.C. 3507(a)(1)(D))

Dated: July 7, 2022.

Mara Blumenthal,

Senior PRA Analyst.

[FR Doc. 2022–15013 Filed 7–13–22; 8:45 am]

BILLING CODE 4510–FN–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 22–07]

Renewal of the MCC Advisory Council and Call for Nominations

AGENCY: Millennium Challenge Corporation (MCC).

ACTION: Notice.

SUMMARY: In accordance with the requirements of the Federal Advisory

Committee Act, MCC has renewed the charter for the MCC Advisory Council (''Advisory Council'') and is hereby soliciting representative nominations for the 2022–2024 term. The Advisory Council serves MCC in an advisory capacity only and provides insight regarding innovations in relevant sectors including technology, agriculture, land management, infrastructure, environment, climate, blended finance, public finance, health, water and sanitation, energy, gender, and social inclusion; perceived risks and opportunities in MCC partner countries; and evolving approaches to working in developing country contexts. The Advisory Council provides a platform for systematic engagement with the private sector and contributes to MCC's mission—to reduce poverty through sustainable, economic growth. MCC uses this advice, information, and recommendations to inform compact development and implementation, and broaden public and private sector partnerships for more impact and leverage. The MCC Vice President of the Department of Compact Operations affirms that the Advisory Council is necessary and in the public interest. The Advisory Council is seeking members representing a diverse group of private sector organizations with expertise in the aforementioned sectors particularly in the countries and regions where MCC operates. Additional information about MCC and its portfolio can be found at *www.mcc.gov.*

DATES: Nominations for Advisory Council members must be received on or before 5pm ET on August 16, 2022. Further information about the nomination process is included below. MCC plans to host the first meeting of the 2022–2024 term of the MCC Advisory Council in Fall 2022. The Advisory Council will meet at least two times a year in Washington, DC and/or via video/teleconferencing. Members who are unable to attend in-person meetings may have the option to dial-in via video/teleconferencing.

FOR FURTHER INFORMATION CONTACT: Nominators are asked to send all nomination materials by email to *MCCAdvisoryCouncil@mcc.gov.* While email is strongly preferred, nominators may send nomination materials by mail to 1099 14th St. NW, Suite 700, Washington, DC 20005. Requests for additional information can also be directed to Jennifer Rimbach, 202.521.3932, *MCCAdvisoryCouncil@mcc.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council shall consist of not more than twenty-five (25) individuals who are recognized thought leaders, business leaders and experts representing US companies, the business community, advocacy organizations, non-profit organizations, foundations, and sectors including infrastructure, information and communications technology (ICT), and finance, as well as the environment and sustainable development. Qualified individuals may self-nominate or be nominated by any individual or organization. To be considered for the Advisory Council, nominators should submit the following information:

- Name, title, organization and relevant contact information (including phone, mailing address, and email address) of the individual under consideration;
- A letter, on organization letterhead, containing a brief description of why the nominee should be considered for membership and their relevant sector experience; and
- Short biography of nominee including professional and academic credentials, private sector experience by number of years, relevant sector experience by number of years (disaggregated by sector), and international experience relevant to MCC's portfolio.

Please do not send company, trade association, or organization brochures or any other information. Materials submitted should total two pages or less. Should more information be needed, MCC staff will contact the nominee, obtain information from the nominee's past affiliations, or obtain information from publicly available sources.

All members of the Advisory Council will be independent of the agency, representing the views and interests of their respective industry or area of expertise, and not as Special Government employees. All members shall serve without compensation. Current government employees will not be considered.

MCC will review the nomination packages. The Vice President for Compact Operations will review membership recommendations based on criteria including:

(1) Professional or academic expertise, experience, and knowledge; (2) stakeholder representation; (3) availability and willingness to serve; (4) skills working collaboratively on committees and advisory panels; and (5) professional recommendations, if any (recommendations are optional). Nominees selected for appointment to the Advisory Council will be notified by return email and receive a letter of appointment. In the selection of members for the Advisory Council, MCC will seek to ensure a balanced representation and consider a cross-section of those directly affected, interested, and qualified, as appropriate to the nature and functions of the Advisory Council. Nominations are open to all individuals without regard to race, color, religion, sex, gender, national origin, age, mental or physical disability, marital status, or sexual orientation. MCC also encourages geographic diversity in the composition of the Advisory Council.

Authority: Federal Advisory Committee Act, 5 U.S.C. App.

Dated: July 11, 2022.

Thomas G. Hohenthaner,

Acting VP/General Counsel and Corporate Secretary.

[FR Doc. 2022–15073 Filed 7–13–22; 8:45 am]

BILLING CODE 9211–03–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–22–0012; NARA–2022–053]

Records Schedules; Notice of Withdrawal

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice; withdrawal.

SUMMARY: On June 9, 2022, the National Archives and Records Administration (NARA) published a **Federal Register** notice to allow public comment on the records schedules listed at the end of this notice. The notice is hereby withdrawn.

DATES: The document published at 87 FR 35249 on June 9, 2022, is withdrawn as of July 14, 2022.

FOR FURTHER INFORMATION CONTACT: Kimberly Richardson, Regulatory and External Policy Program Manager, by email at *regulation_comments@nara.gov.* For information about records schedules, contact Records Management Operations by email at *request.schedule@nara.gov* or by phone at 301–837–1799.

SUPPLEMENTARY INFORMATION:

Public Comment Procedures

We publish notice of records schedules in which agencies propose to dispose of records they no longer need to conduct agency business. We invite public comments on these records schedules, as required by 44 U.S.C. 3303a(a), and list the schedules at the end of this notice by agency and subdivision requesting disposition authority.

After the records schedule notice was published on June 9, 2022, at 87 FR 35249, several clerical errors were noticed. Primarily the date for accepting comments was erroneously listed as June 8, 2022. The correction to that date inadvertently truncated the comment period from 45 days to 40 days. And lastly, schedule DAA–0566–2022–0008 had a type in the file name. Due to these multiple errors this notice will be withdrawn and reposted as soon as possible in a new notice, and allowing the full 45-day comment period for the public to submit comments.

Schedules Withdrawn

1. Department of the Air Force, Agency-wide, Financial Management (65 Series)—Financial Management-Auditing Records (DAA–AFU–2021–0005).
2. Department of Commerce, National Oceanic and Atmospheric Administration, Coastal Nonpoint Pollution Control Programs Records (DAA–0370–2022–0002).
3. Department of Homeland Security, U.S. Citizenship and Immigration Services, I–194 Application for Entrepreneur Parole Records (DAA–0566–2022–0008).
4. Department of Transportation, Federal Aviation Administration, Pilot Record Database (DAA–0237–2021–0023).
5. Central Intelligence Agency, Agency-wide, Global Trade Patterns (DAA–0263–2021–0012).
6. Central Intelligence Agency, Agency-wide, Audit Logs (DAA–0263–2022–0003).
7. Federal Trade Commission, Office of the Secretary, Correspondence Records (DAA–0122–2022–0001).
8. National Aeronautics and Space Administration, Agency Wide, Protective Services (DAA–0255–2022–0003).

Laurence Brewer,

Chief Records Officer for the U.S. Government.

[FR Doc. 2022–15016 Filed 7–13–22; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities, National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold thirty-two meetings, by videoconference, of the Humanities Panel, a federal advisory committee, during August 2022. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 8:30 a.m. and will adjourn by 5:00 p.m. on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given of the following meetings:

1. Date: August 1, 2022

This video meeting will discuss applications on the topics of Rhetoric, Communication, Media Studies, and American Studies, for the Fellowships program, submitted to the Division of Research Programs.

2. Date: August 1, 2022

This video meeting will discuss applications on the topics of Africa, Middle East, and Ancient World, for the Fellowships program, submitted to the Division of Research Programs.

3. Date: August 1, 2022

This video meeting will discuss applications for the Humanities Initiatives at Historically Black Colleges and Universities program, submitted to the Division of Education Programs.

4. Date: August 2, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

5. Date: August 2, 2022

This video meeting will discuss applications on the topics of Medieval and Early Modern Studies and Religious Studies, for the Fellowships program, submitted to the Division of Research Programs.

6. Date: August 2, 2022

This video meeting will discuss applications on the topics of Asian Studies and Religious Studies, for the Fellowships program, submitted to the Division of Research Programs.

7. Date: August 2, 2022

This video meeting will discuss applications on the topics of Collections Care and Preservation Training, for the Preservation and Access Education and Training program, submitted to the Division of Preservation and Access.

8. Date: August 3, 2022

This video meeting will discuss applications on the topic of Philosophy, for the Fellowships program, submitted to the Division of Research Programs.

9. Date: August 3, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

10. Date: August 4, 2022

This video meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions program, submitted to the Division of Education Programs.

11. Date: August 4, 2022

This video meeting will discuss applications on the topics of European History, Political Science, and Jurisprudence, for the Fellowships program, submitted to the Division of Research Programs.

12. Date: August 4, 2022

This video meeting will discuss applications on the topic of Literature, for the Fellowships program, submitted to the Division of Research Programs.

13. Date: August 4, 2022

This video meeting will discuss applications on the topics of Imaging, Media, and At-Risk Collections, for the Preservation and Access Education and Training program, submitted to the Division of Preservation and Access.

14. Date: August 5, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

15. Date: August 5, 2022

This video meeting will discuss applications on the topics of History, Health, Science, and Environment, for the Fellowships program, submitted to the Division of Research Programs.

16. Date: August 8, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

17. Date: August 9, 2022

This video meeting will discuss applications for the Humanities Initiatives at Tribal Colleges and Universities program, submitted to the Division of Education Programs.

18. Date: August 9, 2022

This video meeting will discuss applications for the Humanities Initiatives at Community Colleges program, submitted to the Division of Education Programs.

19. Date: August 10, 2022

This video meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions program, submitted to the Division of Education Programs.

20. Date: August 11, 2022

This video meeting will discuss applications for the Humanities Initiatives at Hispanic-Serving Institutions program, submitted to the Division of Education Programs.

21. Date: August 11, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

22. Date: August 12, 2022

This video meeting will discuss applications for the Humanities Initiatives at Community Colleges program, submitted to the Division of Education Programs.

23. Date: August 15, 2022

This video meeting will discuss applications for the Humanities Initiatives at Colleges and Universities program, submitted to the Division of Education Programs.

24. Date: August 17, 2022

This video meeting will discuss applications on the topic of Conservation Science, for the Research and Development program, submitted to the Division of Preservation and Access.

25. Date: August 24, 2022

This video meeting will discuss applications on the topics of Anthropology and Indigenous Practices, for the Research and Development program, submitted to the Division of Preservation and Access.

26. Date: August 25, 2022

This video meeting will discuss applications on the topics of Digital Archives and Media Preservation, for the Research and Development program, submitted to the Division of Preservation and Access.

27. Date: August 25, 2022

This video meeting will discuss applications on the topics of Arts and Media Studies, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

28. Date: August 29, 2022

This video meeting will discuss applications on the topic of Pedagogy, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

29. Date: August 30, 2022

This video meeting will discuss applications on the topic of Scholarly Communications, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

30. Date: August 30, 2022

This video meeting will discuss applications on the topics of Arts and Culture, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

31. Date: August 31, 2022

This video meeting will discuss applications on the topic of US History, for the Digital Projects for the Public: Prototyping Grants program, submitted to the Division of Public Programs.

32. Date: August 31, 2022

This video meeting will discuss applications on the topics of Collections and Access, for the Digital Humanities Advancement Grants program, submitted to the Office of Digital Humanities.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: July 8, 2022.

Samuel Roth,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2022–14996 Filed 7–13–22; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Request for Information on Federal Video and Image Analytics Research and Development Action Plan

AGENCY: The Networking and Information Technology Research and Development (NITRD) National Coordination Office (NCO), National Science Foundation (NSF).

ACTION: Request for Information (RFI).

SUMMARY: The NITRD NCO and NSF, on behalf of the National Science and Technology Council's (NSTC's) Committee on Science & Technology Enterprise, request input from all interested parties on updating the 2020 Federal Video and Image Analytics (VIA) Research and Development (R&D) Action Plan (VIA R&D Action Plan), *Research and Development Opportunities in Video and Image Analytics.* Through this RFI, the public can submit suggestions of revisions or improvements for the VIA R&D Action Plan, including comments on the six strategic goals and objectives regarding additions, removals, or modifications, as well as suggestions on implementation of strategic goals and objectives. Public input provided in response to this RFI will assist the VIA Team in updating the VIA R&D Action Plan.

DATES: Interested persons are invited to submit comments on or before 11:59pm (ET) on September 5, 2022.

ADDRESSES: Comments submitted in response to this notice may be sent by any of the following methods:

- *Email, VIA-RFI@nitrd.gov:* Email submissions should be machine-readable and not be copy-protected; submissions should include ''RFI Response: Federal Video and Image Analytics Research and Development Action Plan'' in the subject line of the message.
- *Mail, Attn:* Jacqueline Altamirano, NCO, 2415 Eisenhower Avenue, Alexandria, VA 22314, USA.

Instructions: Response to this RFI is voluntary. Each individual or institution is requested to submit only one response. Submissions must not exceed 10 pages in 12-point or larger font, with a page number provided on each page. Responses should include the name of the person(s) or organization(s) filing the comment.

Please note, responses to this RFI may be posted for public access online at *https://www.nitrd.gov.* Therefore, we request that no business proprietary information, copyrighted information, personally identifiable information, or personal signatures be submitted in response to this RFI.

In accordance with FAR 15.202(3), responses to this notice are not offers and cannot be accepted by the Government to form a binding contract. Responders are solely responsible for all expenses associated with responding to this RFI.

FOR FURTHER INFORMATION CONTACT: Jacqueline Altamirano at (202) 459–9677 or *VIA-RFI@nitrd.gov,* or by post mailing to 2415 Eisenhower Avenue Alexandria, VA 22314, USA. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. (ET), Monday through Friday.

SUPPLEMENTARY INFORMATION:

Background: In 2018, thirty Federal organizations came together under the auspices of the NITRD VIA Team to develop an action plan for providing direction, coherence, and consensus across federal R&D efforts.

Since publication of the VIA R&D Action Plan in 2020, government agencies have invested in computer vision research from foundational efforts to the development of systems that support agency missions and programs. As a reference, NITRD supplements to the President's annual budget requests collect information on government spending in artificial intelligence (AI), part of which includes computer vision research, showing close to $800 million in FY 2020, close to $1 billion in FY 2021, and over $1 billion in requests for FY 2022, as noted in Artificial Intelligence R&D Investments FYs 2018–2022.

At the same time, private sector funding on R&D of applications for video and image analysis continues to dwarf government funding in almost every domain. Examples range from combining computer vision with robotics for increased automation in agriculture to increasing the use of biometrics to provide secure access to consumer devices. Government can take advantage of the results of private sector R&D through an open marketplace. Still, the need remains for Federal research investment, given that there is a strong public benefit but little to no opportunity for building a private sector business case.

Along with the advances in research, development, and technology implementation over the past several years, there have also been changes in societal awareness of, expectations for, and the use of computer vision. For example, at the Federal level, Executive Order 13960, Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government, reflects the importance of human interaction with AI technologies, including video and image analytics.

The VIA R&D Action Plan lists the following six strategic goals and objectives:

- *Invest in foundational research that applies to multiple domains*
- *Develop new, agile, and effective R&D methodologies*
- *Improve communication and coordination across government agencies*
- *Improve outreach and knowledge sharing between the public and private sectors*
- *Develop and sustain an effective and diverse technical workforce and a robust research community*
- *Develop and promulgate standards and best practices that support integration of R&D*

Objectives: NITRD NCO seeks input on potential revisions to the VIA R&D Action Plan to reflect changes in technology and the socio-technical environment over the past four years. Responders are asked to answer the following questions in response to the RFI:

1. What R&D has taken place relevant to each goal since the VIA R&D Action Plan was published in March 2020? How does R&D reduce or change the need for the Federal Government to continue to pursue each goal?

2. What societal changes have taken place that would impact the need for the Federal Government to continue to pursue each goal?

3. With R&D advances and changes in the socio-technical environment, what additional goal(s) should the Federal Government consider?

References

Federal Video and Image Analytics Research and Development Action Plan (March 2020): *https://www.nitrd.gov/pubs/RD-Opportunities-in-Video-Image-Analytics-2020.pdf.*

NITRD NAIIO Supplement to the President's FY2022 Budget: https://www.nitrd.gov/pubs/FY2022-NITRD-NAIIO-Supplement.pdf.

Executive Order 13960, Promoting the Use of Trustworthy Artificial Intelligence in the Federal Government (December 2020): *https://www.federalregister.gov/d/2020-27065.*

Submitted by the National Science Foundation in support of the NITRD NCO on July 8, 2022.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2022–15011 Filed 7–13–22; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2021–0188]

Information Collection: Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954.''

DATES: Submit comments by August 15, 2022. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: David C. Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2021–0188 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2021–0188.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the

ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The supporting statement is available in ADAMS under Accession No. ML22130A154.

• *NRC's PDR:* You may examine and purchase copies of public documents, by appointment, at the NRC's PDR, Room P1 B35, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8:00 a.m. and 4:00 p.m. Eastern Time (ET), Monday through Friday, except Federal holidays.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David C. Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *Infocollects.Resource@nrc.gov.*

B. Submitting Comments

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *https://www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *https://www.regulations.gov/* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on February 4, 2022, 87 FR 6629.

1. *The title of the information collection:* ''Exemptions and Continued Regulatory Authority in Agreement States and in Offshore Waters Under Section 274 of the Atomic Energy Act of 1954.''

2. *OMB approval number:* 3150–0032.

3. *Type of submission:* Extension.

4. *The form number, if applicable:* Not applicable.

5. *How often the collection is required or requested:* One-time or as needed.

6. *Who will be required or asked to respond:* Agreement States who have signed section 274(b) Agreements with the NRC.

7. *The estimated number of annual responses:* 8.

8. *The estimated number of annual respondents:* 8.

9. *The estimated number of hours needed annually to comply with the information collection requirement or request:* 190.

10. *Abstract:* The Nuclear Regulatory Commission (NRC) regulations in part 150 of title 10 of the *Code of Federal Regulations* (10 CFR), provide certain exemptions to persons in Agreement States from the licensing requirements contained in Chapters 6, 7, and 8 of the Atomic Energy Act of 1954, as amended, and certain regulations of the Commission. The regulations in 10 CFR part 150 also define the Commission's continued regulatory authority over Agreement State activities which include byproduct, source, and special nuclear material reporting requirements related to reciprocity and enforcement. 10 CFR part 150 requires telephonic notification to the NRC when an Agreement State licensee identifies attempted theft or diversion of special nuclear material, byproduct material, and tritium. This notification must be followed by a written report either 15 or 60 days after the initial report, depending on the materials involved. If additional information is available after submission of the written report, an additional report is submitted. These reports are used to inform the Commission, staff, and other Federal agencies when special nuclear material, byproduct material, or tritium is lost or stolen.

Dated: July 11, 2022.

For the Nuclear Regulatory Commission.

David C. Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2022–15020 Filed 7–13–22; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Announcement of OMB Approvals of Information Collections

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of OMB approvals.

SUMMARY: The Office of Management and Budget (OMB) has approved Pension Benefit Guaranty Corporation (PBGC) information collections under the Paperwork Reduction Act. This notice lists the approved information collections and provides their corresponding OMB control number and current expiration date.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington DC 20005–4026; 202–229–6563. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 *et seq.*) and its implementing regulations require Federal agencies, after receiving OMB approval of information collections, to display OMB control numbers and inform respondents of their legal significance. In accordance with those requirements, PBGC hereby notifies the public that the following information collections, that are contained in PBGC's regulations and do not have a corresponding form, have been approved by OMB.

• OMB Control Number 1212–0022 Mergers and Transfer Between Multiemployer Plans. The expiration date for this information collection

contained in 29 CFR part 4231 is October 31, 2024.

- OMB Control Number 1212–0068 Partitions of Eligible Multiemployer Plans. The expiration date for this information collection contained in 29 CFR part 4233 is January 31, 2025.
- OMB Control Number 1212–0020 Termination of Multiemployer Plans. The expiration date for this information collection contained in 29 CFR part 4041A is June 30, 2025.
- OMB Control Number 1212–0032 Duties of Plan Sponsor Following Mass Withdrawal. The expiration date for this information collection contained in 29 CFR part 4281 is June 30, 2025.
- OMB Control Number 1212–0033 Notice of Insolvency. The expiration date for this information collection contained in 29 CFR parts 4245 and 4041(A) is June 30, 2025.

The PRA provides that 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. Publication of this notice satisfies this requirement with respect to the above-listed information collections, as provided in 5 CFR 1320.5(b)(2)(ii).

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–15092 Filed 7–13–22; 8:45 am]

BILLING CODE 7709–02–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Notices Following a Substantial Cessation of Operations

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information that is necessary to fulfill various reporting obligations following a cessation of operations at a facility. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before August 15, 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.

A copy of the request will be posted on PBGC's website at *https://www.pbgc.gov/prac/laws-and-regulation/federal-register-notices-open-for-comment.* It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW, Washington, DC 20005–4026; or, calling 202–229–4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Melissa Rifkin (*rifkin.melissa@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–6563. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: Section 4062(e) of the Employee Retirement Income Security Act of 1974 (ERISA) imposes reporting obligations in the event of a ''substantial cessation of operations.'' A substantial cessation of operations occurs when a permanent cessation at a facility causes a separation from employment of more than 15 percent of all ''eligible employees.'' ''Eligible employees'' are employees eligible to participate in any of the facility's employer's employee pension benefit plans. Following a substantial cessation of operations, the facility's employer is treated, with respect to its single-employer pension plans covered by title IV of ERISA that are covering participants at the facility, as if the employer were a withdrawing substantial employer under a multiple employer plan. Under section 4063(a) of ERISA, the Pension Benefit Guaranty Corporation (PBGC) must receive notice of the substantial cessation of operations and a request to determine the employer's resulting liability.

To fulfill such resulting liability, the employer may elect, under section 4062(e)(4)(A), to make additional contributions annually for seven years to plans covering participants at the facility where the substantial cessation of operations took place. Under sections 4062(e)(4)(E)(i)(I), (II), (III), (IV), and (V) respectively, an employer that is making the election for annual additional contributions must give notice to PBGC of: (1) its decision to make the election, (2) its payment of an annual contribution, (3) its failure to pay an annual contribution, (4) its receipt of a funding waiver from the Internal Revenue Service, and (5) the ending of its obligation to make additional annual contributions.

PBGC is requesting that OMB extend approval of a form series, consisting of Form 4062(e)–01, Form 4062(e)–02, Form 4062(e)–03, and Form 4062(e)–04, that is used to fulfill these reporting obligations. An employer or a plan administrator files Form 4062(e)–01 to notify PBGC of the occurrence of a substantial cessation of operations and request a determination of the employer's liability. An employer files Form 4062(e)–02 to notify PBGC that it made the elections to pay annual additional contributions to a plan. An employer files Form 4062(e)–03 to notify PBGC that it paid an annual additional contribution, received a funding waiver from the Internal Revenue Service, or is no longer obligated to pay additional annual contributions. Finally, an employer files Form 4062(e)–04 to notify PBGC that it failed to pay an additional annual contribution to the plan.

PBGC needs the information requested in the forms and notification (1) to determine an employer's liability to a plan following a substantial cessation of operations and (2) to ensure that an employer that made the election of additional annual contributions is fulfilling its payment obligations.

PBGC is proposing a modification to the wording of question 3 in Form 4062(e)–02 and adding an explanation to page 7 of the instructions. These modifications are intended for purposes of clarity, and they will not affect burden.

The collection of information has been approved by OMB under control number 1212–0073 (expires August 31, 2022). On May 9, 2022, PBGC published in the **Federal Register** (at 87 FR 27666) a notice informing the public of its intent to request an extension of this collection of information. No comments were received. PBGC is requesting that OMB extend its approval for another 3 years. 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.

PBGC estimates that, over the next 3 years, 5 forms in this series will be submitted each year. PBGC estimates

that these forms would be completed by a combination of plan office staff and outside professionals: attorneys and actuaries. PBGC estimates a total annual hour burden of 38.5 hours. PBGC estimates a total annual cost burden of $39,415.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–15094 Filed 7–13–22; 8:45 am]

BILLING CODE 7709–02–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Filings for Reconsideration

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of information collection.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act of a collection of information for filings for reconsideration under its regulation on Rules for Administrative Review of Agency Decisions. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted on or before August 15, 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/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 request will be posted on PBGC's website at *https://www.pbgc.gov/prac/laws-and-regulation/federal-registernotices-open-for-comment.* It may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW, Washington, DC 20005–4026; or, calling 202–229–4040 during normal business hours. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

FOR FURTHER INFORMATION CONTACT: Karen Levin (*levin.karen@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005–4026; 202–229–3559. If you are deaf, hard of hearing, or have a speech disability, please dial 7–1–1 to access telecommunications relay services.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) intends to request that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of a collection of information contained in its regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) (OMB control number 1212–0063; expires August 31, 2022). This notice informs the public of PBGC's request and solicits public comment on the collection of information.

PBGC's regulation on Rules for Administrative Review of Agency Decisions (29 CFR part 4003) prescribes rules governing the issuance of initial determinations by PBGC and the procedures for requesting and obtaining administrative review of initial determinations. Certain types of initial determinations are subject to reconsideration, which are covered in subpart C of the regulation. Subpart C prescribes rules on who may request reconsideration, when to make a reconsideration request, where to submit the request, the form and contents of reconsideration requests, and final decisions on reconsideration requests.

Any person aggrieved by an initial determination of PBGC under § 4003.1(d)(1) (determinations with respect to premiums, interest, and late payment penalties under section 4007 of ERISA), § 4003.1(d)(2) (determinations concerning voluntary terminations), or 4003.1(d)(3) (determinations with respect to penalties under section 4071 of ERISA) may request reconsideration of the initial determination. Most requests for reconsideration have been filed by plan administrators under § 4003.1(d)(1) relating to premiums, interest, and late payment penalties.

Requests for reconsideration must be in writing, be clearly designated as requests for reconsideration, contain a statement of the grounds for reconsideration and the relief sought, and contain or reference all pertinent information. Requests for reconsideration may be filed by hand, mail, commercial delivery service, or email.

The collection of information under the regulation has been approved under OMB control number 1212–0063 (expires August 31, 2022). On May 2, 2022, PBGC published in the **Federal Register** (at 87 FR 25681) a notice informing the public of its intent to request an extension of this collection of information, as modified. No comments were received. PBGC is requesting that OMB extend approval of the collection without change. 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.

PBGC estimates that each year an average of 121 persons per year will respond to this collection of information. The total estimated average annual burden of the collection of information is about one-half hour and $500 per respondent, with an average total annual burden of approximately 64 hours and about $60,550.

Issued in Washington, DC.

Stephanie Cibinic,

Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2022–15093 Filed 7–13–22; 8:45 am]

BILLING CODE 7709–02–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

1. Title and purpose of information collection: Employer Reporting; 3220–0005. Under Section 9 of the Railroad Retirement Act (RRA) (45 U.S.C. 231h), and Section 6 of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. 356), railroad employers are required to submit reports of employee service and compensation to the RRB as

needed for administering the RRA and RUIA. To pay benefits due on a deceased employee's earnings records or determine entitlement to, and amount of annuity applied for, it is necessary at times to obtain from railroad employers current (lag) service and compensation not yet reported to the RRB through the annual reporting process. The reporting requirements are specified in 20 CFR 209.6 and 209.7.

The RRB currently utilizes the following forms to collect information to obtain the required lag service and related information from railroad employers: Form AA–12, *Notice of Death and Request for Service Needed for Eligibility,* Form G–88A.1 (or its internet equivalent, Form G–88A.1 (internet)), *Request for Verification of Date Last Worked,* and Form G–88A.2 (or its internet equivalent, Form G–88A.2 (internet)), *Notice of Retirement and Request for Service Needed for Eligibility.* Form AA–12 obtains a report of lag service and compensation from the last railroad employer of a deceased employee. This report covers the lag period between the date of the latest record of employment processed by the RRB and the date an employee last worked, the date of death or the date the employee may have been entitled to benefits under the Social Security Act. The information is used by the RRB to determine benefits due on the deceased employee's earnings record. Form G–88A.1 is sent by the RRB via a computer-generated listing or transmitted electronically via the RRB's Employer Reporting System (ERS) to employers. ERS consists of a series of screens with completion instructions and collects essentially the same information as the approved manual version. Form G–88A.1 is used for the specific purpose of verifying information previously provided to the RRB regarding the date last worked by an employee. If the information is correct, the employer need not reply. If the information is incorrect, the employer is asked to provide corrected information. Form G–88A.2 is used by the RRB to secure lag service and compensation information when it is needed to determine benefit eligibility. The RRB proposes no changes to Forms AA–12, G–88A.1 (internet), G–88A.2 (internet), G–88A.1 and G–88A.2.

In addition, 20 CFR 209.12(b) requires all railroad employers to furnish the RRB with the home addresses of all employees hired within the last year (new hires). Form BA–6a, *Form BA–6 Address Report* (or its internet equivalent, Form BA–6a (internet)) is used by the RRB to obtain home address information of employees from railroad employers who do not have the home address information computerized and who submit the information in a paper format. The form also serves as an instruction sheet to railroad employers who submit the information electronically by CD–ROM. Completion of the forms is mandatory. Multiple responses may be filed by respondent. The RRB proposes no changes to Form BA–6a (internet), BA–6a, or BA–6a (Email).

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
AA–12	60	5	5
G–88A.1	100	5	8
G–88A.1 internet	260	4	17
G–88A.1 internet (Class I railroads)	144	16	38
G–88A.2	100	5	8
G–88A.2 (internet)	1,200	2.5	50
BA–6a (CD–ROM)	14	15	4
BA–6a (Email)	30	15	8
BA–6a (File Transfer Protocol)	10	15	3
BA–6a internet (RR initiated)	250	17	71
BA–6a internet (RRB initiated)	250	12	50
BA–6a Paper (RR initiated)	80	32	43
BA–6a Paper (RRB initiated)	250	32	133
Total	2,748	.....	438

2. Title and purpose of information collection: Survivor Questionnaire; OMB 3220–0032. Under Section 6 of the Railroad Retirement Act (RRA) (45 U.S.C. 231e), benefits that may be due on the death of a railroad employee *or* a survivor annuitant include (1) a lump-sum death benefit (2) a residual lump-sum payment (3) accrued annuities due but unpaid at death, and (4) monthly survivor insurance payments. The requirements for determining the entitlement of possible beneficiaries to these benefits are prescribed in 20 CFR 234.

When the RRB receives notification of the death of a railroad employee or survivor annuitant, an RRB field office utilizes Form RL–94–F, *Survivor Questionnaire,* to secure additional information from surviving relatives needed to determine if any further benefits are payable under the RRA. Completion is voluntary. One response is requested of each respondent. The RRB proposes the following to Form RL–94–F:

- On the cover page in the second paragraph: The address of the Department of the Treasury was updated to reflect the current mailing address.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
RL–94–F, Items 5–10, and 18	50	9	8
RL–94–F, Items 5–18	5,000	11	917
RL–94–F, Item 18 only	400	5	34

ESTIMATE OF ANNUAL RESPONDENT BURDEN—Continued

Form No.	Annual responses	Time (minutes)	Burden (hours)
Total	5,450		959

3. Title and purpose of information collection: Request for Medicare Payment; OMB 3220–0131. Under Section 7(d) of the Railroad Retirement Act (45 U.S.C. 231f), the RRB administers the Medicare program for persons covered by the railroad retirement system. The collection obtains the information needed by Palmetto GBA, the Medicare carrier for railroad retirement beneficiaries, to pay claims for payments under Part B of the Medicare program. Authority for collecting the information is prescribed in 42 CFR 424.32.

The RRB currently utilizes Forms G–740S, Patient's Request for Medicare Payment, along with Centers for Medicare & Medicaid Services Form CMS–1500, to secure the information necessary to pay Part B Medicare Claims. One response is completed for each claim. Completion is required to obtain a benefit. The RRB proposes no changes to Form G–740S.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
G–740S	1	0	1

4. Title and purpose of information collection: Employer's Deemed Service Month Questionnaire; OMB 3220–0156. Section 3 (i) of the Railroad Retirement Act (RRA) (45 U.S.C. 231b), as amended by Public Law 98–76, provides that the Railroad Retirement Board (RRB), under certain circumstances, may deem additional months of service in cases where an employee does not actually work in every month of the year, provided the employee satisfies certain eligibility requirements, including the existence of an employment relation between the employee and his or her employer. The procedures pertaining to the deeming of additional months of service are found in the RRB's regulations at 20 CFR 210, Creditable Railroad Service.

The RRB utilizes Form GL–99, *Employer's Deemed Service Months Questionnaire,* to obtain service and compensation information from railroad employers to determine if an employee can be credited with additional deemed months of railroad service. Completion is mandatory. One response is required for each RRB inquiry. The RRB proposes no changes to Form GL–99.

ESTIMATE OF ANNUAL RESPONDENT BURDEN

Form No.	Annual responses	Time (minutes)	Burden (hours)
GL–99	2,000	2	67

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, contact Kennisha Tucker at (312) 469–2591 or *Kennisha.Tucker@rrb.gov.* Comments regarding the information collection should be addressed to Brian Foster, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–1275 or emailed to *Brian.Foster@rrb.gov.* Written comments should be received within 60 days of this notice.

Brian Foster,

Clearance Officer.

[FR Doc. 2022–14985 Filed 7–13–22; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95233; File No. SR–FICC–2022–003]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving a Proposed Rule Change To Require Applicants and Members To Maintain or Upgrade Their Network or Communications Technology

July 8, 2022.

I. Introduction

On May 20, 2022, Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–FICC–2022–003 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on May 31, 2022.[3] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Description of the Proposed Rule Change

A. Background

FICC proposes to modify its Government Securities Division Rulebook (''GSD Rules''), Mortgage-Backed Securities Division Clearing Rules (''MBSD Rules''), and Electronic Pool Notification Rules of MBSD (''EPN Rules,'' and, together with the GSD Rules and the MBSD Rules, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 94972 (May 24, 2022), 87 FR 32489 (May 31, 2022) (SR–FICC–2022–003) (''Notice of Filing'').

''Rules'') [4] to require its Members and applicants for membership (collectively, ''members'') to upgrade and maintain their network technology, and communications technology or protocols, to meet standards that FICC would identify and publish via Important Notice on its website, as described more fully below.

FICC is made up of two divisions, the Government Securities Division (FICC/GSD) and the Mortgage Backed Securities Division (FICC/MBSD), each providing clearing services in a different portion of the fixed income market.[5] FICC/GSD provides clearing, settlement, risk management, central counterparty services, and a guarantee of trade completion for U.S. government and agency securities.[6] FICC/MBSD provides clearing, netting, settlement, risk management, and pool notification services to major market participants trading in pass-through MBS issued by the Ginnie Mae, Freddie Mac, and Fannie Mae.[7] In light of its critical role in the marketplace, FICC was designated a Systemically Important Financial Market Utility (''SIFMU'') under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[8] Due to FICC's unique position in the marketplace, a failure or a disruption at FICC could, among other things, increase the risk of significant liquidity problems spreading among financial institutions or markets, and thereby threaten the stability of the financial system in the United States.[9]

FICC's Rules currently do not require, either as part of an application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with FICC.[10] Therefore, FICC currently maintains multiple network and communications methods and protocols to interact with its members.[11] This includes some outdated communication technologies in order to support members that continue to use such older technologies.[12] FICC believes that continuing to use such outdated technologies could render communications between FICC and some of its members vulnerable to cyber risks.[13] Additionally, members' use of outdated technology delays FICC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between FICC and a number of its members.[14] Finally, FICC states that it currently expends additional resources, both in personnel and equipment, to maintain outdated communications channels.[15]

To mitigate the foregoing security concerns and resource inefficiencies, FICC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that FICC would identify and publish via Important Notice on its website from time to time.[16] FICC would base these requirements on standards set forth by widely accepted organizations such as the National Institute of Standards and Technology (''NIST'') and the internet Engineer Task Force (''IETF'').[17]

To implement the proposed changes, FICC would revise its Rules to require members to maintain or upgrade their network technology, communications technology, or protocols on the systems that connect to FICC, to the version FICC requires, within the time period FICC requires.[18] Consistent with the guidance from NIST and other standards organizations, FICC would require the use of TLS 1.2, Secure FTP (''SFTP''), and other modern technology and communication standards and protocols, by its members for communication with FICC.[19] FICC would publish such requirements via Important Notice on its website.[20] FICC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject members to a monetary fine.[21]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [22] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. After careful consideration, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations applicable to FICC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F) [23] and (b)(3)(G) [24] of the Act and Rules 17Ad–22(e)(17) [25] and (e)(21) [26] thereunder.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[27]

As described above, FICC proposes to require its members to upgrade and maintain network technology, and

[4] FICC's Rules are *available at https://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_gov_rules.pdf; https://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_rules.pdf; https://www.dtcc.com/~/media/Files/Downloads/legal/rules/ficc_mbsd_epnrules.pdf.*

[5] *See* Financial Stability Oversight Counsel 2012 Annual Report, Appendix A (''FSOC 2012 Report''), *available at http://www.treasury.gov/initiatives/fsoc/Documents/2012-20Annual-20Report.pdf.*

[6] *Id.*

[7] *Id.*

[8] 12 U.S.C. 5465(e)(1). *See* FSOC 2012 Report, *supra* note 5.

[9] *See* FSOC 2012 Report, Appendix A, *supra* note 5.

[10] Notice of Filing, *supra* note 3, at 32490.

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*, at 32490–91.

[17] *Id.* NIST is part of the U.S. Department of Commerce. The IETF is an open standards organization that develops and promotes voluntary internet standards, in particular, the technical standards that comprise the internet protocol suite (TCP/IP). For example, NIST Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use Transport Layer Security (''TLS'') 1.2 and should be configured to use TLS 1.3 as well. *See https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.* (TLS, the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.) These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0. Additionally, the IETF formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating that ''[t]hese versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.'' *See https://datatracker.ietf.org/doc/rfc8996/.* FICC would also require members to discontinue using File Transfer Protocol (''FTP''), which FICC believes to be an insecure protocol because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. Notice of Filing, *supra* note 3, at 32490–91.

[18] Notice of Filing, *supra* note 3, at 32490–91.

[19] *Id.*

[20] *Id.*

[21] Notice of Filing, *supra* note 3, at 32490–91.

[22] 15 U.S.C. 78s(b)(2)(C).

[23] 15 U.S.C. 78q–1(b)(3)(F).

[24] 15 U.S.C. 78q–1(b)(3)(G).

[25] 17 CFR 240.17Ad–22(e)(17)(i) and (ii).

[26] 17 CFR 240.17Ad–22(e)(21)(iv).

[27] 15 U.S.C. 78q–1(b)(3)(F).

communication technology and protocol standards, that meet the standards identified by FICC and published via Important Notice to FICC's website from time to time. FICC would use standards set forth by widely accepted organizations such as NIST and the IETF as the requirements. The proposed requirements would enable FICC to avoid communicating with its members using outdated technologies that present security vulnerabilities to FICC. Specifically, as an initial matter, the proposed requirements would enable FICC to discontinue using communication technologies such as TLS 1.0, TLS 1.1, SSL 2.0, SSL 3.0, and FTP, which have been deemed not secure by organizations such as NIST and/or the IETF. Removing support for such outdated technologies would reduce FICC's potential exposure to cyberattacks and other cyber vulnerabilities.

If not adequately addressed, the risk of cyberattacks and other cyber vulnerabilities could affect FICC's network and, in turn, FICC's ability to clear and settle securities transactions, or to safeguard the securities and funds which are in FICC's custody or control, or for which it is responsible. FICC designed the proposed requirements for members to upgrade their communications technology to address those risks, as described above. Accordingly, the Commission finds the proposed technology requirements on FICC's members would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of FICC or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[28]

B. Consistency With Section 17A(b)(3)(G) of the Act

Section 17A(b)(3)(G) of the Act requires the rules of a clearing agency to provide that its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency by fine or other fitting sanction.[29] As noted above, FICC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that FICC would identify and publish via Important Notice on its website. The proposed requirements would enable FICC to avoid communicating with its members using outdated technologies that present security vulnerabilities to FICC. If not adequately addressed, such vulnerabilities could affect FICC's network and its ability to operate. FICC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject members to a monetary fine. Because the proposed monetary fine should incentivize FICC's members to upgrade and maintain secure communications technology, thereby reducing FICC's operational risks, the Commission finds the proposed rule change is consistent with the requirements of Section 17A(b)(3)(G) of the Act.[30]

C. Consistency With Rule 17Ad–22(e)(17) Under the Act

Rule 17Ad–22(e)(17)(i) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[31] FICC's operational risks include cyber risks to its electronic systems.

As described above, FICC and its members connect electronically to communicate with one another. However, FICC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with FICC. As a result, FICC maintains some outdated communication technologies in order to support members that continue to use such older technologies. Continuing to use such outdated technologies could render communications between FICC and some of its members vulnerable to cyber risks.

To mitigate the foregoing cyber risks, FICC proposes to require its members to upgrade and maintain network technology, and communication technology and protocol standards that meet the standards identified by FICC from time to time. The proposed technology requirements should reduce FICC's cyber risk by requiring members to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF, thereby decreasing the operational risks presented to FICC. Because the proposed technology requirements would help FICC mitigate plausible sources of external operational risk, the Commission finds the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(17)(i) under the Act.[32]

Rule 17Ad–22(e)(17)(ii) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by ensuring, in part, that systems have a high degree of security, resiliency, and operational reliability.[33] As noted above, FICC's operational risks include cyber risks.

As described above, FICC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with FICC. FICC designed the proposed technology requirements to reduce cyber risks by requiring its members to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF. Requiring FICC's members to use only secure communications technology would reduce FICC's cyber risks and thereby strengthen the security, resiliency, and operational reliability of FICC's network and other systems. Because the proposed technology requirements would enhance FICC's ability to ensure that its systems have a high degree of security, resiliency, and operational reliability, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii) under the Act.[34]

[28] *Id.*

[29] 15 U.S.C. 78q–1(b)(3)(G).

[30] *Id.* Additionally, by including the monetary fine provision in its Rules, FICC would enable its members to better identify and evaluate the material costs they might incur by participating in FICC, consistent with Rule 17Ad–22(e)(23)(ii). under the Act, which requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. *See* 17 CFR 240.17Ad–22(e)(23)(ii).

[31] 17 CFR 240.17Ad–22(e)(17)(i).

[32] *Id.*

[33] 17 CFR 240.17Ad–22(e)(17)(ii).

[34] *Id.*

D. Consistency With Rule 17Ad–22(e)(21) Under the Act

Rule 17Ad–22(e)(21)(iv) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to have the covered clearing agency's management regularly review the efficiency and effectiveness of its use of technology and communication procedures.[35]

As mentioned above, FICC maintains multiple network and communication methods to interact with its members, including certain outdated communication technologies necessary to support members that continue to use such older technologies. FICC believes that continuing to use such outdated technologies could render communications between FICC and some of its members vulnerable to cyber risks. Additionally, members' use of outdated technology delays FICC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between FICC and a number of its members. Finally, FICC states that it currently expends unnecessary resources to maintain outdated communications channels. In other words, FICC has subjected its network communication methods to review for efficiency and effectiveness. As a result, to enhance the efficiency and effectiveness of its technology and communication procedures, FICC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that FICC would identify and publish via Important Notice on its website. Because the Proposed Rule Change is an outgrowth of FICC's review of the efficiency and effectiveness of its technology and communication procedures, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv) under the Act.[36]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[37] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[38] that Proposed Rule Change SR–FICC–2022–003, be, and hereby is, *approved*.[39]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15004 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–780, OMB Control No. 3235–0733]

Proposed Collection; Comment Request; Extension: Rule 194

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Commission Rule of Practice 194, (17 CFR 240.194), under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule of Practice 194 provides a process for security-based swap dealers and major security-based swap participants (collectively, ''SBS Entity'') to make an application to the Commission for an order permitting an associated person who is subject to a statutory disqualification to effect or be involved in effecting security-based swaps on behalf of the SBS Entity. Rule of Practice 194 specifies the process for obtaining relief from the statutory prohibition in Exchange Act Section 15F(b)(6), including by setting forth the required showing, the form of application and the items to be addressed with respect to associated persons that are natural persons. An SBS Entity is not required to file an application under Rule of Practice 194 with respect to certain associated persons that are subject to a statutory disqualification, as provided for in paragraph (h) of Rule of Practice 194. To meet those requirements, however, the SBS Entity is required to file a notice with the Commission.

It is estimated that approximately 50 entities may fit within the definition of security-based swap dealer and up to five entities may fit within the definition of major security-based swap participant—55 SBS Entities in total. The Commission anticipates that, on an average annual basis, only a small fraction of the natural persons at an SBS Entity would be subject to a statutory disqualification. Accordingly, based on available data, the Commission estimates that, on an average annual basis, the Commission would receive up to five applications in accordance with Rule of Practice 194 with respect to associated persons that are natural persons, and five notices pursuant to proposed Rule of Practice 194(h) with respect to associated persons that are natural persons. The Commission estimates that the average time necessary for an SBS Entity to research the questions, and complete and file an application under Rule of Practice 194 with respect to associated persons that are natural persons is approximately 30 hours, for a total of approximately 150 burden hours per year for all SBS Entities. The Commission estimates that approximately five SBS Entities will provide notices pursuant to Rule of Practice 194(h) for one natural person each on an average annual basis taking approximately 6 hours per notice, for a total of approximately 30 burden hours per year for all SBS Entities providing the notices for an estimated five natural persons. As such, the combined estimated annual hour burden for all SBS Entities to complete applications and notices pursuant to Rule of Practice 194 is approximately 180 hours per year (150 + 30).

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted by September 12, 2022.

[35] 17 CFR 240.17Ad–22(e)(21)(iv).

[36] *Id.*

[37] 15 U.S.C. 78q–1.

[38] 15 U.S.C. 78s(b)(2).

[39] In approving the Proposed Rule Change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[40] 17 CFR 200.30–3(a)(12).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: David Bottom, Director/Chief Information Officer, Securities and Exchange Commission, c/o John Pezzullo, 100 F Street NE, Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 8, 2022.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14995 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95225; File No. SR–CBOE–2022–034]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Update Its Fees Schedule in Connection With the Exchange's Plans To List and Trade FLexible EXchange Index Options With an Index Multiplier of One

July 8, 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 30, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to update its Fees Schedule in connection with the Exchange's plans to list and trade FLexible EXchange (''FLEX'') index options with an index multiplier of one (''FLEX Micro Options''). 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 Fees Schedule in connection with its plans to list and trade FLEX Micro Options.[3]

By way of background, the Exchange has adopted rules to accommodate the listing and trading of certain FLexible EXchange (''FLEX'') index options with an index multiplier of one (''FLEX Micro Options'') rather than the conventional 100. FLEX Micro Options will be available on the following indices effective June 27, 2022: S&P 500, Russell 2000 (RUT), Dow Jones Industrial Average (DJX), MSCI Emerging Markets (MXEF), and MSCI EAF (MXEA). The Exchange believes FLEX Micro Options will expand investors' choices and flexibility by listing and trading FLEX options on larger-valued broad-based indexes, which provide investors with the ability to gain exposure to the market, with a notional value of 1/100th of the value of currently available FLEX Index Options. The Exchange believes the additional granularity provided by FLEX Micro Options with respect to the prices at which investors may execute and exercise index options on the Exchange will appeal to institutional investors by providing them with an additional exchange-traded tool to manage the positions and associated risk in their portfolios more precisely based on notional value, which currently may equal a fraction of a standard contract. The Exchange now proposes to amend its Fees Schedule to accommodate the planned listing and trading of FLEX Micro options.

Standard Transaction Rates

First, the Exchange proposes to adopt certain standard transaction fees in connection with FLEX Micro Options. Specifically, the proposed rule change adopts certain fees for FLEX Micro Options in the ''Rate Table for All Products Excluding Underlying Symbol A''.[4] The Exchange notes that the proposed standard transaction fees in connection with FLEX Micros Options are lower-priced than standard FLEX options on the corresponding indices given their multiplier of one (as compared to 100 for standard FLEX options). Indeed, the proposed transaction fees are generally near, or approximately, 1/100th of the fees currently assessed for the corresponding standard FLEX options (inclusive of the Execution Surcharge, License Surcharges and FLEX Surcharges, as applicable). The proposed fees are as follows:

RUT FLEX Micro Options

- Adopts fee code GA, appended to all (i) Customer (capacity ''C''), (ii) Market-Maker (capacity ''M''), and (iii) Clearing Trading Permit Holders (''TPHs'') (capacity ''F'') and Non-Clearing TPH Affiliates (capacity ''L'')(collectively, ''Firms'') orders in RUT FLEX Micro Options and assesses a fee of $0.009 per contract.
- Adopts fee code GB, appended to all Broker-Dealers (capacity ''B''), Joint Back-Offices (capacity ''J''), Non-Trading Permit Holder Market-Makers (capacity ''N''), and Professionals (capacity ''U'') (collectively, ''Non-Customers'') manual and AIM (Agency/Primary and Contra) orders in RUT FLEX Micro Options and assesses a fee of $0.009 per contract.; and
- Adopts fee code GC, which is appended to all Non-Customer electronic orders in RUT FLEX Micro Options and assesses a fee of $0.012 per contract.

SPX FLEX Micro Options

- Adopts fee code GE, appended to all (i) Customer and (ii) Firm orders in SPX FLEX Micro Options and assesses a fee of $0.008 per contract;

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange initially filed the proposed fee changes on June 27, 2022 (SR–CBOE–2022–031). On June 28, 2022, the Exchange withdrew that filing and submitted SR–CBOE–2022–033. On June 30, 2022 the Exchange withdrew that filing and submitting this filing.

[4] Underlying Symbol List A currently includes OEX, XEO, RUT, RLG, RLV, RUI, UKXM, SPX (includes SPXW), SPESG and VIX. *See* Cboe Options Fees Schedule, Footnote 34.

• Adopts fee code GF, appended to all Market-Maker orders in SPX FLEX Micro Options and assesses a fee of $0.006 per contract; and

• Adopts fee code GD, which is appended to all appended to all Non-Customer orders in SPX FLEX Micro Options and assesses a fee of $0.009 per contract.

MXEA and MXEF FLEX Micro Options

• Adopts fee code GG, appended to all Customer orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.004 per contract;

• Adopts fee code GI, appended to all (i) Firm and (ii) Non-Customer electronic orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.010 per contract;

• Adopts fee code GH, appended to all Market-Maker manual, electronic and AIM Agency/Primary orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.005 per contract;

• Adopts fee code GK, appended to all (i) Firm and (ii) Non-Customer manual and AIM Agency/Primary orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.005 per contract;

• Adopts fee code GL, appended to all (i) Firm, (ii) Market-Maker and (iii) Non-Customer AIM Contra orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.003 per contract; and

• Adopts fee code GN, appended to all (i) Firm, (ii) Market-Maker and (iii) Non-Customer AIM Response orders in MXEA and MXEF FLEX Micro Options and assesses a fee of $0.013 per contract.

DJX FLEX Micro Options

• Adopts fee code GG, appended to all Customer orders in DJX FLEX Micro Options and assesses a fee of $0.004 per contract;

• Adopts fee code GJ, appended to all (i) Firm and (ii) Non-Customer electronic orders in DJX FLEX Micro Options and assesses a fee of $0.007 per contract;

• Adopts fee code GH, appended to all Market-Maker manual, electronic and AIM Agency/Primary orders in DJX FLEX Micro Options and assesses a fee of $0.005 per contract;

• Adopts fee code GK, appended to all (i) Firm and (ii) Non-Customer manual and AIM Agency/Primary orders in DJX FLEX Micro Options and assesses a fee of $0.005 per contract;

• Adopts fee code GL, appended to all (i) Firm, (ii) Market-Maker and (iii) Non-Customer AIM Contra orders in DJX FLEX Micro Options and assesses a fee of $0.003 per contract; and

• Adopts fee code GM, appended to all (i) Firm, (ii) Market-Maker and (iii) Non-Customer AIM Response orders in DJX FLEX Micro Options and assesses a fee of $0.007 per contract.

Surcharges

The Exchange does not propose to apply any current surcharges to FLEX Micro options.[5] Particularly, the Exchange proposes to exclude FLEX Micro Options from the surcharges set forth in the Rate Table for All Products Excluding Underlying Symbol List A (*i.e.,* the Complex Surcharge Fee, the Surcharge Fee Index License and the FLEX Surcharge Fee). The Exchange proposes to amend corresponding footnotes 35, 14, and 17, respectively, to make clear FLEX Micro Options transactions are excluded from these surcharges.

Fee Programs

The Exchange proposes to exclude FLEX Micro Options from all pricing programs. The Exchange notes that because FLEX Micro Options are all options on broad-based indices, the majority of the proposed changes amend the Fees Schedule in connection with trading in FLEX Micro Options in a manner that is generally consistent with the way in which many existing fee programs currently do not apply to trading standard options on those same indices. Additionally, the Exchange notes that the majority of the proposed changes also amend the Fees Schedule in a manner that is generally consistent with the way in which existing fee programs currently do not apply to trading in another options product that has an index multiplier of one and thus a smaller notional value (*i.e.,* NANOS[6]).

First, the Exchange proposes to adopt footnote 33 (and append to fee tables as applicable and needed) to make clear that FLEX Micro Options volume will be excluded from the following programs:[7] (i) SPX/SPXW and SPESG Liquidity Provider Sliding Scale, which offers credits on Market-Maker orders where a Market-Maker achieves certain volume thresholds based on Market-Maker volume in SPX, SPXW and SPESG, (ii) the Liquidity Provider Sliding Scale, which offers credits on Market-Maker orders where a Market-Maker achieves certain volume thresholds based on total national Market-Maker volume in all underlying symbols, excluding Underlying Symbol List A, MRUT, NANOS and XSP during the calendar month, (iii) the Liquidity Provider Sliding Scale Adjustment Table, which provides that Taker fees be applied to electronic ''Taker'' volume and a Maker rebate be applied to electronic ''Maker'' volume, in addition to the transaction fees assessed under the Liquidity Provider Sliding Scale, (iv) the Volume Incentive Program (''VIP''), which offers a per contract credit for certain percentage threshold levels of monthly Customer volume in all underlying symbols, excluding Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS and XSP, (v) Break-Up Credits, which provides credits to orders executed in AIM, SAM, FLEX AIM, and FLEX SAM to all products except Underlying Symbol List A, Sector Indexes, DJX, MRUT, MXEA, MXEF, NANOS and XSP, (vi) Marketing Fee, which is assessed on transactions of Market-Makers resulting from Customer orders in all products except Sector Indexes, DJX, MRUT, MXEA, MXEF and Underlying Symbol List A,[8] (vii) the Cboe Options Clearing Trading Permit Holder Proprietary Products Sliding Scale, which provides transaction fees for Firms in Underlying Symbol List A will be reduced provided a Firm reaches certain average daily volume (''ADV'') thresholds, (vii), Clearing TPH Fee Cap, which provides a cap on Firm transaction fees, (viii), Select Customer Options Reduction (''SCORe'') Program, which is a discount program for Retail, Customer volume in SPX, SPXW, VIX,

[5] The Exchange notes the Trading Processing Services Fee, which is currently assessed a rate of $0.0025 per contract side, will apply to FLEX Micro Options.

[6] NANOS options are options on the Mini-S&P 500 (''XSP'') Index (the value of which is 1/10th the value of the S&P 500 (''SPX'') Index) that have an index multiplier of one.

[7] The Exchange proposes to eliminate the current language under footnote 33 relating to billing information for October 2019, as it is no longer relevant or needed, and replace it with the proposed new language. Footnote 33 is already appended to the following tables in the Fees Schedule: SPX/SPXW and SPESG Liquidity Provider Sliding Scale, Liquidity Provider Sliding Scale, Liquidity Provider Sliding Scale Adjustment Table, Volume Incentive Program, Affiliate Volume Plan, Clearing Trading Permit Holder Proprietary Products Sliding Scale, Clearing Trading Permit Holder VIX Sliding Scale, and Select Customer Options Reduction (''SCORe'') Program. The Exchange is maintaining the appended references to footnote 33 in each of these tables, other than the Clearing Trading Permit Holder VIX Sliding Scale, as footnote 33 will continue to be applicable to the programs as such programs will be listed in proposed footnote 33 as a program where FLEX Micro options is excluded. Because the Exchange is not offering a VIX FLEX Micro Option product at this time, the Clearing Trading Permit Holder VIX Sliding Scale is not applicable and the Exchange therefore proposes to eliminate the current reference to footnote 33 that currently is appended to that table.

[8] The Exchange notes that the Marketing Fee already excludes all FLEX Options. *See* Cboe Options Fees Schedule, Marketing Fee Table. The Exchange still proposes to append proposed footnote 33 to the Marketing Fee Table for further clarity as to applicability of the exclusion for FLEX Micros Options.

RUT, MXEA, and MXEF,[9] (ix) Customer Large Trade Discount, which provides a discount in the form of a cap on transaction fees for certain Customer executions, (x) Market-Maker Tier Appointment Fees, which assesses per permit surcharges if Market-Makers meet certain volume thresholds in SPX/SPX, VIX and RUT, respectively, (xi) Floor Broker Trading Surcharge, which assesses a surcharge to Floor Brokers if they execute a certain threshold in SPX/SPXW and VIX volume, respectively, (xii) Floor Broker Sliding Scale Rebate Program, offers rebates for Firm Facilitated and non-Firm Facilitated orders that correspond to certain volume tiers and is designed to incentivize order flow in multiply-listed options to the Exchange's trading floor, (xiii) Floor Broker ADV Discount, which provides Floor Brokers rebates on their Trading Permit fees based on ADV thresholds, (xiv) Floor Brokerage Fees, which provides discounted rates to executing brokers for cross and non-crossed orders in OEX, XEO, RUT, RLG, RLV, RUI, UKXM, SPX/SPXW, SPESG and VIX, (xv) Floor Brokerage Fees Discount Scale, which provides Floor Brokers opportunity to receive discounts on fees for orders in OEX, XEO, RUT, SPX, SPXW, SPESG, VIX based on meeting certain volume thresholds, (xvi) GTH Executing Agent Subsidy Program which provides designated GTH executing agents a monthly subsidy based on GTH monthly Customer volume thresholds, (xvii) Order Router Subsidy Program and Complex Order Router Subsidy Program, which provides that Participating TPHs or Participating Non-Cboe TPHs may receive a payment from the Exchange for every executed contract routed to the Exchange through their system in certain classes and (xviii) Frequent Trader Program, which provides an opportunity for customer orders to receive rebates based on meeting different volume thresholds in SPX/SPXW, VIX and RUT.

The Exchange also proposes to update footnote 6, which is appended to the Liquidity Provider Sliding Scale Program, Liquidity Provider Sliding Scale Adjustment Table, Affiliate Volume Plan, VIP, SCORe and the ORS/CORS Programs and footnote 36 which is appended to VIP. Specifically, current footnotes 6 and 36 provides that in the event of a Cboe Options System outage or other interruption of electronic trading on Cboe Options that lasts longer than 60 minutes, the Exchange will adjust the national volume in all underlying symbols excluding Underlying Symbol List A, Sector Indexes, MRUT, MXEA, MXEF, NANOS, DJX, and XSP for the entire trading day. The Exchange proposes to add FLEX Micro Options to the exclusion list.

The Exchange also proposes to clarify in footnote 11, that for facilitation orders (other than Sector Indexes (47), FLEX Micros and Underlying Symbol List A (34)) executed in open outcry, Cboe Options will assess no Clearing Trading Permit Holder Proprietary transaction fees, as proposed fee codes for Firm orders in FLEX Micro transactions will supersede facilitation fee codes (currently FF or FI) for any facilitation orders in FLEX Micro Options.

The Exchange notes that a few of the programs listed above in which FLEX Micros will be excluded also exclude and enumerate other products in the respective program's table header, notes section and/or corresponding footnote. Where such exclusions are listed, the Exchange proposes to add references to FLEX Micros to make clear that, as discussed above and as will be reflected in proposed [sic] 33, FLEX Micros are also excluded from the applicable program. Accordingly, the Exchange proposes to add a reference to FLEX Micros to the exclusion lists set forth in each of the following respective program table headers, notes sections and/or footnotes: Liquidity Provider Sliding Scale notes section, VIP header, Break-Up Credits header, Marketing Fee notes section, Floor Broker Sliding Scale Rebate Program notes section, ORS and CORS notes sections, footnote 10, footnote 11, footnote 22, footnote 29, footnote 30, and footnote 36.

Clarifying Changes

The Exchange lastly proposes to amend footnotes 18, 19 and 20 of the Fees Schedule. The foregoing footnotes describe the AIM Contra Execution Fee, the AIM Agency/Primary Fee and the AIM Responder Fee, respectively. The Exchange proposes to revise the current language in each footnote to make clear that applicable standard transaction fees apply for all orders executed in the Automated Improvement Mechanism (''AIM''), Solicitation Auction Mechanism (''SAM''), FLEX AIM and FLEX SAM auctions (that were initially entered as (i) the contra party to an Agency/Primary Order, (ii) the Agency/Primary Order, or (iii) an AIM Response, respectively) unless otherwise indicated in the Rate Tables. The Exchange does not believe it is necessary to list the applicable products or exclusions in the footnotes, as the Rate Tables in the Fees Schedule already detail what fee codes and corresponding fees apply for each of these transactions for each capacity and product. The Exchange believes the proposed change eliminates unnecessary redundancy and eliminates potential confusion.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and issuers and other persons using its facilities. The Exchange also believes that the proposed rule change is consistent with the objectives of Section 6(b)(5) [12] 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 that the proposed amendments to the Fees Schedule in connection with standard transaction rates for FLEX Micro Options transactions are reasonable, equitable and not unfairly discriminatory. Specifically, the Exchange believes that it is reasonable to assess fees for Customer, Market-Maker, Firm and Non-Customer orders in FLEX Micro Options that are less than those fees for transactions in the corresponding standard RUT, SPX, MXEF, MXEA and DJX FLEX options (all of which overly the same respective indices as the proposed FLEX Micro Options) because FLEX Micro Options have a smaller notional value given their multiplier of one. Moreover, the Exchange believes the proposed transaction fees are reasonable as such fees reflect approximately 1/100th of the transaction fees (inclusive of surcharges)

[9] The Exchange notes that the SCORe program already excludes all FLEX Options. *See* Cboe Options Fees Schedule, SCORe Table. The Exchange still proposes maintain footnote 33, which is currently appended to the SCORe Table, for further clarity as to applicability of the exclusion for FLEX Micros Options.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78f(b)(5).

assessed for the corresponding transactions in standard RUT, SPX, MXEF, MXEA and DJX FLEX options, which as discussed have a multiplier of 100 instead of one like FLEX Micro Options. The Exchange believes its reasonable to exclude FLEX Micro Options from additional surcharges as TPHs will not be subject to such surcharges.

The Exchange believes the proposed standard transaction rates and exclusion from certain surcharges are equitable and not unfairly discriminatory because they will apply automatically and uniformly to all capacities as applicable (*i.e.,* Customer, Market-Make, Firm and Non-Customer), in FLEX Micro Options. The Exchange also notes that with respect to lower transaction rates for Customer transactions in certain FLEX Micro Options, there is a history in the options markets of providing preferential treatment to customers and customer order flow attracts additional liquidity to the Exchange, providing market participants with more trading opportunities and signaling an increase in Market-Maker activity, which facilitates tighter spreads. This may cause an additional corresponding increase in order flow from other market participants, contributing overall towards a robust and well-balanced market ecosystem, particularly in a newly listed and traded product. The Exchange also believes that it is equitable and not unfairly discriminatory to propose lower transaction rates for certain Market-Maker and Firm orders in certain FLEX Micro Options because the Exchange recognizes that these market participants can provide key and distinct sources of liquidity, which is particularly important for a newly listed and traded options class on the Exchange. An increase in general market-making activity facilitates tighter spreads, which tend to signal additional corresponding increase in order flow from other market participants, ultimately incentivizing more overall order flow and improving liquidity levels and price transparency on the Exchange to the benefit of all market participants. Similarly, the Exchange also recognizes that Firms can be an important source of liquidity when they facilitate their own customers' trading activity, thus, adding transparency and promoting price discovery to the benefit of all market participants. The Exchange notes too that Market-Makers and Firms take on a number of obligations that other market participants do not have. For example, unlike other market participants, Market-Makers take on quoting obligations and other market making requirements and Firms must have higher capital requirements, clear trades for other market participants, and must be members of OCC. The Exchange also notes the proposal to not assess surcharges to FLEX Micro Options is equitable and not unfairly discriminatory as it applies to all market participants (*i.e.,* no market participant will be subject to those surcharges).

The Exchange believes that the proposed updates to the Fees Schedule in connection with the application (or rather exclusion) of fee programs to transactions in FLEX Micro Options are reasonable, equitable and not unfairly discriminatory. Particularly, the Exchange believes it is reasonable to exclude transactions in FLEX Micro Options from the: Liquidity Provider Sliding Scale, Liquidity Provider Sliding Scale Adjustment Table, Volume Incentive Program, Break-Up Credits, Affiliate Volume Plan, Clearing Trading Permit Holder Fee Cap, Floor Broker Sliding Scale Rebate Program, Program, and the ORS and CORS Programs in the same manner in which standard options on those same indices are excluded. The Exchange believes that excluding FLEX Micro Options transactions from certain fees programs is equitable and not unfairly discriminatory because the programs will equally not apply to, or exclude in the same manner, all market participants' orders in FLEX Micro Options. The Exchange believes it's reasonable, equitable and not unfairly discriminatory to exclude FLEX Micro transactions from the Marketing Fee and SCORe program as such programs similarly already exclude FLEX Options. Lastly, the Exchange believes it's reasonable, equitable, and not unfairly discriminatory to exclude FLEX Micro Options from the SPX/SPXW and SPESG Liquidity Provider Sliding Scale, Clearing Trading Permit Holder Proprietary Products Sliding Scale, Customer Large Trade Discount, Market-Maker Tier Appointment Fee thresholds, Floor Broker Trading Surcharge thresholds, Floor Broker ADV Discount, Floor Brokerage Fees Discount Scale, Floor Brokerage Fees, Frequent Trader, and the GTH Executing Agent Subsidy because the Exchange is not obligated to include any particular product in such pricing programs, and the exclusion applies to all market participants uniformly. Moreover, the Exchange notes that the proposed rule change does not alter any of the existing program rates or volume calculations, but instead, merely proposes not to include transactions in FLEX Micro Options in those programs and volume calculations.

The Exchange lastly believes the proposed updates to footnotes 18, 19 and 20 of the Fees Schedule makes the footnotes easier to read, eliminates redundancy between the Rate Tables and the footnotes and alleviates potential confusion as to the applicability of AIM-related fees, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and, in general, protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its Fee Schedule will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed FLEX Micro Options transaction fees for the separate types of market participants will be assessed automatically and uniformly to all similarly situated market participants. The Exchange again notes that there is a history in the options markets of providing preferential treatment to Customers, Market-Makers and Firms, as described above in the statutory basis section. Further, the proposed rule change will uniformly exclude all transactions in FLEX Micro Options from certain programs and fees/surcharges as it currently does for many of the Exchange's other proprietary products, including another product with a one multiplier (*i.e.,* NANOS).

The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule changes apply only to products exclusively listed on the Exchange. Additionally, the Exchange notes it operates in a highly competitive market. In addition to Cboe Options, TPHs have numerous alternative venues that they may participate on and director their order flow, including 15 other options exchanges, as well as off-exchange venues, where competitive products are available for trading. Based on publicly available information, no single options exchange has more than 16% of the market share of executed volume of

options trades.[13] Therefore, no exchange possesses significant pricing power in the execution of option order flow. 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.'' [14] 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'. . . .''.[15] Accordingly, the Exchange does not believe its proposed changes to the incentive programs impose 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 has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [16] and paragraph (f) of Rule 19b–4 [17] 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–CBOE–2022–034 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–CBOE–2022–034. 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–CBOE–2022–034 and should be submitted on or before August 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14997 Filed 7–13–22; 8:45 am]

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[13] See Cboe Global Markets, U.S. Options Market Volume Summary by Month (June 24, 2022), available at *http://markets.cboe.com/us/options/market_share/.*

[14] See Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005).

[15] *NetCoalition* v. *SEC,* 615 F.3d 525, 539 (D.C. Cir. 2010) (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95229; File No. SR–C2–2022–013]

Self-Regulatory Organizations; Cboe C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.20 To Remove Certain References to the Market-Wide Circuit Breaker Program

July 8, 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 30, 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 and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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. (the ''Exchange'' or ''C2'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposal to amend Rule 5.20 to remove certain references to the Market-Wide Circuit Breaker program. The text of the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Exchange's website (*http://markets.cboe.com/us/options/regulation/rule_filings/ctwo/*), 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 Exchange Rule 5.20 to remove certain rule text that references the Market-Wide Circuit Breaker (''MWCB'') program for equity securities. The proposed changes are intended to clarify the Exchange's rules regarding trading halts in options due to a MWCB.

MWCB Program

On March 16, 2022, the Commission approved a proposal by the New York Stock Exchange LLC (''NYSE'') to make permanent the MWCB program.[5] The Commission approved a proposal filed by the Exchange on April 12, 2022, to adopt on a permanent basis the MWCB pilot program.[6] The Exchange's affiliated equities exchanges similarly received approval to make permanent the MWCB pilot program on April 12, 2022.[7]

The Exchange's current rule regarding MWCB halts can be found in Rule 5.20.01,[8] which states, ''[t]he Exchange will halt trading in all stock options whenever a market-wide trading halt commonly known as a circuit breaker is initiated in response to extraordinary market conditions.'' Rules 5.20.01(a)[9] and 5.20.01(b)[10] describe the applicable Market Declines and associated trading halts applicable to MWCB. The Exchange notes that the text in Rules 5.20.01(a) and 5.20.01(b) is identical to the MWCB language found in the Exchange's affiliated equity exchanges' rules.[11] Those rules are implemented exclusively by equities exchanges and the Exchange does not trade equity securities. The Exchange notes that its MWCB rules were based, in part, on the rules of the Exchange's affiliate, Cboe Exchange, Inc., which previously operated a stock trading facility but no longer supports this functionality. As the rules for Cboe Exchange, Inc. are being updated to remove references to the MWCB rules applicable to equity securities, the Exchange is also proposing to amend its rules to remove references to the MWCB rules applicable to equity securities. Rules 5.20.01(e)–(g) detail the MWCB testing requirements that were implemented as part of the adoption of the MWCB program on a permanent basis.[12] The Exchange is now proposing to remove the language in current Rules 5.20.01(a), 5.20.01(b), 5.20.01(c), 5.20.01(e), 5.20.01(f), and 5.20.01(g), as this language applies specifically to equity securities, which do not trade on the Exchange. Given that the introductory language in Rule 5.20.01 specifically states that stock options will be halted in the event of a market-wide circuit breaker,[13] the MWCB rules applicable to equity securities (currently housed in Rules 5.20.01(a)–(c), (e)–(g)) are not necessary. The Exchange believes that by removing this language its rules regarding stock option halts due to market-wide circuit breakers will provide clarity for Trading Permit Holders[14] and others who may rely on the rule.

As a result of the proposed changes described above, the remaining provisions of Rule 5.20.01 have been renumbered in order to provide additional clarity to Trading Permit Holders.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section

[5] *See* Securities Exchange Act Release No. 94441 (March 16, 2022), 87 FR 16286 (March 22, 2022) (SR–NYSE–2021–40) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers in Rule 7.12).

[6] *See* Securities Exchange Act Release No. 94698 (April 12, 2022), 87 FR 22981 (April 18, 2022) (SR–CBOE–2022–010) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 5.20.01).

[7] *See* Securities Exchange Act Release No. 94705 (April 12, 2022), 87 FR 22977 (April 18, 2022) (SR–CboeBYX–2022–011) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.18); Securities Exchange Act Release No. 94702 (April 12, 2022), 87 FR 23003 (April 18, 2022) (SR–CboeBZX–2022–027) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.18); Securities Exchange Act Release No. 94701 (April 12, 2022), 87 FR 22963 (April 18, 2022) (SR–CboeEDGA–2022–008) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.16); Securities Exchange Act Release No. 94699 (April 12, 2022), 87 FR 22967 (April 18, 2022) (SR–CboeEDGX–2022–023) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.16).

[8] *See* Exchange Rule 5.20.01.

[9] *See* Exchange Rule 5.20.01(a). A Market Decline means a decline in price of the S&P 500 Index between 9:30 a.m. and 4:00 p.m. on a trading day as compared to the closing price of the S&P 500 Index for the immediately preceding trading day. A Level 1 Market Decline means a Market Decline of 7%, a Level 2 Market Decline means a Market Decline of 13%, and a Level 3 Market Decline means a Market Decline of 20%.

[10] *See* Exchange Rule 5.20.01(b) (''Halts in Trading''). The Exchange shall halt trading in all stock or stock options for 15 minutes if a Level 1 or Level 2 Market Decline occurs after 9:30 a.m. and before 3:26 p.m. (or 12:26 p.m. in the case of an early scheduled close). The Exchange will not halt trading if a Level 1 or Level 2 Market Decline occurs at 3:26 p.m. (12:26 p.m. on days with an early scheduled close) or later. The Exchange shall halt trading in all stocks and stock options until the next trading day if a Level 3 Market Decline occurs at any time during the trading day.

[11] *See* Cboe BYX Exchange Rules 11.18(a)(1)–(4) and 11.18(b); Cboe BZX Exchange Rules 11.18(a)(1)–(4) and 11.18(b); Cboe EDGA Exchange Rules 11.16(a)(1)–(4) and 11.16(b); Cboe EDGX Exchange Rules 11.16(a)(1)–(4) and 11.16(b).

[12] *See* Exchange Rule 5.20.01(e) (''Market-Wide Circuit Breaker Testing'').

[13] *Supra* note 8.

[14] A Trading Permit Holder means ''any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit.'' *See* Eleventh Amended and Restated Bylaws of Cboe Exchange, Inc. Section 1.1 (''Definitions''). A Trading Permit ''means a license issued by the Exchange that grants the holder or the holder's nominee the right to access one or more facilities of the Exchange for the purpose of effecting transactions in securities traded on the Exchange without the services of another person acting as broker, and otherwise to access the facilities of the Exchange for purposes of trading or reporting transactions or transmitting orders or quotations in securities traded on the Exchange, or to engage in other activities that, under the Rules, may only be engaged in by Trading Permit Holders, provided that the holder or the holder's nominee, as applicable, satisfies any applicable qualification requirements to exercise those rights.'' *See* Exchange Rule 1.1 (''Definitions'').

[15] 15 U.S.C. 78f(b).

6(b)(5) [16] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that removing the text in current Rules 5.20.01(a)–(c), (e)–(g) will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest because the text being removed applies to equity securities, which do not currently trade on the Exchange. The language in Rules 5.20.01(a)–(c), (e)–(g) describes the applicable Market Declines, trading halts, reopening processes, and MWCB testing requirements that are identical to the corresponding MWCB rules in the Exchange's affiliated equities exchanges. Those rules are implemented exclusively by equities exchanges. As the Exchange does not trade equity securities, the Exchange believes it is confusing to have rule text that describes the MWCB program within its rules and believes that limiting the text in Rule 5.20.01 to describe that stock options will be halted in the event of a MWCB will eliminate potential confusion amongst Trading Permit Holders. The Exchange notes that competing exchanges have similar rule text regarding trading halts in options when a MWCB commences in equity securities.[18]

For the foregoing reasons, the Exchange believes that the proposed change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not intended to address competition, but rather, makes clarifying changes to Rule 5.20.01 in order to benefit all Trading Permit Holders equally. The Exchange does not believe that removing the MWCB rule text that is applicable to equity securities would have any impact on competition as the revised rule text will look substantively similar to the rules of other competing options exchanges. The Exchange seeks to ensure consistency amongst exchanges with respect to this industry-wide program without implicating any competitive issues.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [19] and subparagraph (f)(6) of Rule 19b–4 thereunder.[20]

A proposed rule change filed under Rule 19b–4(f)(6) [21] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[22] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asked that the Commission waive the 30 day operative delay so that the proposal may become operative immediately upon filing. The proposed rule change simply removes rule text that does not apply to stock options exchanges and would clarify the MWCB halt process. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[23]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [24] 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–C2–2022–013 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–C2–2022–013. 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

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

[18] *See* NYSE Arca Options Rule 6.65–O(e), which states ''[t]he Exchange shall halt trading in all options whenever the equities markets initiate a market-wide trading halt commonly known as a circuit breaker in response to extraordinary market conditions.'' *See also* MIAX Options Exchange Rule 504.03, which states ''[t]he Exchange shall halt trading in all securities whenever a market-wide trading halt commonly known as a circuit breaker is initiated on the New York Stock Exchange in response to extraordinary market conditions.''

[19] 15 U.S.C. 78s(b)(3)(A)(iii).

[20] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[21] 17 CFR 240.19b–4(f)(6).

[22] 17 CFR 240.19b–4(f)(6)(iii).

[23] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[24] 15 U.S.C. 78s(b)(2)(B).

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–C2–2022–013 and should be submitted on or before August 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15000 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95227; File No. SR–MIAX–2022–25]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls

July 8, 2022.

Pursuant to the provisions of 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 June 29, 2022, Miami International Securities Exchange, LLC (''MIAX Options'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/* at MIAX Options' principal office, 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 Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls, to (i) extend existing price protections to sell limit orders and Offer eQuotes for certain complex order spread strategies; (ii) make minor non-substantive edits to clarify existing rule text; and (iii) make non-substantive edits to correct numbering errors.

Background

Currently the Exchange offers three defined complex order spread strategies: Butterfly Spread, Calendar Spread, and Vertical Spread. A Butterfly Spread is a three legged Complex Order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice the number of calls (puts), all legs have the same expiration date but different exercise prices, and the exercise price of the middle leg is between the exercise prices of the other legs. The strike price of each leg is equidistant from the next sequential strike price.[3] A Calendar Spread is a complex strategy consisting of the purchase of one call (put) option and the sale of another call (put) option overlying the same security that have different expirations but the same strike price.[4] A Vertical Spread is a complex strategy consisting of the purchase of one call (put) option and the sale of another call (put) option overlying the same security that have the same expiration but different strike prices.[5]

For each of the aforementioned strategies the Exchange offers a price protection. The Exchange will determine a Butterfly Spread Variance (''BSV'') which establishes the minimum and maximum trading price limits for Butterfly Spreads.[6] The minimum possible trading price limit of a Butterfly Spread is zero minus a pre-set value.[7] The maximum possible trading price limit of a Butterfly Spread is the absolute value of the difference between the closest strikes (the upper strike price minus the middle strike price or the middle strike price minus the lower strike price) plus a pre-set value.[8]

The Exchange will determine a Calendar Spread Variance (''CSV'') which establishes a minimum trading price limit for Calendar Spreads.[9] The maximum possible value of a Calendar Spread is unlimited, thus there is no maximum price protection for Calendar Spreads. The minimum possible trading price limit of a Calendar Spread is zero minus a pre-set value.[10]

The Exchange will determine a Vertical Spread Variance (''VSV'') which establishes minimum and maximum trading price limits for Vertical Spreads.[11] The maximum possible trading price limit of the VSV is the difference between the two component strike prices plus a pre-set value. For example, a Vertical Spread consisting of the purchase of one January 30 call and the sale of one January 35 call would have a maximum trading price limit of $5.00 plus a pre-set value. The minimum possible trading price limit of a Vertical Spread is always zero minus a pre-set value.[12]

Proposal

The Exchange now proposes to extend the price protections for each of the aforementioned complex order spread

[25] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Rule 532(b)(1)(i).

[4] *See* Exchange Rule 532(b)(1)(ii).

[5] *See* Exchange Rule 532(b)(1)(iii).

[6] *See* Exchange Rule 532(b)(2).

[7] The pre-set value used by the Exchange is $0.10. *See* MIAX Options Exchange Regulatory Circular 2022–16, MIAX Order Price Protection Pre-set Values (March 4, 2022) available at *https://www.miaxoptions.com/sites/default/files/circular-files/MIAX_Options_RC_2022_16.pdf.*

[8] *See* Exchange Rule 532(b)(2)(i).

[9] *See* Exchange Rule 532(b)(3).

[10] *See* Exchange Rule 532(b)(3)(i).

[11] *See* Exchange Rule 532(b)(4).

[12] *See* Exchange Rule 532(b)(4)(i).

strategies. Specifically, the Exchange proposes to amend subparagraph (iii) of the Butterfly Spread Variance (''BSV'') Price Protection.[13] Currently, the first sentence of subparagraph (iii) provides that, ''[b]uy orders with a limit price of less than the minimum trading price limit will be rejected.'' The Exchange now proposes to also reject sell limit orders and Offer eQuotes with a limit price less than the minimum trading price limit. As proposed the new sentence will read, ''[b]uy orders, sell orders, and Offer eQuotes with a limit price less than the minimum trading price limit will be rejected.'' This change provides that the Exchange will not permit orders or eQuotes to be submitted into the System [14] that appear to be erroneously priced because the prices are below the minimum trading price limit established by the Exchange for Butterfly Spread strategies.

The Exchange recently adopted Butterfly Spread Variance (''BSV'') Price Protection functionality on the Exchange.[15] The Exchange determines a Butterfly Spread Variance which establishes minimum and maximum trading price limits for Butterfly Spreads.[16] The minimum value of a Butterfly Spread is zero and the maximum value is capped at the absolute value of the difference between the closest strikes (the upper strike price minus the middle strike price or the middle strike price minus the lower strike price). To establish the maximum and minimum trading price limits, a pre-set value of $0.10 [17] is added to the maximum value of the Butterfly Spread and subtracted from the minimum value of the Butterfly Spread. After establishing the minimum trading price limit the Exchange is able to evaluate orders and eQuotes for reasonableness as related to the minimum trading price limit. As such, sell limit orders and Offer eQuotes with a price below the minimum trading price limit will be rejected back to the Member [18] for reevaluation.

Example 1A (Current Behavior)

Butterfly Spread: Buy 1 July 50 Call, Sell 2 July 55 Calls, Buy 1 July 60 Call.

The maximum spread value is the absolute value of the difference between the closest strikes or $5.00 (60.00 − 55.00 or 55.00 − 50.00). The minimum spread value is zero.[19] The pre-set value is $0.10. Therefore, the maximum allowable price limit is then $5.10 ($5.00 + $0.10) and the minimum allowable price limit is then −$0.10 ($0.00 − $0.10).

A sell limit order or an Offer eQuote submitted with a price below the minimum trading price limit will be accepted and will trade down to, and including, the minimum trading price limit. Remaining interest will then be placed on the Strategy Book and managed to the appropriate trading price limit as described in Rule 518(c)(4), or cancelled if the Managed Protection Override is enabled.[20]

Example 1B (Proposed Behavior) [21]

Butterfly Spread: Buy 1 July 50 Call, Sell 2 July 55 Calls, Buy 1 July 60 Call.

Using the same information from Example 1A above, the maximum trading price limit is $5.10 and the minimum trading price limit is −$0.10. Under the Exchange's proposal a sell limit order or an Offer eQuote with a price below the minimum trading price limit submitted to the Exchange will be rejected back to the Member due to being priced below the minimum trading price limit.

The Exchange believes extending price protections to sell limit orders and Offer eQuotes will benefit Members by rejecting interest priced below the minimum trading price limit back to the Member for reevaluation and potential re-submission at a price within the minimum and maximum trading price limits as determined by the Exchange.

The Exchange also proposes to amend subparagraph (iii) of the Calendar Spread Variance (''CSV'') Price Protection.[22] Currently, the first sentence of subparagraph (iii) provides that, ''[b]uy orders with a limit price less than the minimum trading price limit will be rejected.'' The Exchange proposes to also reject sell limit orders and Offer eQuotes with a limit price less than the minimum trading price limit. As proposed the new sentence will read, ''[b]uy orders, sell orders, and Offer eQuotes with a limit price less than the minimum trading price limit will be rejected.'' This change provides that the Exchange will not permit orders or eQuotes to be submitted into the System that appear to be erroneously priced because the prices are below the minimum trading price limit established by the Exchange for Calendar Spread strategies.

The Exchange believes extending price protections to sell limit orders and Offer eQuotes will benefit Members by rejecting interest priced below the minimum trading price limit back to the Member for reevaluation and potential re-submission at a price within the minimum and maximum trading price limits as determined by the Exchange.

The Exchange also proposes to amend subparagraph (iii) of the Vertical Spread Variance (''VSV'') Price Protection.[23] Currently, the first sentence of subparagraph (iii) provides that, ''[b]uy orders with a limit price less than the minimum trading price limit will be rejected.'' The Exchange proposes to also reject sell limit orders and Offer eQuotes with a limit price less than the minimum trading price limit. As proposed the new sentence will read, ''[b]uy orders, sell orders, and Offer eQuotes with a limit price less than the minimum trading price limit will be rejected.'' This change provides that the Exchange will not permit orders or eQuotes to be submitted into the System that appear to be erroneously priced because the prices are below the minimum trading price limit established by the Exchange for Vertical Spread strategies.

The Exchange believes extending price protections to sell limit orders and Offer eQuotes will benefit Members by rejecting interest priced below the minimum trading price limit back to the Member for reevaluation and potential re-submission at a price within the minimum and maximum trading price limits as determined by the Exchange.

The Exchange also proposes to make a minor non-substantive edit to the rule text of Rule 532(b)(5)(v). Currently, the rule text states that, ''[i]f the MSPP is priced less aggressively than the limit price of the complex order (*i.e.,* the MSPP is less than the complex order's bid price for a buy order, or the MSPP is greater than the complex order's offer price for a sell order) the order, or if the order is a complex market order, will be (i) executed up to, and including, its MSPP for buy orders; or (ii) executed down to, and including, its MSPP for

[13] *See* Exchange Rule 532(b)(2).

[14] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[15] *See* Securities Exchange Act Release No. 94353 (March 3, 2022), 87 FR 13339 (March 9, 2022) (SR–MIAX–2021–58) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos.1 and 2, To Adopt Exchange Rule 532, Order and Quote Price Protection Mechanisms and Risk Controls).

[16] *See* Exchange Rule 532(b)(2)(i).

[17] *See supra* note 7.

[18] The term ''Member'' means an individual or organization approved to exercise the trading rights associated with a Trading Permit. Members are deemed ''members'' under the Exchange Act. *See* Exchange Rule 100.

[19] *See supra* note 16.

[20] *See* Exchange Rule 532(b)(2)(ii).

[21] The Exchange notes that the proposed behavior described in Example 1B is applicable to both the Calendar Spread Variance Price Protection, and the Vertical Spread Variance Price Protection, as the minimum trading price limit for these strategies is also zero minus the pre-set value. *See* Exchange Rule 532(b)(3)(i) and 532(b)(4)(i), respectively.

[22] *See* Exchange Rule 532(b)(3).

[23] *See* Exchange Rule 532(b)(4).

sell orders. Any unexecuted portion of such a complex order will be canceled.''

The Exchange proposes to remove the phrase ''the order'' after the parenthetical and to relocate it after the phrase, ''or if the order is a complex market order,'' to improve the clarity of the rule text. As proposed the rule would state, ''[i]f the MSPP is priced less aggressively than the limit price of the complex order (*i.e.,* the MSPP is less than the complex order's bid price for a buy order, or the MSPP is greater than the complex order's offer price for a sell order), or if the order is a complex market order, *the order* will be (i) executed up to, and including, its MSPP for buy orders; or (ii) executed down to, and including, its MSPP for sell orders. Any unexecuted portion of such a complex order will be canceled.'' This proposed change will not affect the operation of the rule in any fashion.

Additionally, the Exchange proposes to make non-substantive changes to correct paragraph and subparagraph numbering that was erroneously introduced in the Exchange's Amendment 2 [24] of the Exchange's original filing, SR–MIAX–2021–58.[25] The Exchange now proposes to correct the numbering scheme throughout Rule 532. This proposed change will provide clarity and precision and will not affect the operation of the rule in any fashion.

Implementation

The Exchange proposes to implement the proposed rule changes in the third quarter of 2022. The Exchange will announce the implementation date to its Members via Regulatory Circular.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Exchange believes the proposed price protections will protect investors and the public interest and maintain fair and orderly markets by mitigating potential risks associated with market participants entering sell limit orders and Offer eQuotes at clearly unintended prices and trading at prices that are extreme and potentially erroneous. The proposed price protections will assist in the maintenance of a fair and orderly market and protect investors by rejecting limit orders and eQuotes that are priced to sell below the minimum trading limit established by the Exchange for certain complex strategies. The Exchange believes this will promote just and equitable principles of trade and ultimately protect investors. Further, the Exchange notes that its proposal is designed to mitigate the potential risks of executions at prices that are not within acceptable price ranges, as a means to help mitigate potential risks associated with complex strategies trading at prices that are potentially erroneous or unintended. As such, the proposed rule change is designed to protect investors and the public interest.

The Exchange believes extending current price protections to sell limit orders and Offer eQuotes will protect investors and the public interest and assist the Exchange in maintaining fair and orderly markets by mitigating potential risks associated with market participants entering orders at clearly unintended prices and orders trading at prices that are extreme and potentially erroneous. The Exchange believes rejecting these orders is appropriate as it gives the Member the opportunity to reevaluate their order or eQuote and possibly resubmit the order or eQuote at a price within the minimum and maximum trading price limits for the strategy as established by the Exchange. The Exchange believes this will promote just and equitable principles of trade and ultimately protect investors.

The Exchange believes its proposal to make non-substantive changes to Rule 532(b)(5)(v) to improve the clarity of the rule protects investors and the public interest as having clear and concise rules avoids the potential for confusion and benefits investors. Finally, the Exchange believes its proposal to make non-substantive changes to correct the numbering scheme throughout the rule benefits investors and the public interest by logically and accurately organizing its rule text for clarity and ease of reference. The Exchange believes that the proposed rule change will provide greater clarity to Members and the public regarding the Exchange's Rules, and it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange does not believe that the proposed rule change to extend existing price protections to sell Orders and Offer eQuotes for certain complex spread strategies will impose any burden on intra-market competition. The proposed rule benefits Members as it will extend price protections that will prevent the execution of certain strategies at prices that are potentially erroneous or unintended. The Exchange believes its proposal may enhance competition as Members that submit complex orders will be assured that the Exchange has risk protections in place to prevent the inadvertent execution of certain complex spread strategies at potentially erroneous or unintended prices. Further, the Exchange does not believe the proposed change will impose a burden on intra-market competition as the protection is available to all Members on the Exchange.

The Exchange does not believe that the proposed rule change will impose any burden on inter-market competition as the proposal is not competitive in nature, but rather seeks to extend existing price protections for certain complex order strategies. Alternatively, the Exchange's proposal could enhance competition among the various markets for complex order execution, potentially resulting in more active complex order trading on all exchanges. The Exchange notes that other exchanges have comparable price protections in place for certain complex strategies.[28]

The Exchange does not believe that the proposal to make non-substantive changes to rule 532(b)(5)(v) imposes any burden on intra-market or inter-market competition as the proposed changes add clarity and precision to the rule text and does [sic] not change the operation of the rule in any way. Additionally, the Exchange does not believe that the proposal to make non-substantive changes to Rule 532 to correct paragraph and subparagraph numbering imposes any burden on intra-market or inter-

[24] *See* Securities Exchange Act Release No. 94353 (March 3, 2022), 87 FR 13339 (March 9, 2022) (SR–MIAX–2021–58).

[25] *See* Securities Exchange Act Release No. 93676 (November 29, 2021), 86 FR 68695 (December 3, 2021) (SR–MIAX–2021–58).

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

[28] *See e.g.,* Cboe Exchange Rule 5.34(b)(3)(A); *see also* Nasdaq Phlx Exchange Rule, Options 3, Section 16(c)(i).

market competition as the proposed changes do not change the operation of the rule in any way and simply provides accuracy in the numbering convention used within the Exchange's Rules.

For the reasons stated, the Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, and the Exchange believes that the proposed rule changes may enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [29] and subparagraph (f)(6) of Rule 19b–4 thereunder.[30]

A proposed rule change filed under Rule 19b–4(f)(6) [31] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[32] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay. The Exchange states that waiver of the operative delay will allow the Exchange to immediately extend the Butterfly Spread Variance Price Protection, the Calendar Spread Variance Price Protection, and the Vertical Spread Variance Price Protection to sell limit orders and Offer eQuotes, as described above, which could help to protect market participants from executing orders in these strategies at potentially erroneous or unwanted prices. In addition, waiver of the operative delay will allow the Exchange to immediately implement the proposed non-substantive changes to clarify the text of Exchange Rule 532(b)(5)(v) and to correct rule numbering errors in Exchange Rule 532. The Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. The Commission believes that extending the Butterfly Spread Variance Price Protection, the Calendar Spread Variance Price Protection, and the Vertical Spread Variance Price Protection to sell limit orders and Offer eQuotes could help to protect market participants from executing orders in these strategies at potentially erroneous prices. In addition, the non-substantive changes to clarify the text of Exchange Rule 532(b)(5)(v) and to correct rule numbering errors in Exchange Rule 532 will help to ensure the clarity and accuracy of these rules. Accordingly, the Commission waives the operative delay and designates the proposed rule change operative upon filing.[33]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2022–25 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–MIAX–2022–25. 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–MIAX–2022–25, and should be submitted on or before August 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14998 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

[29] 15 U.S.C. 78s(b)(3)(A)(iii).

[30] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[34] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95237; File No. SR–NSCC–2022–004]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change To Require Applicants and Members To Maintain or Upgrade Their Network or Communications Technology

July 8, 2022.

I. Introduction

On May 11, 2022, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2022–004 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on May 31, 2022.[3] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed below, the Commission is approving the Proposed Rule Change.

II. Description of the Proposed Rule Change

A. Background

NSCC proposes to modify its Rules and Procedures (''Rules'') [4] to require its Members, Limited Members, Sponsored Members, and applicants for membership (collectively, ''members'') to upgrade and maintain their network technology, and communications technology or protocols, to meet standards that NSCC would identify and publish via Important Notice on its website, as described more fully below.

NSCC provides clearance, settlement, risk management, central counterparty services, and a guarantee of completion for virtually all broker-to-broker trades involving equity securities, corporate and municipal debt securities, American depository receipts, exchange traded funds, and unit investment trusts.[5] In light of its critical role in the marketplace, NSCC was designated a Systemically Important Financial Market Utility (''SIFMU'') under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[6] Due to NSCC's unique position in the marketplace, a failure or a disruption at NSCC could, among other things, increase the risk of significant liquidity problems spreading among financial institutions or markets, and thereby threaten the stability of the financial system in the United States.[7]

NSCC's Rules currently do not require, either as part of an application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with NSCC.[8] Therefore, NSCC currently maintains multiple network and communications methods and protocols to interact with its members.[9] This includes some outdated communication technologies in order to support members that continue to use such older technologies.[10] NSCC believes that continuing to use such outdated technologies could render communications between NSCC and some of its members vulnerable to cyber risks.[11] Additionally, members' use of outdated technology delays NSCC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between NSCC and a number of its members.[12] Finally, NSCC states that it currently expends additional resources, both in personnel and equipment, to maintain outdated communications channels.[13]

To mitigate the foregoing security concerns and resource inefficiencies, NSCC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that NSCC would identify and publish via Important Notice on its website from time to time.[14] NSCC would base these requirements on standards set forth by widely accepted organizations such as the National Institute of Standards and Technology (''NIST'') and the internet Engineer Task Force (''IETF'').[15]

To implement the proposed changes, NSCC would revise its Rules to require members to maintain or upgrade their network technology, communications technology, or protocols on the systems that connect to NSCC, to the version NSCC requires, within the time period NSCC requires.[16] Consistent with the guidance from NIST and other standards organizations, NSCC would require the use of TLS 1.2, Secure FTP (''SFTP''), and other modern technology and communication standards and protocols, by its members for communication with NSCC.[17] NSCC would publish such requirements via Important Notice on its website.[18] NSCC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject members to a monetary fine.[19]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [20] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. After

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 94977 (May 24, 2022), 87 FR 32485 (May 31, 2022) (SR–NSC–2022–004) (''Notice of Filing'').

[4] NSCC's Rules are *available at https://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] *See* Financial Stability Oversight Counsel 2012 Annual Report, Appendix A (''FSOC 2012 Report''), *available at http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.*

[6] 12 U.S.C. 5465(e)(1). *See* FSOC 2012 Report, *supra* note 5.

[7] *See* FSOC 2012 Report, Appendix A, *supra* note 5.

[8] Notice of Filing, *supra* note 3, at 32486.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.* NIST is part of the U.S. Department of Commerce. The IETF is an open standards organization that develops and promotes voluntary internet standards, in particular, the technical standards that comprise the internet protocol suite (TCP/IP). For example, NIST Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use Transport Layer Security (''TLS'') 1.2 and should be configured to use TLS 1.3 as well. *See https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.* (TLS, the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.) These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0. Additionally, the IETF formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating that ''[t]hese versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.'' *See https://datatracker.ietf.org/doc/rfc8996/.* NSCC would also require members to discontinue using File Transfer Protocol (''FTP''), which NSCC believes to be an insecure protocol because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. Notice of Filing, *supra* note 3, at 32486.

[16] Notice of Filing, *supra* note 3, at 32486–87.

[17] *Id.*

[18] *Id.*

[19] Notice of Filing, *supra* note 3, at 32487.

[20] 15 U.S.C. 78s(b)(2)(C).

careful consideration, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations applicable to NSCC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F)[21] and (b)(3)(G)[22] of the Act and Rules 17Ad–22(e)(17)[23] and (e)(21)[24] thereunder.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[25]

As described above, NSCC proposes to require its members to upgrade and maintain network technology, and communication technology and protocol standards, that meet the standards identified by NSCC and published via Important Notice to NSCC's website from time to time. NSCC would use standards set forth by widely accepted organizations such as NIST and the IETF as the requirements. The proposed requirements would enable NSCC to avoid communicating with its members using outdated technologies that present security vulnerabilities to NSCC. Specifically, as an initial matter, the proposed requirements would enable NSCC to discontinue using communication technologies such as TLS 1.0, TLS 1.1, SSL 2.0, SSL 3.0, and FTP, which have been deemed not secure by organizations such as NIST and/or the IETF. Removing support for such outdated technologies would reduce NSCC's potential exposure to cyberattacks and other cyber vulnerabilities.

If not adequately addressed, the risk of cyberattacks and other cyber vulnerabilities could affect NSCC's network and, in turn, NSCC's ability to clear and settle securities transactions, or to safeguard the securities and funds which are in NSCC's custody or control, or for which it is responsible. NSCC designed the proposed requirements for members to upgrade their communications technology to address those risks, as described above. Accordingly, the Commission finds the proposed technology requirements on NSCC's members would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[26]

B. Consistency With Section 17A(b)(3)(G) of the Act

Section 17A(b)(3)(G) of the Act requires the rules of a clearing agency to provide that its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency by fine or other fitting sanction.[27] As noted above, NSCC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that NSCC would identify and publish via Important Notice on its website. The proposed requirements would enable NSCC to avoid communicating with its members using outdated technologies that present security vulnerabilities to NSCC. If not adequately addressed, such vulnerabilities could affect NSCC's network and its ability to operate. NSCC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject members to a monetary fine. Because the proposed monetary fine should incentivize NSCC's members to upgrade and maintain secure communications technology, thereby reducing NSCC's operational risks, the Commission finds the proposed rule change is consistent with the requirements of Section 17A(b)(3)(G) of the Act.[28]

C. Consistency With Rule 17Ad–22(e)(17) Under the Act

Rule 17Ad–22(e)(17)(i) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[29] NSCC's operational risks include cyber risks to its electronic systems.

As described above, NSCC and its members connect electronically to communicate with one another. However, NSCC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with NSCC. As a result, NSCC maintains some outdated communication technologies in order to support members that continue to use such older technologies. Continuing to use such outdated technologies could render communications between NSCC and some of its members vulnerable to cyber risks.

To mitigate the foregoing cyber risks, NSCC proposes to require its members to upgrade and maintain network technology, and communication technology and protocol standards that meet the standards identified by NSCC from time to time. The proposed technology requirements should reduce NSCC's cyber risk by requiring members to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF, thereby decreasing the operational risks presented to NSCC. Because the proposed technology requirements would help NSCC mitigate plausible sources of external operational risk, the Commission finds the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(17)(i) under the Act.[30]

Rule 17Ad–22(e)(17)(ii) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by ensuring, in part, that systems have a high degree of security, resiliency, and operational reliability.[31] As noted above, NSCC's operational risks include cyber risks.

As described above, NSCC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications

[21] 15 U.S.C. 78q–1(b)(3)(F).

[22] 15 U.S.C. 78q–1(b)(3)(G).

[23] 17 CFR 240.17Ad–22(e)(17)(i) and (ii).

[24] 17 CFR 240.17Ad–22(e)(21)(iv).

[25] 15 U.S.C. 78q–1(b)(3)(F).

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(G).

[28] *Id.* Additionally, by including the monetary fine provision in its Rules, NSCC would enable its members to better identify and evaluate the material costs they might incur by participating in NSCC, consistent with Rule 17Ad–22(e)(23)(ii). under the Act, which requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. *See* 17 CFR 240.17Ad–22(e)(23)(ii).

[29] 17 CFR 240.17Ad–22(e)(17)(i).

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e)(17)(ii).

technology or protocols, such as email encryption, secure messaging, or file transfers, that members may use to connect to or communicate with NSCC. NSCC designed the proposed technology requirements to reduce cyber risks by requiring its members to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF. Requiring NSCC's members to use only secure communications technology would reduce NSCC's cyber risks and thereby strengthen the security, resiliency, and operational reliability of NSCC's network and other systems. Because the proposed technology requirements would enhance NSCC's ability to ensure that its systems have a high degree of security, resiliency, and operational reliability, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii) under the Act.[32]

D. Consistency With Rule 17Ad–22(e)(21) Under the Act

Rule 17Ad–22(e)(21)(iv) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to have the covered clearing agency's management regularly review the efficiency and effectiveness of its use of technology and communication procedures.[33]

As mentioned above, NSCC maintains multiple network and communication methods to interact with its members, including certain outdated communication technologies necessary to support members that continue to use such older technologies. NSCC believes that continuing to use such outdated technologies could render communications between NSCC and some of its members vulnerable to cyber risks. Additionally, members' use of outdated technology delays NSCC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between NSCC and a number of its members. Finally, NSCC states that it currently expends unnecessary resources to maintain outdated communications channels. In other words, NSCC has subjected its network communication methods to review for efficiency and effectiveness. As a result, to enhance the efficiency and effectiveness of its technology and communication procedures, NSCC proposes to require its members to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that NSCC would identify and publish via Important Notice on its website. Because the Proposed Rule Change is an outgrowth of NSCC's review of the efficiency and effectiveness of its technology and communication procedures, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv) under the Act.[34]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[35] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[36] that Proposed Rule Change SR–NSCC–2022–004, be, and hereby is, *approved*.[37]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15005 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

[32] *Id.*

[33] 17 CFR 240.17Ad–22(e)(21)(iv).

[34] *Id.*

[35] 15 U.S.C. 78q–1.

[36] 15 U.S.C. 78s(b)(2).

[37] In approving the Proposed Rule Change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 34644; File No. 812–15090]

Sixth Street Specialty Lending, Inc., et al

July 8, 2022.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order (''Order'') under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

APPLICANTS: Sixth Street Specialty Lending, Inc., Sixth Street Specialty Lending Advisers, LLC, Sixth Street Opportunities Partners III (A), L.P., Sixth Street Opportunities Partners III (B), L.P., Sixth Street Opportunities Partners III (C), L.P., TOP III Delaware AIV I–A, L.P., Opps III Delaware AIV I–B, L.P., Sixth Street Opportunities Partners IV (A), L.P., Sixth Street Opportunities Partners IV (B), L.P., Sixth Street Opportunities Partners IV (C), L.P., Opps IV Delaware AIV I–A, L.P., Opps IV Delaware AIV I–B, L.P., Sixth Street Opportunities Partners V (A), L.P., Sixth Street Opportunities Partners V (B), L.P., Sixth Street Opportunities Partners V (C), L.P., Sixth Street Opps V Delaware AIV I–A, L.P., Sixth Street Opps V Delaware AIV I–B, L.P., Sixth Street TAO Partners, L.P., Sixth Street TAO Partners (A), L.P., Sixth Street TAO Partners (B), L.P., Sixth Street TAO Partners (C), L.P., Sixth Street TAO Partners (D), L.P., Sixth Street TAO Partners (E), L.P., Sixth Street TAO Partners (F), L.P., Super TAO Contingent MA, L.P., Knight TAO, L.P., Super TAO MA, L.P., PSERS TAO Partners Parallel Fund, L.P., TAO (B) AIV II–A, L.P., TAO (C) AIV II–A, L.P., TAO (D) AIV II–A, L.P., TAO (E) AIV II–A, L.P., Sixth Street Growth Partners (A), L.P., Sixth Street Growth Partners (B), L.P., Sixth Street Growth Partners (A) AIV, L.P., Sixth Street Growth Partners (B) AIV, L.P., Sixth Street Growth Partners II (A), L.P., Sixth Street Growth Partners II (B), L.P., Sixth Street Growth II (A) AIV, L.P., Sixth Street Growth II (B) AIV, L.P., Growth II Lending, LLC, Sixth Street Fundamental Strategies Partners (A), L.P., Sixth Street Fundamental Strategies Partners (B), L.P., Sixth Street FS AIV I–A, L.P., Sixth Street FS AIV I–B, L.P., Sixth Street Specialty Lending Europe I, L.P., Sixth Street Specialty Lending Europe II, L.P., Super TSLE, L.P., Sixth Street Agriculture Partners (A), L.P., Sixth Street Bluegrass Strategic Holdings I, L.P., Sixth Street Willow Strategic Holdings I, L.P., Sixth Street Cottonwood Strategic Holdings I, L.P., Sixth Street Dogwood Strategic Holdings I, L.P., Sixth Street Red Pine Strategic Holdings I, L.P., Sixth Street CMS Dynamic Credit Fund, L.P., TCS Lending, LLC, TDL Lending, LLC, TOP IV Lending, LLC, Opps V Lending, LLC, FS I Lending, LLC, TICP CLO V 2016–1, Ltd., TICP CLO VI 2016–2, Ltd., TICP CLO VII, Ltd., TICP CLO VIII, Ltd., TICP

CLO IX, Ltd., TICP CLO X, Ltd., TICP CLO XI, Ltd., TICP CLO XII, Ltd., TICP CLO XIII, Ltd., TICP CLO XIV, Ltd., TICP CLO XV, Ltd., Sixth Street CLO XVI, Ltd., Sixth Street CLO XVII, Ltd., Sixth Street CLO XVIII, Ltd., Sixth Street CLO XIX, Ltd., Sixth Street CLO XX, Ltd., Sixth Street CLO Equity Fund IV, L.P., TSSP Rotational Credit Fund, L.P., Sixth Street Wheeler Peak Rotational Credit Fund I, LLC, Sixth Street Rotational Credit Fund III, L.P., TSSP Structured Credit Opportunities Fund, L.P., Sixth Street Structured Credit Opportunities Fund II, L.P., Sixth Street Structured Credit Opportunities Fund III, L.P., Sixth Street Structured Credit Opportunities Fund IV, L.P., Sixth Street Structured Credit Opportunities Fund V, L.P., TICP CLO Partners II, L.P., TICP CLO Holdings, L.P., TSSP Institutional Credit Partners III, L.P., Sixth Street Credit Market Strategies Partners I, L.P., Sixth Street Credit Market Strategies Partners I–A, L.P., TICP III Cayman, Ltd., Sixth Street Mid-Stage Growth Partners (A), L.P., Sixth Street Mid-Stage Growth Partners (B), L.P., Sixth Street Mid-Stage Growth (A) AIV, L.P., Sixth Street Mid-Stage Growth (B) AIV, L.P., Sixth Street Advisers, LLC, Sixth Street Fundamental Strategies I Management, LLC, Sixth Street Opportunities III Management, LLC, Sixth Street Opportunities IV Management, LLC, Sixth Street Opportunities V Management, LLC, Sixth Street TAO Management, LLC, Sixth Street Growth I Management, LLC, Sixth Street Growth II Management, LLC, Sixth Street Specialty Lending Europe I Management, LLC, Sixth Street Specialty Lending Europe II Management, LLC, Sixth Street Agriculture Management, LLC, Sixth Street Strategic Holdings Management, LLC, Sixth Street CMS Dynamic Credit Management, LLC, TICP CLO V 2016–1 Management, LLC, TICP CLO VI 2016–2 Management, LLC, TICP CLO VII Management, LLC, TICP CLO VIII Management, LLC, TICP CLO IX Management, LLC, TICP CLO X Management, LLC, TICP CLO XI Management, LLC, TICP CLO XII Management, LLC, TICP CLO XIII Management, LLC, TICP CLO XIV Management, LLC, TICP CLO XV Management, LLC, Sixth Street CLO XVI Management, LLC, Sixth Street CLO XVII Management, LLC, Sixth Street CLO XVIII Management, LLC, Sixth Street CLO XIX Management, LLC, Sixth Street CLO XX Management, LLC, Sixth Street CLO Equity IV Management, LLC, TSSP Rotational Credit Management, LLC, Sixth Street Rotational Credit II Management, LLC, Sixth Street Rotational Credit III Management, LLC, TSSP Structured Credit Opportunities Management, LLC, Sixth Street Structured Credit Opportunities II Management, LLC, Sixth Street Structured Credit Opportunities III Management, LLC, Sixth Street Structured Credit Opportunities IV Management, LLC, Sixth Street Structured Credit Opportunities V Management, LLC, Sixth Street CLO Advisers II, LLC, TSSP Institutional Credit III Management, LLC, Sixth Street Credit Market Strategies Management, LLC, Sixth Street Mid-Stage Growth I Management, LLC, MSGP Lending, LLC, Sixth Street Lending Partners Advisers, LLC and Sixth Street Lending Partners.

FILING DATES: The application was filed on January 16, 2020, and amended on July 20, 2021, December 28, 2021, May 26, 2022, and June 29, 2022.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. Hearing requests should be received by the Commission by 5:30 p.m. on August 2, 2022, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Joshua Peck, *JPeck@sixthstreet.com;* John J. Mahon, Esq., *john.mahon@srz.com.*

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, or Terri G. Jordan, Branch Chief, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' fourth amended and restated application, dated June 29, 2022, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at, at *http://www.sec.gov/edgar/searchedgar/legacy/companysearch.html.* You may also call the SEC's Public Reference Room at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14979 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95230; File No. SR–CboeBZX–2021–078]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment No. 1, To Introduce a New Data Product To Be Known as the Short Volume Report

July 8, 2022.

On November 17, 2021, Cboe BZX Exchange, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 11.22(f) to introduce a new data product to be known as the Short Volume Report. The proposed rule change was published for comment in the **Federal Register** on December 7, 2021.[3] On January 20, 2022, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On March 7, 2022, the Commission instituted proceedings under Section

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 93688 (December 1, 2021), 86 FR 69319. The comment letters received on the proposed rule change are available on the Commission's website at: *https://www.sec.gov/comments/sr-cboebzx-2021-078/srcboebzx2021078.htm.*

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 94010, 87 FR 4075 (January 26, 2022). The Commission designated March 7, 2022 as the date by which it should approve, disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

19(b)(2)(B) of the Act [6] to determine whether to approve or disapprove the proposed rule change.[7] On March 30, 2022, the Exchange filed Amendment No. 1 to the proposed rule change, which superseded the proposed rule change as originally filed.[8] The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on April 28, 2022.[9] On June 3, 2022, the Commission extended the period for consideration of the proposed rule change to August 4, 2022.[10] On June 30, 2022, the Exchange withdrew the proposed rule change, as modified by Amendment No. 1 (SR–CboeBZX–2021–078).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15001 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95228; File No. SR–CBOE–2022–035]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 5.22 To Remove Certain References to the Market-Wide Circuit Breaker Program

July 8, 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 30, 2022, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder.[4] 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 Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') is filing with the Securities and Exchange Commission (the ''Commission'') a proposal to amend Rule 5.22 to remove certain references to the Market-Wide Circuit Breaker program. 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 Exchange Rule 5.22 to remove certain rule text that references the Market-Wide Circuit Breaker (''MWCB'') program for equity securities. The proposed changes are intended to clarify the Exchange's rules regarding trading halts in options due to a MWCB. In addition, the Exchange proposes to make certain non-substantive changes to Rule 5.22 to delete references to individual stocks, which no longer trade on the Exchange.

MWCB Program

On March 16, 2022, the Commission approved a proposal by the New York Stock Exchange LLC (''NYSE'') to make permanent the MWCB program.[5] The Commission approved a proposal filed by the Exchange on April 12, 2022, to adopt on a permanent basis the MWCB pilot program.[6] The Exchange's affiliated equities exchanges similarly received approval to make permanent the MWCB pilot program on April 12, 2022.[7]

The Exchange's current rule regarding MWCB halts can be found in Rule 5.22,[8] which states, ''[t]he Exchange shall halt trading in all stocks and stock options whenever a market-wide trading halt known as a circuit breaker is initiated in response to extraordinary market conditions.'' Rules 5.22(a) [9] and 5.22(b) [10] describe the applicable Market

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 94372, 87 FR 14053 (March 11, 2022).

[8] Amendment No. 1 is available at *https://www.sec.gov/comments/sr-cboebzx-2021-078/srcboebzx2021078-20121778-273840.pdf.*

[9] *See* Securities Exchange Act Release No. 94788 (April 22, 2022), 87 FR 25328.

[10] *See* Securities Exchange Act Release No. 95034, 87 FR 35272 (June 9, 2022).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] *See* Securities Exchange Act Release No. 94441 (March 16, 2022), 87 FR 16286 (March 22, 2022) (SR–NYSE–2021–40) (Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers in Rule 7.12).

[6] *See* Securities Exchange Act Release No. 94706 (April 12, 2022), 87 FR 22954 (April 18, 2022) (SR–CBOE–2022–018) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 5.22).

[7] *See* Securities Exchange Act Release No. 94705 (April 12, 2022), 87 FR 22977 (April 18, 2022) (SR–CboeBYX–2022–011) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.18); Securities Exchange Act Release No. 94702 (April 12, 2022), 87 FR 23003 (April 18, 2022) (SR–CboeBZX–2022–027) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.18); Securities Exchange Act Release No. 94701 (April 12, 2022), 87 FR 22963 (April 18, 2022) (SR–CboeEDGA–2022–008) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.16); Securities Exchange Act Release No. 94699 (April 12, 2022), 87 FR 22967 (April 18, 2022) (SR–CboeEDGX–2022–023) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt on a Permanent Basis the Pilot Program for Market-Wide Circuit Breakers, Currently Codified in Rule 11.16).

[8] *See* Exchange Rule 5.22 (''Market-wide Trading Halts due to Extraordinary Market Volatility'').

[9] *See* Exchange Rule 5.22(a) (''Definitions''). A Market Decline means a decline in price of the S&P 500 Index between 9:30 a.m. and 4:00 p.m. on a trading day as compared to the closing price of the S&P 500 Index for the immediately preceding trading day. A Level 1 Market Decline means a Market Decline of 7%, a Level 2 Market Decline means a Market Decline of 13%, and a Level 3 Market Decline means a Market Decline of 20%.

[10] *See* Exchange Rule 5.22(b) (''Halts in Trading''). The Exchange shall halt trading in all stock or stock options for 15 minutes if a Level 1 or Level 2 Market Decline occurs after 9:30 a.m. and before 3:26 p.m. (or 12:26 p.m. in the case of an early scheduled close). The Exchange will not halt trading if a Level 1 or Level 2 Market Decline occurs at 3:26 p.m. (12:26 p.m. on days with an early scheduled close) or later. The Exchange shall halt

Continued

Declines and associated trading halts applicable to MWCB. The Exchange notes that the text in Rules 5.22(a) and 5.22(b) is identical to the MWCB language found in the Exchange's affiliated equity exchanges' rules.[11] Those rules are implemented exclusively by equities exchanges. While the Exchange previously operated a stock trading facility, this functionality is no longer supported by the Exchange and as such, the Exchange is proposing to remove the MWCB rules associated with equity securities. Rules 5.22(f)–(h) detail the MWCB testing requirements that were implemented as part of the adoption of the MWCB program on a permanent basis.[12] The Exchange is now proposing to remove the language in current Rules 5.22(a), 5.22(b), 5.22(d), 5.22(e), 5.22(f), 5.22(g), and 5.22(h), as this language applies specifically to equity securities, which do not trade on the Exchange. Given that the introductory language in Rule 5.22 specifically states that stock options will be halted in the event of a market-wide circuit breaker,[13] the MWCB rules applicable to equity securities (currently housed in Rules 5.22(a)–(b), (d)–(h)) are not necessary. The Exchange believes that by removing this language its rules regarding stock option halts due to market-wide circuit breakers will provide clarity for Trading Permit Holders [14] and others who may rely on the rule.

As a result of the proposed changes described above, the remaining provisions of Rule 5.22 have been renumbered. In addition, the Exchange has proposed a non-substantive change to current Rule 5.22(c) in order to remove outdated reopening procedures and reference current Rule 5.31, which describes the reopening process for all halts.[15] The Exchange notes that these changes are non-substantive and are being proposed to better organize the Exchange's rules regarding halts due to MWCB and provide a more accurate description of the Exchange's reopening process following a MWCB halt.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[16] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [17] 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. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [18] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes that removing the text in current Rules 5.22(a)–(b), (d)–(h) will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest because the text being removed applies to equity securities, which do not currently trade on the Exchange. The language in Rules 5.22(a)–(b), (d)–(h) describes the applicable Market Declines, trading halts, reopening processes, and MWCB testing requirements that are identical to the corresponding MWCB rules in the Exchange's affiliated equities exchanges. Those rules are implemented exclusively by equities exchanges. As the Exchange does not trade equity securities, the Exchange believes it is confusing to have rule text that describes the MWCB program within its rules and believes that limiting the text in Rule 5.22 to describe that stock options will be halted in the event of a MWCB will eliminate potential confusion amongst Trading Permit Holders. The Exchange notes that competing exchanges have similar rule text regarding trading halts in options when a MWCB commences in equity securities.[19] In addition, the Exchange believes that the proposed non-substantive change to remove the current, outdated rule text in Rule 5.22 regarding the reopening procedures for halts due to a MWCB promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system, and protects investors and the public interest because it seeks to clarify that any reopening due to a MWCB halt will be conducted under the provisions of Rule 5.31. By providing a reference to Rule 5.31, the Exchange believes Trading Permit Holders will be directed to the most relevant reopening procedures and any potential confusion regarding the reopening process for halts due to MWCBs will be eliminated.

Similarly, the Exchange believes that removing language that references the trading of stocks on the Exchange will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest as it is inapplicable to the Exchange. Equity securities are not eligible for trading on the Exchange and the rules are applicable only to the securities which currently trade on the Exchange. Therefore, deletion of this language will eliminate any potential confusion from the Rules.

For the foregoing reasons, the Exchange believes that the proposed change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not

trading in all stocks and stock options until the next trading day if a Level 3 Market Decline occurs at any time during the trading day.

[11] *See* Cboe BYX Exchange Rules 11.18(a)(1)–(4) and 11.18(b); Cboe BZX Exchange Rules 11.18(a)(1)–(4) and 11.18(b); Cboe EDGA Exchange Rules 11.16(a)(1)–(4) and 11.16(b); Cboe EDGX Exchange Rules 11.16(a)(1)–(4) and 11.16(b).

[12] *See* Exchange Rule 5.22(f) (''Market-Wide Circuit Breaker Testing'').

[13] *Supra* note 8.

[14] A Trading Permit Holder means ''any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit.'' *See* Eleventh Amended and Restated Bylaws of Cboe Exchange, Inc. Section 1.1 (''Definitions''). A Trading Permit ''means a license issued by the Exchange that grants the holder or the holder's nominee the right to access one or more facilities of the Exchange for the purpose of effecting transactions in securities traded on the Exchange without the services of another person acting as broker, and otherwise to access the facilities of the Exchange for purposes of trading or reporting transactions or transmitting orders or quotations in securities traded on the Exchange, or to engage in other activities that, under the Rules, may only be engaged in by Trading Permit Holders, provided that the holder or the holder's nominee, as applicable, satisfies any applicable qualification requirements to exercise those rights.'' *See* Exchange Rule 1.1 (''Definitions'').

[15] *See* Rule 5.31(g) (''Opening Auction Process Following Trading Halts'').

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

[18] *Id.*

[19] *See* NYSE Arca Options Rule 6.65–O(e), which states ''[t]he Exchange shall halt trading in all options whenever the equities markets initiate a market-wide trading halt commonly known as a circuit breaker in response to extraordinary market conditions.'' *See also* MIAX Options Exchange Rule 504.03, which states ''[t]he Exchange shall halt trading in all securities whenever a market-wide trading halt commonly known as a circuit breaker is initiated on the New York Stock Exchange in response to extraordinary market conditions.''

necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not intended to address competition, but rather, makes clarifying changes to Rule 5.22 in order to benefit all Trading Permit Holders equally. The Exchange does not believe that removing the MWCB rule text that is applicable to equity securities would have any impact on competition as the revised rule text will look substantively similar to the rules of other competing options exchanges. The Exchange seeks to ensure consistency amongst exchanges with respect to this industry-wide program without implicating any competitive issues.

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

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and subparagraph (f)(6) of Rule 19b–4 thereunder.[21]

A proposed rule change filed under Rule 19b–4(f)(6) [22] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[23] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange asked that the Commission waive the 30 day operative delay so that the proposal may become operative immediately upon filing. The proposed rule change simply removes rule text that does not apply to stock options exchanges and would clarify the MWCB halt process. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change as operative upon filing.[24]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [25] 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–CBOE–2022–035 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–CBOE–2022–035. 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–CBOE–2022–035 and should be submitted on or before August 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

J. Matthew DeLesDernier,

Assistant Secretary.

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[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78s(b)(2)(B).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95232; File No. SR–DTC–2022–004]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change To Require Applicants, Participants, and Pledgees To Maintain or Upgrade Their Network or Communications Technology

July 8, 2022.

I. Introduction

On May 11, 2022, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2022–004 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on May 31, 2022.[3] The Commission did not receive any comment letters on the proposed rule change. For the reasons discussed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 94975 (May 24, 2022), 87 FR 32482 (May 31, 2022) (SR–DTC–2022–004) (''Notice of Filing'').

below, the Commission is approving the Proposed Rule Change.

II. Description of the Proposed Rule Change

A. Background

DTC proposes to modify its Rules (''Rules'')[4] to require its Participants, Pledgees, and applicants for membership (collectively, ''participants'') to upgrade and maintain their network technology, and communications technology or protocols, to meet standards that DTC would identify and publish via Important Notice on its website, as described more fully below.

DTC provides depository services and asset servicing for a wide range of security types such as money market instruments, equities, warrants, rights, corporate debt and notes, municipal bonds, government securities, asset-backed securities, and collateralized mortgage obligations.[5] In light of its critical role in the marketplace, DTC was designated a Systemically Important Financial Market Utility (''SIFMU'') under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.[6] Due to DTC's unique position in the marketplace, a failure or a disruption at DTC could, among other things, increase the risk of significant liquidity problems spreading among financial institutions or markets, and thereby threaten the stability of the financial system in the United States.[7]

DTC's Rules currently do not require, either as part of an application for membership or as an ongoing membership requirement, any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that participants may use to connect to or communicate with DTC.[8] Therefore, DTC currently maintains multiple network and communications methods and protocols to interact with its participants.[9] This includes some outdated communication technologies in order to support participants that continue to use such older technologies.[10] DTC believes that continuing to use such outdated technologies could render communications between DTC and some of its participants vulnerable to cyber risks.[11] Additionally, participants' use of outdated technology delays DTC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between DTC and a number of its participants.[12] Finally, DTC states that it currently expends additional resources, both in personnel and equipment, to maintain outdated communications channels.[13]

To mitigate the foregoing security concerns and resource inefficiencies, DTC proposes to require its participants to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that DTC would identify and publish via Important Notice on its website from time to time.[14] DTC would base these requirements on standards set forth by widely accepted organizations such as the National Institute of Standards and Technology (''NIST'') and the internet Engineer Task Force (''IETF'').[15]

To implement the proposed changes, DTC would revise its Rules to require participants to maintain or upgrade their network technology, communications technology, or protocols on the systems that connect to DTC, to the version DTC requires, within the time period DTC requires.[16] Consistent with the guidance from NIST and other standards organizations, DTC would require the use of TLS 1.2, Secure FTP (''SFTP''), and other modern technology and communication standards and protocols, by its participants for communication with DTC.[17] DTC would publish such requirements via Important Notice on its website.[18] DTC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject participants to a disciplinary sanctions.[19]

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act[20] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. After careful consideration, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and the rules and regulations applicable to DTC. In particular, the Commission finds that the Proposed Rule Change is consistent with Sections 17A(b)(3)(F)[21] and (b)(3)(G)[22] of the Act and Rules 17Ad–22(e)(17)[23] and (e)(21)[24] thereunder.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to, among other things, promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[25]

As described above, DTC proposes to require its participants to upgrade and maintain network technology, and communication technology and protocol standards, that meet the standards identified by DTC and published via

[4] DTC's Rules are *available at https://dtcc.com/~/media/Files/Downloads/legal/rules/dtc_rules.pdf.*

[5] *See* Financial Stability Oversight Counsel 2012 Annual Report, Appendix A (''FSOC 2012 Report''), *available at http://www.treasury.gov/initiatives/fsoc/Documents/2012-20Annual-20Report.pdf.*

[6] 12 U.S.C. 5465(e)(1). *See* FSOC 2012 Report, *supra* note 5.

[7] *See* FSOC 2012 Report, Appendix A, *supra* note 5.

[8] Notice of Filing, *supra* note 3, at 32482.

[9] *Id.*

[10] *Id.*

[11] *Id.*

[12] *Id.*

[13] *Id.*

[14] *Id.,* at 32482–83.

[15] *Id.*. NIST is part of the U.S. Department of Commerce. The IETF is an open standards organization that develops and promotes voluntary internet standards, in particular, the technical standards that comprise the internet protocol suite (TCP/IP). For example, NIST Special Publication 800–52 revision 2, specifies servers that support government-only applications shall be configured to use Transport Layer Security (''TLS'') 1.2 and should be configured to use TLS 1.3 as well. *See https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-52r2.pdf.* (TLS, the successor of the now-deprecated Secure Sockets Layer (''SSL''), is a cryptographic protocol designed to provide communications security over a computer network.) These servers should not be configured to use TLS 1.1 and shall not use TLS 1.0, SSL 3.0, or SSL 2.0. Additionally, the IETF formally deprecated TLS versions 1.0 and 1.1 in March of 2021, stating that ''[t]hese versions lack support for current and recommended cryptographic algorithms and mechanisms, and various government and industry profiles of applications using TLS now mandate avoiding these old TLS versions. . . . Removing support for older versions from implementations reduces the attack surface, reduces opportunity for misconfiguration, and streamlines library and product maintenance.'' *See https://datatracker.ietf.org/doc/rfc8996/.* DTC would also require participants to discontinue using File Transfer Protocol (''FTP''), which DTC believes to be an insecure protocol because it transfers user authentication data (username and password) and file data as plain-text (not encrypted) over the network. Notice of Filing, *supra* note 3, at 32482–83.

[16] Notice of Filing, *supra* note 3, at 32483.

[17] *Id.,* at 32482–83.

[18] *Id.*

[19] Notice of Filing, *supra* note 3, at 32483.

[20] 15 U.S.C. 78s(b)(2)(C).

[21] 15 U.S.C. 78q–1(b)(3)(F).

[22] 15 U.S.C. 78q–1(b)(3)(G).

[23] 17 CFR 240.17Ad–22(e)(17)(i) and (ii).

[24] 17 CFR 240.17Ad–22(e)(21)(iv).

[25] 15 U.S.C. 78q–1(b)(3)(F).

Important Notice to DTC's website from time to time. DTC would use standards set forth by widely accepted organizations such as NIST and the IETF as the requirements. The proposed requirements would enable DTC to avoid communicating with its participants using outdated technologies that present security vulnerabilities to DTC. Specifically, as an initial matter, the proposed requirements would enable DTC to discontinue using communication technologies such as TLS 1.0, TLS 1.1, SSL 2.0, SSL 3.0, and FTP, which have been deemed not secure by organizations such as NIST and/or the IETF. Removing support for such outdated technologies would reduce DTC's potential exposure to cyberattacks and other cyber vulnerabilities.

If not adequately addressed, the risk of cyberattacks and other cyber vulnerabilities could affect DTC's network and, in turn, DTC's ability to clear and settle securities transactions, or to safeguard the securities and funds which are in DTC's custody or control, or for which it is responsible. DTC designed the proposed requirements for participants to upgrade their communications technology to address those risks, as described above. Accordingly, the Commission finds the proposed technology requirements on DTC's participants would promote the prompt and accurate clearance and settlement of securities transactions and assure the safeguarding of securities and funds which are in the custody or control of DTC or for which it is responsible, consistent with the requirements of Section 17A(b)(3)(F) of the Act.[26]

B. Consistency With Section 17A(b)(3)(G) of the Act

Section 17A(b)(3)(G) of the Act requires the rules of a clearing agency to provide that its participants shall be appropriately disciplined for violation of any provision of the rules of the clearing agency by fine or other fitting sanction.[27] As noted above, DTC proposes to require its participants to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that DTC would identify and publish via Important Notice on its website. The proposed requirements would enable DTC to avoid communicating with its participants using outdated technologies that present security vulnerabilities to DTC. If not adequately addressed, such vulnerabilities could affect DTC's network and its ability to operate. DTC also proposes to amend its Rules to provide that failure to perform a necessary technology upgrade within the required timeframe would subject participants to disciplinary sanctions. Because the proposed disciplinary sanctions should incentivize DTC's participants to upgrade and maintain secure communications technology, thereby reducing DTC's operational risks, the Commission finds the proposed rule change is consistent with the requirements of Section 17A(b)(3)(G) of the Act.[28]

C. Consistency With Rule 17Ad–22(e)(17) Under the Act

Rule 17Ad–22(e)(17)(i) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by identifying the plausible sources of operational risk, both internal and external, and mitigating their impact through the use of appropriate systems, policies, procedures, and controls.[29] DTC's operational risks include cyber risks to its electronic systems.

As described above, DTC and its participants connect electronically to communicate with one another. However, DTC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that participants may use to connect to or communicate with DTC. As a result, DTC maintains some outdated communication technologies in order to support participants that continue to use such older technologies. Continuing to use such outdated technologies could render communications between DTC and some of its participants vulnerable to cyber risks.

To mitigate the foregoing cyber risks, DTC proposes to require its participants to upgrade and maintain network technology, and communication technology and protocol standards that meet the standards identified by DTC from time to time. The proposed technology requirements should reduce DTC's cyber risk by requiring participants to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF, thereby decreasing the operational risks presented to DTC. Because the proposed technology requirements would help DTC mitigate plausible sources of external operational risk, the Commission finds the proposed changes are consistent with the requirements of Rule 17Ad–22(e)(17)(i) under the Act.[30]

Rule 17Ad–22(e)(17)(ii) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to manage the covered clearing agency's operational risks by ensuring, in part, that systems have a high degree of security, resiliency, and operational reliability.[31] As noted above, DTC's operational risks include cyber risks.

As described above, DTC's Rules currently do not require any level or version for network technology, such as a web browser or other technology, or any level or version of communications technology or protocols, such as email encryption, secure messaging, or file transfers, that participants may use to connect to or communicate with DTC. DTC designed the proposed technology requirements to reduce cyber risks by requiring its participants to upgrade and maintain communications technology based on standards set forth by widely accepted organizations such as NIST and the IETF. Requiring DTC's participants to use only secure communications technology would reduce DTC's cyber risks and thereby strengthen the security, resiliency, and operational reliability of DTC's network and other systems. Because the proposed technology requirements would enhance DTC's ability to ensure that its systems have a high degree of security, resiliency, and operational reliability, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(17)(ii) under the Act.[32]

D. Consistency With Rule 17Ad–22(e)(21) Under the Act

Rule 17Ad–22(e)(21)(iv) under the Act requires that each covered clearing agency establish, implement, maintain

[26] *Id.*

[27] 15 U.S.C. 78q–1(b)(3)(G).

[28] *Id.* Additionally, by including the monetary fine provision in its Rules, DTC would enable its participants to better identify and evaluate the material costs they might incur by participating in DTC, consistent with Rule 17Ad–22(e)(23)(ii). under the Act, which requires a covered clearing agency to establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in the covered clearing agency. *See* 17 CFR 240.17Ad–22(e)(23)(ii).

[29] 17 CFR 240.17Ad–22(e)(17)(i).

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e)(17)(ii).

[32] *Id.*

and enforce written policies and procedures reasonably designed to have the covered clearing agency's management regularly review the efficiency and effectiveness of its use of technology and communication procedures.[33]

As mentioned above, DTC maintains multiple network and communication methods to interact with its participants, including certain outdated communication technologies necessary to support participants that continue to use such older technologies. DTC believes that continuing to use such outdated technologies could render communications between DTC and some of its participants vulnerable to cyber risks. Additionally, participants' use of outdated technology delays DTC's implementation of its own internal system upgrades, which by doing so, risks losing connectivity between DTC and a number of its participants. Finally, DTC states that it currently expends unnecessary resources to maintain outdated communications channels. In other words, DTC has subjected its network communication methods to review for efficiency and effectiveness. As a result, to enhance the efficiency and effectiveness of its technology and communication procedures, DTC proposes to require its participants to upgrade and maintain network technology, communication technology, and protocol standards, in accordance with applicable technology standards that DTC would identify and publish via Important Notice on its website. Because the Proposed Rule Change is an outgrowth of DTC's review of the efficiency and effectiveness of its technology and communication procedures, the Commission finds the Proposed Rule Change is consistent with the requirements of Rule 17Ad–22(e)(21)(iv) under the Act.[34]

IV. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[35] and the rules and regulations promulgated thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[36] that Proposed Rule Change SR–DTC–2022–004, be, and hereby is, *approved*.[37]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15003 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

[33] 17 CFR 240.17Ad–22(e)(21)(iv).

[34] *Id.*

[35] 15 U.S.C. 78q–1.

[36] 15 U.S.C. 78s(b)(2).

[37] In approving the Proposed Rule Change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Securities Exchange Act of 1934: Release No. 34–95235/July 8, 2022]

In the Matter of the: Order Granting Temporary Conditional Exemptive Relief Pursuant to Section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 608(e) of Regulation NMS Under the Exchange Act, Relating to Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail; In the Matter of the: Order Granting Temporary Conditional Exemptive Relief Pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS Under the Exchange Act, From Section 8.1.1 and Section 8.1.2 of Appendix D of the National Market System Plan Governing the Consolidated Audit Trail; Order Denying Stay

On December 16, 2020, the Commission issued two orders pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS under the Exchange Act: (1) an Order Granting Temporary Conditional Exemptive Relief Pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS Under the Exchange Act Relating to Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail, Release No. 34–90688 (Dec. 16, 2020) (the ''First Order''); and (2) an Order Granting Temporary Conditional Exemptive Relief Pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS Under the Exchange Act From Section 8.1.1 and Section 8.1.2 of Appendix D of the National Market System Plan Governing the Consolidated Audit Trail, Release No. 34–90689 (Dec. 16, 2020) (the ''Second Order'') (together, the ''prior Orders''). On February 14, 2021, Petitioner Consolidated Audit Trail, LLC (''Petitioner'' or ''CAT LLC''), on behalf of itself and a majority of the Participants in the National Market System Plan Governing the Consolidated Audit Trail (''CAT NMS Plan'' or ''Plan'') (together, ''Petitioners'')[1] filed with the Commission the pending motions for partial stays of the prior Orders. That same day, Petitioners[2] filed petitions in the U.S. Court of Appeals for the District of Columbia Circuit seeking review of the Orders. *See* Case Nos. 21–1065, 21–1066. Petitioners sought a partial stay of the prior Orders until the Commission ''had an opportunity to consider all the Participants' arguments and supporting evidence'' and ''reevaluate whether the Order[s] [are] appropriate in light of that information,'' or, in the alternative, pending resolution of the petitions for judicial review. Since that time, the Participants and Commission staff have been engaged in ongoing discussions with the goal of resolving or narrowing their differences with respect to the issues raised in the Participants' stay motions. On January 12, 2022, the Participants requested that the Commission supplement the record to include certain additional materials prepared in connection with those discussions.[3]

On July 8, 2022, after careful review of the arguments and evidence proffered by the Participants, the Commission issued an Order Granting Temporary Conditional Exemptive Relief, Pursuant to Section 36 of the Exchange Act and Rule 608(e) of Regulation NMS under the Exchange Act, from Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail (the ''Third Order''), which supersedes the prior Orders. The Third Order clarifies certain aspects of the prior Orders and modifies

[1] The Participants joining the motion include BOX Exchange LLC; Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe C2 Exchange, Inc. and Cboe Exchange, Inc.; Investors Exchange LLC; MEMX LLC; Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC; NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC; and New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc. Participants FINRA and Long-Term Stock Exchange, Inc. did not approve the stay motions.

[2] The following Participants joined in the stay motions but did not approve the filing of a petition for judicial review: Investors Exchange LLC, MEMX LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, and MIAX PEARL, LLC. Participants FINRA and Long-Term Stock Exchange, Inc. did not approve the stay motions or the filing of a petition for judicial review.

[3] *See* Letter from K. King, Counsel for Consolidated Audit Trail, LLC, Covington & Burling LLP, to Vanessa Countryman, Secretary, Commission (January 12, 2022).

other aspects of the prior Orders in light of subsequent developments and/or additional information provided by the Participants. It also gives the Participants until July 31, 2024 to either come into compliance with the relevant provisions of the CAT NMS Plan or to develop alternative solutions that achieve the regulatory goals of Rule 613 and the CAT NMS Plan in a more cost-effective manner. Because the terms of the Third Order now govern, the terms of the prior Orders are no longer in force, and the pending motions are moot.[4]

Accordingly, it is *ordered* that the motions for a stay of the prior Orders be denied as moot.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14983 Filed 7–13–22; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95231; File No. SR–DTC–2022–008]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of Immediate Effectiveness of a Proposed Rule Change To Amend the DTC Distributions Guide To Enhance the Tax Event Announcements Feature of the Distributions Service and Make Related Clarifying Changes

July 8, 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 June 30, 2022, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency. DTC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(4) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would amend the Procedures[5] set forth in the Distributions Guide to accommodate Participants' tax reporting and withholding obligations, by setting forth a proposed enhancement to DTC's Procedure for the Tax Events Announcements feature (''Tax Event Announcements'') of DTC's Distributions Service,[6] as described below.[7]

Announcements

The Distributions Service includes the announcement, collection, allocation and reporting by DTC, on behalf of its Participants, of dividend, interest and principal payments for Eligible Securities held by Participants at DTC (''Announcements''). This centralized processing provides efficiency for Participants for their receipt of (i) payment information and (ii) payments on distributions covered by Announcements (''Distribution Event'')[8] from multiple issuers and agents.

DTC also provides a Participant holding a Security in its DTC account with Tax Events Announcements for distributions subject to Sections 305(c) and 871(m) of the Internal Revenue Code (''Code'').[9] The proposed rule change would enhance Tax Event Announcements by adding a new type of Tax Event to be referred to as a ''1042–S Classification,'' as more fully described below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend the Procedures[10] set forth in the Distributions Guide to accommodate Participants' tax reporting and withholding obligations, by setting forth a proposed enhancement to DTC's Procedure for the Tax Events Announcements feature (''Tax Event Announcements'') of DTC's Distributions Service,[11] as described below.

(a) Announcements

The Distributions Service includes the announcement, collection, allocation and reporting by DTC, on behalf of its Participants, of dividend, interest and principal payments for Eligible Securities held by Participants at DTC (''Announcements''). This centralized processing provides efficiency for Participants for their receipt of (i) payment information and (ii) payments on distributions covered by Announcements (''Distribution

[4] On February 14, 2021, the Participants also filed a motion for a protective order shielding from public disclosure certain documents submitted in connection with their stay motions as well as portions of the motions that refer to those documents, pursuant to SEC Rule of Practice 322. Finding that the harm resulting from disclosure of that material would outweigh the benefits of disclosure, we grant the motion for a protective order.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(4).

[5] Pursuant to the DTC Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, infra note 7. DTC's Procedures are filed with the Commission. They are binding on DTC and each Participant in the same manner that they are bound by the DTC Rules. *See* Rule 27, infra note 7.

[6] Tax Event Announcements provides Participants with information-only announcements regarding taxable events that may give rise to information and/or withholding obligations which occur even in the absence of an actual distribution of dividend and interest payments (''Tax Events''). *See* Distributions Guide, infra note 7, at 14.

[7] Each capitalized term not otherwise defined herein has its respective meaning as set forth in the Rules, By-Laws and Organization Certificate of The Depository Trust Company (''DTC Rules''), *available at http://www.dtcc.com/legal/rules-and-procedures.aspx,* and the DTC Corporate Actions Distributions Service Guide (''Distributions Guide''), *available at https://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Service-Guide-Distributions.pdf.*

[8] Distribution Events covered by Announcements include cash dividends, interest, principal, capital gains, sale of rights on American depositary receipts, return of capital, dividend with option, stock splits, stock dividends, automatic dividend reinvestments, spinoffs, rights distributions, pay in kind, and liquidation. *See* Distributions Guide, *supra* note 7, at 12.

[9] *See* Distributions Guide, *supra* note 7, at 14–15. *See also* Securities Exchange Act Release No. 81871 (October 13, 2017), 82 FR 48734 (October 19, 2017) (SR–DTC–2017–018) and Securities Exchange Act Release No. 87729 (December 12, 2019), 84 FR 69424 (December 18, 2019) (SR–DTC–2019–011).

[10] Pursuant to the DTC Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of DTC adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, *supra* note 7. DTC's Procedures are filed with the Commission. They are binding on DTC and each Participant in the same manner that they are bound by the DTC Rules. *See* Rule 27, *supra* note 7.

[11] Tax Event Announcements provides Participants with information-only announcements regarding taxable events that may give rise to information and/or withholding obligations which occur even in the absence of an actual distribution of dividend and interest payments (''Tax Events''). *See* Distributions Guide, *supra* note 7, at 14.

Event'') [12] from multiple issuers and agents.

DTC also provides a Participant holding a Security in its DTC account with Tax Events Announcements for distributions subject to Sections 305(c) and 871(m) of the Internal Revenue Code (''Code'').[13] The proposed rule change would enhance Tax Event Announcements by adding a new type of Tax Event to be referred to as a ''1042–S Classification,'' as more fully described below.

Proposed New Type of Tax Event Announcement for 1042–S Classifications

Pursuant to Rule 1.1446–4(b)(4) under the Code [14], issuers of publicly traded partnerships [15] that are Eligible Securities,[16] starting with distributions on or after January 1, 2023, will be required to provide DTC's nominee, Cede & Co., as registered holder of the Security,[17] with ''qualified notices'' that classify a distribution into multiple components for tax withholding and Internal Revenue Service Form 1042–S [18] reporting purposes. For example, on a $1.00 distribution, the qualified notice may state that $0.60 is considered dividend income and $0.40 is income effectively connected with the conduct of a trade or business in the United States. DTC would forward to Participants such qualified notices that it receives from issuers, as discussed below.

Meanwhile, other issuers may not be required to provide DTC with classification information for Form 1042–S reporting purposes. For example, a regulated investment company may classify a portion of a distribution as representing interest-related dividends or as a short-term capital gain dividend but would not be required to provide a ''qualified notice'' to DTC pursuant to Rule 1.1446–4(b)(4).[19] This classification information would not be reported to DTC on a ''qualified notice'' and currently could not be made available to Participants through the facilities of DTC. Rather, to obtain the information needed to fulfill any tax reporting obligations a Participant or its customer may have with regard to such classifications, DTC understands that Participants and their customers obtain the necessary information from the respective issuers' websites or from 3rd party vendors. Based on discussions with issuers and Participants, DTC understands that having to obtain this information on an individual CUSIP-by-CUSIP basis from issuers' websites or getting this information after the distribution from a vendor, may create inefficiencies for Participants and their customers that would be mitigated if such information were made available in a more centralized format.

To facilitate the distribution of this classification information in a centralized format to Participants holding such Securities at DTC, DTC proposes to create a new Tax Event ''Sub Event Type'' (*i.e.,* the ''1042–S Classification'') with the various tax components that make up a distribution, as more fully described below. Subject to requirements described below, DTC would (i) receive 1042–S Classification information that issuers voluntarily provide to DTC for this purpose and (ii) distribute the information to Participants that hold the applicable securities. Information that issuers are required to provide to DTC pursuant to Rule 1.1446–4(b)(4) would also be included in the 1042–S Classification Sub Event Type.

Proposed Rule Change

Pursuant to the proposed rule change, the Distributions Guide would be revised to reflect the addition of ''1042–S Classifications'' as a ''Sub Event Type'' under the Tax Event Announcement feature. The new 1042–S Classification would include a template to facilitate an issuer's transmission of the distribution information that the issuer wishes be made available to Participants through the facilities of DTC, broken down by applicable classifications corresponding to the applicable income codes for a Distribution Event.

The Distributions Guide would provide that an issuer that wishes to have such 1042–S Classifications made available to Participants through the facilities of DTC, would be required to utilize this template. However, issuers making payments subject to Rule 1.1446–4(b)(4) under the Internal Revenue Code may provide a ''qualified notice'' in lieu of the template. In addition, to promote timeliness and accuracy of issuer information, the Distributions Guide would provide that the breakdown of the classifications must be provided to DTC prior to the record date (''Record Date'') [20] and should not be subject to change. The Distributions Guide would also provide that by providing DTC with this template, the issuer certifies that the information provided in the template is not subject to change. However, the text would provide that DTC will accept and distribute updated information to Participants to the extent an issuer notifies DTC that the issuer entered an error in the applicable template or qualified notice provided by it to DTC and the issuer provides DTC with a corrected template or qualified notice, as applicable. In addition, the text would provide that DTC reserves the right not to accept classification information from issuers that do not abide by the requirements included in the Distributions Guide.

The proposed text would also state that each issuer and its affiliates, in the aggregate, may provide templates for up to, but no more than, 12 CUSIP numbers

[12] Distribution Events covered by Announcements include cash dividends, interest, principal, capital gains, sale of rights on American depositary receipts, return of capital, dividend with option, stock splits, stock dividends, automatic dividend reinvestments, spinoffs, rights distributions, pay in kind, and liquidation. *See* Distributions Guide, *supra* note 7, at 12.

[13] *See* Distributions Guide, *supra* note 7, at 14–15. *See also* Securities Exchange Act Release No. 81871 (October 13, 2017), 82 FR 48734 (October 19, 2017) (SR–DTC–2017–018) and Securities Exchange Act Release No. 87729 (December 12, 2019), 84 FR 69424 (December 18, 2019) (SR–DTC–2019–011)

[14] 26 CFR 1.1446–4(b)(4).

[15] 26 CFR 1.1446–4(b)(1) (providing definition of publicly traded partnership).

[16] Pursuant to Rule 5, Section 1 of the DTC Rules, an Eligible Security shall only be a Security accepted by DTC, in its sole discretion, as an Eligible Security. DTC shall accept a Security as an Eligible Security only (a) upon a determination by DTC that it has the operational capability and can obtain information regarding the Security necessary to permit it to provide its services to Participants and Pledgees when such Security is Deposited and (b) upon such inquiry, or based upon such criteria, as DTC may, in its sole discretion, determine from time to time. DTC Rules, Rule 5, *supra* note 7. *See also* DTC Operational Arrangements Necessary for Securities to Become and Remain Eligible for DTC Services (''OA''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/issue-eligibility/eligibility/operational-arrangements.pdf,* at 6–9 (setting forth DTC eligibility requirements).

[17] DTC holds eligible securities on behalf of Participants and reflects the transfer of interests in those securities among Participants by computerized book-entry. Eligible securities deposited with DTC for book-entry transfer services are registered in the name of its nominee, Cede & Co. (''Cede''), a New York partnership. When the certificates are registered in the name of Cede, DTC acquires legal title to the securities and, when DTC credits interests in these securities to the securities accounts of Participants, those Participants acquire a beneficial interest in the securities. A Participant does not have a right to any particular security; each Participant has a proportionate interest in the fungible total inventory of the issue held by DTC. *See* DTC Disclosure Framework for Covered Clearing Agencies and Financial Market Infrastructures (December 2021), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/policy-and-compliance/DTC_Disclosure_Framework.pdf,* at 9.

[18] *See* Form 1042–S, *available at https://www.irs.gov/pub/irs-pdf/f1042s.pdf.*

[19] *See supra* note 14.

[20] The Record Date is the date set by an issuer of a security by which an investor must own the security in order to be eligible to receive an upcoming distribution. *See* OA, *supra* note 16, at 26.

per month (''CUSIP Limit'').[21] The number of qualified notices provided by an issuer would not be included in the determination of the CUSIP Limit for that issuer or its affiliates, because it is mandatory under Rule 1.1446–4(b)(4)[22] for issuers to deliver such notices to DTC, as described above.

The text of the Distributions Guide also would be updated to clarify that ''305(c) Deemed Dividends'' and ''871(m) Dividend Equivalent Amounts'' are Sub Event Types.

In addition, text in the Distributions Guide that describes a ''Cash Rate'' field[23] that is included in a Tax Event Announcement would be expanded and clarified to describe the field's contents for each Sub Event Type. In this regard, three items would be added below the description of Cash Rate as follows:

- field used for the amount of the deemed distribution for sub event type of 305(c) Deemed Dividends
- field used to provide the dividend equivalent amount for sub event type of 871(m) Dividend Equivalent Amount
- Events with 1042–S Classifications will include multiple cash rates with each cash rate having a corresponding income code per the instructions for Form 1042–S, as applicable.''

Finally, DTC would add text to the Distributions Guide as it relates to Tax Event Announcements to clarify that DTC does not independently verify the accuracy and/or completeness of Tax Event Announcement information it receives from issuers and agents, and that it is the sole responsibility of each Participant to ensure the accuracy and completeness of Tax Event Announcement information that it uses for any purpose, including but not limited to tax withholding and reporting.

Applicability of Tax Event Fee

As with DTC's distribution of other Tax Event information to Participants, the distribution of 1042–S Classification information would be subject to the ''Tax Event Announcement Fee'' of $12 per Announcement, as set forth in the Fee Guide.[24]

2. Statutory Basis

DTC believes that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to DTC, in particular Section 17A(b)(3)(F)[25] of the Act.

Section 17A(b)(3)(F) of the Act requires, *inter alia,* that the rules of the clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions.[26] As described above, the proposed rule change would update the Distributions Guide to enhance the Distributions Service by including the distribution of Announcements for Tax Events for Securities subject to ''1042–S Classification'' requirements to Participants and make certain related clarifying changes described above. By providing for the distribution of such information, the proposed rule change would help facilitate Participants' compliance with federal tax withholding obligations for Eligible Securities subject to Tax Events that are on Deposit at DTC and making use of DTC's book-entry transfer and settlement services. This would further facilitate Participants' ability to continue to maintain Eligible Securities subject to 1042–S Classifications on Deposit at DTC and make use of DTC's book-entry transfer and settlement services with respect to those Securities, in accordance with DTC Rules requirements relating to the use of DTC services by Participants.[27] Therefore, by facilitating Participant's ability to continue to use DTC's book-entry transfer and settlement services at DTC with respect to Eligible Securities that are subject to 1042–S Classifications, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions, consistent with the requirements of the Act, in particular Section 17A(b)(3)(F) of the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

DTC believes that the proposed rule change to amend the Distributions Guide to update fields used by DTC to report Tax Events, as described above, could impose a burden on competition by subjecting Participants that hold Eligible Securities that may be subject to 1042–S Classifications to additional fees which may negatively affect such Participant's operating costs.

DTC believes any burden on competition imposed by the proposed rule changes would not be significant, and to the extent the proposed rule change may impose a burden on competition, DTC believes it would be necessary and appropriate in furtherance of the purposes of the Act.[28]

DTC has discussed the proposal with Participants that hold Eligible Securities that may be subject to 1042–S Classifications, and issuers of those Securities, and DTC understands that Participants and their customers obtain the necessary information from the respective issuers' websites or from 3rd party vendors. DTC understands that having to obtain this information on an individual CUSIP-by-CUSIP basis from issuers' websites or getting this information after the distribution from a vendor, creates inefficiencies and timing issues for Participants and their customers relating to the piecemeal nature of the retrieval of such information, that would be mitigated if such information were made available in a more centralized format through DTC.

DTC believes that any burden on competition imposed by the proposal would be necessary because the proposed rule change would provide Participants with a centralized means to timely (in relation to Record Date) receive 1042–S Classification announcement information needed to facilitate their compliance with tax withholding and reporting obligations relating to payments on Eligible Securities for which issuers provide 1042–S Classification information to DTC, as described above.

DTC believes that any burden on competition imposed by the proposal would be appropriate because the fees are intended to provide revenue that is close to the costs to DTC of building and providing the services described above. DTC believes the Tax Event Announcements feature has a positive effect on competition among Participants because the service allows Participants to receive applicable tax information in a more efficient manner, thereby reducing the resources they would need to allocate to obtain the applicable tax-related information on a CUSIP-by-CUSIP basis through issuers

[21] Depending on demand for the transmittal of 1042–S Classifications through the facilities of DTC, and general availability of processing resources at DTC, DTC may submit a future proposed rule change to amend the Distributions Guide to increase the CUSIP Limit. Given this limitation, the text would note that to the extent 1042–S Classification information applicable to a Participant's holdings is not made available through Tax Events Announcements, the Participant should obtain such information from the issuer outside of DTC.

[22] *See supra* note 14.

[23] The Cash Rate field is used to display the amount of a deemed distribution or dividend equivalent payment. *See* Distributions Guide, *supra* note 7, at 15.

[24] *See* DTC Fee Guide, *available at https://www.dtcc.com/~/media/Files/Downloads/legal/fee-guides/2022-DTC-Fee-Schedule-FINAL,* at 15.

[25] 15 U.S.C. 78q–1(b)(3)(F).

[26] *Id.*

[27] In connection with their use of DTC's services, Participants must comply with all applicable laws, including, but not limited to, all applicable laws relating to taxation. *See* DTC Rule 2, Section 8, *supra* note 7.

[28] 15 U.S.C. 78q–1(b)(3)(I).

and 3rd party vendors. The service also provides issuers with a more efficient method of providing Tax Event information to parties that need to see such information in order to facilitate timely tax withholding and reporting. DTC believes this enhances competition among Participants by allowing parties to receive such information more quickly and in a more streamlined manner. Based on experiences with existing services provided through the Tax Event Announcements feature and discussions with Participants, DTC believes that despite the Tax Event Fee that would be charged to Participants holding affected securities for the distribution of 1042–S Classification information, the distribution of such information through the facilities of DTC would provide benefits to Participants in terms of processing and timing efficiencies that should mitigate the impact of any such fees charged. As such, DTC believes these proposed rule changes would be appropriate in furtherance of the purposes of the Act, as permitted by Section 17A(b)(3)(I) of the Act.

DTC does not believe that the aspect of the proposed rule change to make certain clarifying changes to the Distributions Guide, as described above, would have an impact on competition.[29] Having a clear and accurate Distributions Guide would facilitate Participants' understanding of the Distributions Guide and provide Participants with increased predictability and certainty regarding their obligations regarding DTC Tax Event Announcement feature. Therefore, DTC believes that the proposed rule change to make clarifying changes to the Rules and the Settlement Guide would not have an impact on competition.[30]

DTC does not believe that the aspect of the proposed rule change to establish the CUSIP Limit for an issuer and its affiliates to be able to submit up to 12 templates per month, as described above, would have any impact, or impose any burden on competition, because issuers and their affiliates would be subject to the same CUSIP Limit for submission of templates per month, and all Participants holding the applicable issues would be able to receive the same aggregate amount of notices for any issuer and its affiliates as all other Participants holding the same issues. However, to the extent the proposed rule change could cause a burden because certain issuers may reach the CUSIP Limit, DTC does not believe the burden would have a significant impact on competition because issuers that reach the CUSIP Limit in a given month would be able to continue to make 1042–S Classification information available outside DTC, and Participants would be able to retrieve the information, as they do today. To the extent the proposed rule change could cause a burden because certain issuers may have issuances that are not subject to the CUSIP Limit because distributions for those issues are subject to the requirements of Rule 1.1446–4(b)(4),[31] and therefore may be able to submit qualified notices for more than 12 CUSIPS per month, as described above, DTC does not believe burden would have a significant impact on competition because DTC understands from conversations with issuers, and its own observations of activity of issuers that may be subject to Rule 1.1446–4(b)(4),[32] that such issuers and their affiliates would likely supply an amount of qualified notices, if any, that is well below the amount of the CUSIP Limit that would be established for issuers that would otherwise submit templates that are subject to the CUSIP Limit. Also, due to their status as publicly traded partnerships that are subject to Rule 1.1446–4(b)(4),[33] DTC understands that such issuers and their affiliates would not have a need to submit templates that could cause them in the aggregate to issue notices for 1042-Classification information that would exceed 12 CUSIPS per month. DTC also believes any burden on competition imposed by this exception of the CUSIP Limit would be necessary and appropriate in furtherance of the purposes of the Act because, as indicated above, such issuers are under a regulatory obligation to provide qualified notices to DTC regardless of the amount of issuances they may have that are subject to such requirements.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

DTC has not received or solicited any written comments relating to this proposal. If any written comments are received, they would be publicly filed as an Exhibit 2 to this filing, as required by Form 19b–4 and the General Instructions thereto.

Persons submitting comments are cautioned that, according to Section IV (Solicitation of Comments) of the Exhibit 1A in the General Instructions to Form 19b–4, the Commission does not edit personal identifying information from comment submissions. Commenters should submit only information that they wish to make available publicly, including their name, email address, and any other identifying information.

All prospective commenters should follow the Commission's instructions on how to submit comments, *available at https://www.sec.gov/regulatory-actions/how-to-submit-comments*. General questions regarding the rule filing process or logistical questions regarding this filing should be directed to the Main Office of the Commission's Division of Trading and Markets at *tradingandmarkets@sec.gov* or 202–551–5777.

DTC reserves the right to not respond to any comments 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) [34] of the Act and paragraph (f) [35] of Rule 19b–4 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–DTC–2022–008 on the subject line.

Paper Comments

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

All submissions should refer to File Number SR–DTC–2022–008. This file number should be included on the

[29] *Id.*

[30] *Id.*

[31] *See supra* note 14.

[32] *See supra* note 14.

[33] *See supra* note 14.

[34] 15 U.S.C. 78s(b)(3)(A).

[35] 17 CFR 240.19b–4(f).

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2022–008 and should be submitted on or before August 4, 2022.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–15002 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

[36] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–95234]

Order Granting Temporary Conditional Exemptive Relief, Pursuant to Section 36 of the Securities Exchange Act of 1934 (''Exchange Act'') and Rule 608(e) of Regulation NMS Under the Exchange Act, From Certain Requirements of the National Market System Plan Governing the Consolidated Audit Trail

July 8, 2022.

I. Introduction

In July 2012, the Securities and Exchange Commission (the ''Commission'' or the ''SEC'') adopted Rule 613 of Regulation NMS, which required national securities exchanges and national securities associations (the ''Participants'') [1] to jointly develop and submit to the Commission a national market system plan to create, implement, and maintain a consolidated audit trail (the ''CAT'').[2] The goal of Rule 613 was to create a modernized audit trail system that would provide regulators with timely access to a comprehensive set of trading data, thus enabling regulators to more efficiently and effectively analyze and reconstruct market events, monitor market behavior, conduct market analysis to support regulatory decisions, and perform surveillance, investigation, and enforcement activities. On November 15, 2016, the Commission approved the national market system plan required by Rule 613 (the ''CAT NMS Plan'').[3]

The Commission recognizes that the Participants have expended, and continue to expend, substantial resources and effort towards the development and implementation of the CAT. To provide the Participants with more time to meet certain requirements of the CAT NMS Plan and thereby allow the Participants to prioritize and focus resources on meeting other implementation goals, the Commission issued two exemptive orders on December 16, 2020 (collectively, the ''prior Orders''). In the first order, in response to a request from the Participants, the Commission granted temporary conditional relief from certain performance requirements related to the online targeted query tool (''OTQT'').[4] The second order granted temporary conditional relief from the following requirements: (1) requirements for lifecycle linkages timeframes; (2) requirements for re-processing of corrected data received after T+5; (3) linkage requirements for Securities Information Processor data (''SIP Data''); (4) reporting requirements for port-level settings; (5) requirements for lifecycle linkages between customer orders and ''representative'' orders; and (6) requirements for Participant reporting of rejected orders.[5] Although the Participants did not request the relief granted in the Second Order, the Commission believed that granting such relief was necessary in order to ''provide Participants the time to develop the necessary technological, system or procedural changes to meet the CAT NMS Plan requirements'' at stake.[6]

On February 14, 2021, a subset of the Participants filed motions requesting that the Commission stay the December 2020 orders, based on their concern that portions of the orders ''interpret and apply the Plan in ways that will produce unintended adverse consequences, present implementation challenges, or both.'' [7] Corresponding petitions for judicial review were also filed with the D.C. Circuit by a smaller subset of the Participants.[8] In their motions to stay and supporting materials, the Participants urged the Commission to consider their ''arguments and supporting evidence and to reevaluate whether the Order[s] [were] appropriate in light of that

[1] The Participants include BOX Exchange LLC, Cboe BYX Exchange, Inc., Cboe BZX Exchange, Inc., Cboe C2 Exchange, Inc., Cboe EDGA Exchange, Inc., Cboe EDGX Exchange, Inc., Cboe Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, MIAX PEARL, LLC, Nasdaq BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, Nasdaq PHLX LLC, The Nasdaq Stock Market LLC, New York Stock Exchange LLC, NYSE American LLC, NYSE Arca, Inc., NYSE Chicago, Inc., and NYSE National, Inc.

[2] *See* Securities Exchange Act Release No. 67457 (July 18, 2012), 77 FR 45722 (Aug. 1, 2012) (''Rule 613 Adopting Release'').

[3] Securities Exchange Act Release No. 78318 (Nov. 15, 2016), 81 FR 84696, (Nov. 23, 2016) (''CAT NMS Plan Approval Order''). The CAT NMS Plan is Exhibit A to the CAT NMS Plan Approval Order. *See* CAT NMS Plan Approval Order, at 84943–85034. The CAT NMS Plan functions as the limited liability company agreement of the jointly owned limited liability company formed under Delaware state law through which the Participants conduct the activities of the CAT (the ''Company''). Each Participant is a member of the Company and jointly owns the Company on an equal basis. The Participants submitted to the Commission a proposed amendment to the CAT NMS Plan on Aug. 29, 2019, which they designated as effective on filing. Under the amendment, the limited liability company agreement of a new limited liability company named Consolidated Audit Trail, LLC serves as the CAT NMS Plan, replacing in its entirety the CAT NMS Plan. *See* Securities Exchange Act Release No. 87149 (Sept. 27, 2019), 84 FR 52905 (Oct. 3, 2019).

[4] *See* Securities Exchange Act Release No. 90689 (Dec. 16, 2020), 85 FR 83667 (Dec. 22, 2020) (the ''First Order''); *see also* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Vanessa Countryman, Secretary, Commission, dated Dec. 1, 2020, *available at ≤https://catnmsplan.com/sites/default/files/2020-12/12.01.20-CAT-Exemption-Request-OTQT.pdf* (''Participant Letter'').

[5] *See* Securities Exchange Act Release No. 90688 (Dec. 16, 2020), 85 FR 83634 (Dec. 22, 2020) (the ''Second Order'').

[6] *Id.* at 83634.

[7] *See* Motion for Partial Stay of Order 34–90689, at 2 (''First Motion''); Motion for Partial Stay of Order 34–90688, at 2 (''Second Motion''). Financial Industry Regulatory Authority, Inc. and Long-Term Stock Exchange, Inc. did not join these motions.

[8] *See* Petition for Review, USCA Case No. 21–1065; Petition for Review, USCA Case No. 21–1066. Financial Industry Regulatory Authority, Inc., Investors Exchange LLC, Long-Term Stock Exchange, Inc., MEMX LLC, Miami International Securities Exchange LLC, MIAX Emerald, LLC, and MIAX PEARL, LLC did not join these petitions.

information.'' [9] Alternatively, the Participants requested that the Commission stay portions of the prior Orders pending resolution of the petitions for judicial review.[10] Since that time, the Participants and Commission staff have been engaged in ongoing discussions with the goal of resolving or narrowing their differences with respect to the issues raised in the Participants' stay motions. On January 12, 2022, the Participants requested that the Commission supplement the record to include certain additional materials prepared in connection with those discussions.[11] The Commission granted this request.

After careful review of the arguments and evidence proffered by the Participants, the Commission has decided to issue a new order granting temporary exemptive relief that will supersede the prior Orders. This order (the ''Third Order'' or ''Order'') revises the conditions with which the Participants must comply in order to qualify for the exemptive relief provided herein. As of the date that this Order is issued by the Commission, the terms of this Order will govern, and the terms of the First Order and the Second Order will no longer be in force.[12]

[9] First Motion, *supra* note 7, at 2; Second Motion, *supra* note 7, at 2.

[10] First Motion, *supra* note 7, at 2; Second Motion, *supra* note 7, at 2.

[11] *See* Letter from K. King, Counsel for Consolidated Audit Trail, LLC, Covington & Burling LLP, to Vanessa Countryman, Secretary, Commission (Jan. 12, 2022).

[12] In May 2020, the Commission adopted amendments to the CAT NMS Plan that establish four Financial Accountability Milestones and set target deadlines by which these milestones must be achieved. These amendments also reduce the amount of any fees, costs, and expenses that the Participants may recover from Industry Members if the Participants fail to meet the target deadlines. *See* Securities Exchange Act Release No. 88890 (May 15, 2020), 85 FR 31322 (May 22, 2020). The Commission believes it is most appropriate to consider whether the Participants have met the target deadlines established for each Financial Accountability Milestone in connection with proposals related to the imposition of CAT fees on broker-dealers. For that reason, in issuing this Order, the Commission makes no determinations regarding the Participants' compliance or non-compliance with the conditions set forth in the prior Orders or the potential impact of such compliance or non-compliance on the Participants' ability to meet the Financial Accountability Milestones set forth in Section 1.1 of the CAT NMS Plan or the potential application of fee reduction provisions set forth in Section 11.6 of the CAT NMS Plan. Rather, the Commission will consider the Participants' compliance with the CAT NMS Plan requirements, and/or compliance with the conditions set forth in the prior Orders and the Third Order and the impact of that compliance, in the context of such fee proposals. Moreover, the Commission makes no determinations regarding the Participants' compliance or non-compliance with other provisions or requirements of the CAT NMS Plan that are not discussed in the prior Orders or in this Order.

II. Discussion and Exemptive Relief

Section 36 of the Exchange Act grants the Commission the authority to ''conditionally or unconditionally exempt any person, security, or transaction . . . from any provision or provisions of [the Exchange Act] or of any rule or regulation thereunder, to the extent that such exemption is necessary or appropriate in the public interest, and is consistent with the protection of investors.'' [13] Rule 608(e) of Regulation NMS similarly grants the Commission the authority to ''exempt from [Rule 608], either unconditionally or on specified terms and conditions, any self-regulatory organization, member thereof, or specified security, if the Commission determines that such exemption is consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.'' [14]

In each of the areas of CAT operation addressed below, the current functionality of the CAT does not yet comply with CAT NMS Plan requirements. As explained above, the Commission's intention in issuing the prior Orders was to provide the Participants with additional time in which to come into compliance with the CAT NMS Plan, subject to certain conditions generally intended to allow the Commission (and, in some instances, the public) to monitor progress towards that goal. The Participants represent that, in many of these areas, strict compliance with the CAT NMS Plan requirements and/or the conditions set forth in the prior Orders would not be cost-effective; in other areas, the Participants disagree with or seek clarification of the Commission's interpretation of the CAT NMS Plan's requirements. Upon consideration of the Participants' arguments and evidence, the Commission has determined that the revised exemptive relief discussed herein is appropriate in the public interest and consistent with the protection of investors under Section 36 of the Exchange Act, as well as consistent with the public interest, the protection of investors, the maintenance of fair and orderly markets, and the perfection of the mechanisms of a national market system under Rule 608(e).

The Commission approved the CAT NMS Plan to help to protect investors and maintain fair and orderly markets by providing a sophisticated audit trail that improves regulators' ability to investigate potential misconduct, to reconstruct and to analyze market events, and to support regulatory decisions with detailed and accurate data, among other benefits. To realize this full spectrum of regulatory benefits, however, the CAT must be implemented in a manner that achieves the regulatory goals of Rule 613 and the CAT NMS Plan. The Commission believes that providing the Participants with additional time to achieve such implementation will improve the functionality of the CAT for regulators and thus further the public interest, the protection of investors, the maintenance of fair and orderly markets, and the perfection of the mechanisms of a national market system.

In evaluating the Participants' implementation of the provisions of the CAT NMS Plan, the Commission is guided by the desire to realize the full spectrum of the CAT's intended benefits, as encompassed in the terms of the CAT NMS Plan and the CAT NMS Plan Approval Order. To the extent that Participants seek to implement alternative solutions that deviate from the CAT NMS Plan requirements, they must first obtain Commission approval of either an amendment to the CAT NMS Plan or permanent exemptive relief. The Commission is therefore issuing this new Order to clarify certain aspects of the prior Orders, to modify other aspects of the prior Orders in light of subsequent developments and/or additional information provided by the Participants, and to provide the Participants with additional time either to come into compliance with the relevant provisions of the CAT NMS Plan or to develop alternative solutions that achieve the regulatory goals of Rule 613 and the CAT NMS Plan in a more cost-effective manner. In doing so, the Commission emphasizes its willingness to consider such alternative solutions in the form of a proposed CAT NMS Plan amendment or a request for permanent exemptive relief.

A. OTQT Performance Requirements

Section 6.10(c)(i) of the CAT NMS Plan requires the Plan Processor [15] to provide Participants and the Commission with access to CAT Data [16]

[13] 15 U.S.C. 78mm(a)(1).

[14] 17 CFR 242.608(e).

[15] ''Plan Processor'' is a defined term under the CAT NMS Plan and means ''the Initial Plan Processor or any other Person selected by the Operating Committee pursuant to SEC Rule 613 and Sections 4.3(b)(i) and 6.1, and with regard to the Initial Plan Processor, the Selection Plan, to perform the CAT processing functions required by SEC Rule 613 and set forth in this Agreement.'' *See* CAT NMS Plan, *supra* note 3, at Section 1.1.

[16] ''CAT Data'' is a defined term under the CAT NMS Plan and means ''data derived from

stored in the Central Repository [17] through three different methods: (1) the OTQT, (2) user-defined direct queries, and (3) bulk extracts. Section 8.1.2 of Appendix D of the CAT NMS Plan sets forth certain performance requirements for the OTQT, including timeframes in which results must be returned for various types of queries (''Search Return Functionality''). Specifically, the CAT NMS Plan requires the OTQT to return results for searches that include only equities and options trade data within the following timeframes: (1) ''within 1 minute for all trades and related lifecycle events for a specific Customer or CAT Reporter with the ability to filter by security and time range for a specified time window up to and including an entire day''; (2) ''within 30 minutes for all trades and related lifecycle events for a specific Customer or CAT Reporter in a specified date range (maximum 1 month)''; and (3) ''within 6 hours for all trades and related lifecycle events for a specific Customer or CAT Reporter in a specified date range (maximum 12-month duration from the most recent 24 months).'' [18] Section 8.1.2 of Appendix D also requires the OTQT to ''support parallel processing of queries'' and states that the OTQT ''must be able to process up to 300 simultaneous query requests with no performance degradation'' (''Simultaneous Query Functionality'').

The Participants sought relief from these requirements in their December 1, 2020 letter.[19] The Participants explained that the OTQT provided by the Plan Processor is based on a model that responds to user queries by first collecting all relevant data into a ''data mart'' and then making this ''data mart'' available to the user for subsequent filtering and analysis.[20] This data mart functionality does not consistently return results to users in accordance with the timeframes specified by the Search Return Functionality requirements of the CAT NMS Plan.[21] Nor does the OTQT currently satisfy the Simultaneous Query Functionality requirements of the CAT NMS Plan, which require the OTQT ''to process up to 300 simultaneous query requests with no performance degradation.'' [22] As the Commission explained in the First Order, ''performance degradation'' is a deterioration in performance as measured according to a certain standard.[23] The OTQT's ability to process up to 300 simultaneous queries with ''no performance degradation'' should accordingly be based on the ability of the OTQT to achieve the timeframes set forth in Appendix D, Section 8.1.2 of the CAT NMS Plan.[24] Because the current data mart model cannot consistently achieve these timeframes even on fewer than 300 simultaneous queries, the OTQT does not currently comply with the performance requirements of the CAT NMS Plan.[25] And, as discussed in the First Order, the OTQT does not currently meet the above-described 1-minute, 30-minute, and 6-hour requirements that apply to certain queries run on ''all trades and related lifecycle events.'' [26] The Participants argued, however, that the data mart model is a ''more powerful, useful[,] and reliable regulatory surveillance tool'' than ''an alternative OTQT'' that ''might be constructed'' that ''returns results'' within the required timeframes.[27]

In the First Order, the Commission granted the Participants' request for temporary exemptive relief from the Search Return Functionality and Simultaneous Query Functionality requirements until July 31, 2023.[28] The Commission conditioned this exemptive relief on: (1) the satisfaction of all other requirements of the Full Implementation of Core Equity Reporting Requirements milestone by December 31, 2020; (2) the performance of benchmark queries to measure, on a monthly basis, the timeframes in which the OTQT returns results for specified types of queries, the provision of monthly reports containing certain data on the timeframes in which the OTQT returns results for any actual queries done by regulatory users, the provision of such information to the Operating Committee, and the inclusion of such information as factual indicators in the Quarterly Progress Reports required by Section 6.6(c) of the CAT NMS Plan; and (3) the monthly testing, using benchmark queries, of the time it takes to provide results to users from OTQT searches that are run concurrently with either 50–100, 100–200, or 200–300 queries, the provision of such information to the Operating Committee, and the inclusion of such information as factual indicators in the Quarterly Progress Reports required by Section 6.6(c) of the CAT NMS Plan.[29]

In requesting a stay of the conditions of the First Order, the Participants challenge the Commission's conclusion that ''[t]he timeframe for 'returning results' in Section 8.1.2 of Appendix D . . . begins with the submission of the query in the OTQT and ends with the return of the results of the query to user; it does not begin with the population of a data mart.'' [30] The Participants argue that the CAT NMS Plan is ''silent'' as to ''whether creation of the data mart counts toward'' the timeframe for ''returning results'' and that the timeframe should thus be assessed *after* the system creates a data mart.[31] But in requiring results to be returned within a specified timeframe, the CAT NMS Plan by its terms refers to the entirety of the time it takes to generate results in response to the user's initial query. It thus encompasses the time it takes the system to process the user's initial query, to generate results, and to return the results to the user. There is nothing in the natural reading of ''returning results'' that indicates that the timeframe actually begins at some point, undiscernible by the user, after query submission. Nor is there any other indication that the CAT NMS Plan contemplated such a possibility. Moreover, the CAT NMS Plan requires the OTQT to record the date and time the query request is submitted. It therefore stands to reason that the query

Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as 'CAT Data' from time to time.'' *See id.*

[17] ''Central Repository'' is a defined term under the CAT NMS Plan and means ''the repository responsible for the receipt, consolidation, and retention of all information reported to the CAT pursuant to SEC Rule 613 and this Agreement.'' *See id.*

[18] Different timeframes are identified for searches that include equities and options order and National Best Bid and National Best Offer data in search criteria. *Id.* at Appendix D, Section 8.1.2.

[19] *See* Participant Letter, *supra* note 4, at 3–6. The Participants also sought relief from certain requirements of Appendix D, Section 8.1.1 of the CAT NMS Plan in their Dec. 1, 2020 letter, *see id.* at 2–3, but the Participants have asserted that this functionality was implemented in Feb. 2021. *See, e.g.,* CAT Q4 2021 Quarterly Progress Report, *available at https://catnmsplan.com/sites/default/files/2022-01/CAT-Q4-2021-QPR.pdf.*

[20] *See* Participant Letter, *supra* note 4, at 4; *see also* First Motion, *supra* note 7, at 6.

[21] *See* Participant Letter, *supra* note 4, at 4–5 (''It typically currently takes up to four minutes for queries for a single day involving equities trades and up to six minutes for options trade queries for a single day for the OTQT to create and return a data mart in response to targeted search requests with a required response time of one minute under Section 8.1.2 of Appendix D.''); First Motion, *supra* note 7, at 6 (''The OTQT query function can perform the latter step, but not both steps, in one minute.'').

[22] *See* CAT NMS Plan, *supra* note 3, at Appendix D, Section 8.1.2.

[23] *See* First Order, *supra* note 4, at 83670.

[24] *See id.*

[25] *See* Participant Letter, *supra* note 4, at 6 (requesting relief from the requirement that the OTQT achieve ''parallel processing up to 300 simultaneous query requests with no performance degradation'').

[26] *See* First Order, *supra* note 4, at 83669.

[27] *See* Participant Letter, *supra* note 4, at 5.

[28] *See* First Order, *supra* note 4, at 83670.

[29] *See id.* at 83670–71.

[30] *Id.* at 83669.

[31] *See, e.g.,* First Motion, *supra* note 7, at 7.

response times set forth in the CAT NMS Plan were intended to be measured from the time of query submission.[32]

This plain language interpretation also accords with the purpose of the performance requirements. The OTQT is an important regulatory tool required by the CAT NMS Plan; it is one of only three methods that regulators have to access and query CAT Data, and it is the only method that can be used by regulatory staff without programming experience to directly access and query the CAT with tools provided by the Plan Processor. And to most efficiently enable regulatory use, a well-functioning regulatory tool should consistently return results in a predictable, reliable, and timely manner. Measuring the OTQT's performance from the time a data mart is generated would undermine that goal. Such an interpretation builds in an undetermined, undiscernible timeframe for the provisions of results to the user and, taken to its logical extreme, would essentially erase the required timeframes set forth in Appendix D, Section 8.1.2 of the CAT NMS Plan.[33] Given its significance to regulators, it is critically important that the OTQT be subject to meaningful and enforceable performance standards.

The Participants assert that it is technologically infeasible for the OTQT, using the data mart functionality, to meet the requirements of the CAT NMS Plan and that the data mart functionality is beneficial to regulatory users. But, if that is the case, the more appropriate course is for the Participants to seek regulatory relief in the form of a CAT NMS Plan amendment or permanent exemptive relief, rather than adhere to an implausible interpretation of straightforward CAT NMS Plan requirements.

The Commission continues to believe that temporary conditional exemptive relief from the performance requirements set forth in Appendix D, Section 8.1.2 is appropriate. Such relief gives the Participants additional time either to implement the required functionality or to obtain the Commission's approval of an alternative solution that would meaningfully advance the goals that the standards were intended to promote. In light of information that the Participants have provided with the First Motion, and further developments in the interim period, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024 and to replace the conditions set forth in the First Order with the following conditions:

- The Participants must maintain or improve the existing performance of the OTQT.
- The Participants must continue to test the OTQT's performance with benchmark queries and to evaluate the response times for actual queries on a monthly basis. Such tests and evaluations should contain the same content that is currently provided to the Commission and should be provided to the Commission within 30 days from the end of each month.
- The Participants must provide the results of any concurrency testing performed on the OTQT within 30 days from the date of such testing.[34]
- To ensure that the Participants remain on track either to come into compliance with the requirements of the CAT NMS Plan or obtain the Commission's approval of an alternative solution by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.

The Commission intends these conditions to preserve, as a baseline, the OTQT functionality that is already in place and expects that the Participants will provide the Commission with sufficient information to gather necessary insight into the performance of the OTQT and the impact of any changes or improvements made by the Participants.[35]

B. Requirements for Lifecycle Linkages Timeframes

Appendix D, Section 6.1 of the CAT NMS Plan states that ''Noon Eastern Time T+1 (transaction date + one day)'' is the deadline for ''initial data validation, lifecycle linkages and communication of errors to CAT Reporters.'' The CAT NMS Plan further explains that the Plan Processor must ''link and create the order lifecycle'' using a ''daisy chain approach,'' in which ''a series of unique order identifiers, assigned to all order events handled by CAT Reporters[,] are linked together by the Central Repository and assigned a single CAT-generated CAT-Order-ID that is associated with each individual order event and used to create the complete lifecycle of an order.'' [36] This language makes clear that additional steps by the Plan Processor are required after the submission of certain ''unique order identifiers'' by CAT Reporters to ''link and create the order lifecycle.'' In context, the term ''lifecycle linkages'' in Section 6.1 of Appendix D is thus properly understood as a reference to this order event connection process (*i.e.,* completed processing and linkage of the initial data) and not, as the Participants assert,[37] to the ''unique order identifiers'' that are used to create lifecycle linkages. Section 6.1 of Appendix D requires that the Plan Processor create these lifecycle linkages, and not just validate or verify them, by T+1 at noon Eastern Time. Initial data validation, including validation of data elements that can be used by the Plan Processor to create a lifecycle linkage, is a separate step that must also occur by T+1 at noon Eastern Time.[38]

The Plan Processor creates lifecycle linkages by assigning an interim CAT

[32] Appendix D, Section 8.1.1 of the CAT NMS Plan requires that the OTQT ''must provide a record count of the result set, the date and time the query request is submitted, and the date and time the result set is provided to the users.'' It also requires that the OTQT must ''log submitted queries and parameters used in the query, the user ID of the submitter, the date and time of the submission, as well as the delivery of results.''

[33] For instance, under this approach, the OTQT could be said to satisfy the 1-minute timeframe set forth in Appendix D, Section 8.1.2 if it took 72 hours to generate a data mart but only 30 seconds to return that data mart to the user. The Commission does not believe this is a sensible or plausible reading of the CAT NMS Plan.

[34] Unlike the First Order, the exemptive relief provided by the Third Order is not conditioned on the satisfaction of ''all other requirements of the Full Implementation of Core Equity Reporting Requirements milestone by December 31, 2020.'' *See* First Order, *supra* note 4, at 83670. This milestone has passed and is therefore no longer relevant to the exemptive relief provided herein. However, the Commission will consider the Participants' compliance with that condition in assessing whether the Participants have met the target deadlines established for the Full Implementation of Core Equity Reporting Requirements milestone. *See* note 12 *supra.*

[35] Because these revised conditions only require the Participants to provide the Commission with the results of testing that is already performed, such revisions should also address the Participants' objections that the testing conditions set forth in the First Order imposed significant and unwarranted new costs. *See* First Motion, *supra* note 7, at 9–10.

[36] CAT NMS Plan, *supra* note 3, at Appendix D, Section 3.

[37] *See* Second Motion, *supra* note 7, at 6.

[38] *See* CAT NMS Plan, *supra* note 3, at Appendix D, Section 6.1; *see also* Securities Exchange Act Release No. 77724 (Apr. 27, 2016), 81 FR 30614, 30691 (May 17, 2016) (''CAT NMS Plan Notice'') (''The CAT Data would be made available to regulators in raw form after it is received from reporters and passes basic validations; the Plan does not specify exactly when these validations would be complete, but the requirement to link records by 12:00 p.m. (noon) Eastern Time on day T+1 gives a practical upper bound on this timeline for initial access to the data.''). If the Participants were only required to validate lifecycle linkages by T+1 at noon Eastern Time, the CAT NMS Plan would state that ''lifecycle validations''—not ''lifecycle linkages''—were due to be completed by that deadline.

Order ID.[39] The Commission understands that, currently, the Plan Processor is generally capable of assigning interim CAT Order IDs by T+1 at 9 p.m. Eastern Time, rather than by the T+1 at noon Eastern Time deadline set forth in the CAT NMS Plan. Accordingly, in the Second Order, the Commission granted the Participants temporary exemptive relief, until July 31, 2023, to give the Participants time to achieve compliance with the CAT NMS Plan's requirement that the Plan Processor create lifecycle linkages by noon Eastern Time on T+1.[40] The Commission conditioned this exemptive relief on the Participants ''providing an interim CAT Order ID and lifecycle linkages by 9 p.m. EST T+1''—which it understood to represent current performance—and including in Quarterly Progress Reports factual indicators that describe ''any improvements to the time by which the Plan Processor is capable of providing an interim CAT Order ID and lifecycle linkages.'' [41]

The Participants requested a stay of this aspect of the Second Order, arguing that the CAT NMS Plan is ''silent regarding when CAT Order IDs must be assigned'' and does not ''expressly recite'' a requirement to assign interim CAT Order IDs.[42] But the CAT NMS Plan does expressly require the creation of lifecycle linkages by noon Eastern Time on T+1. And the obligation to assign CAT Order IDs—the mechanism by which the Plan Processor creates lifecycle linkages—by noon Eastern Time on T+1 necessarily follows from that requirement.

Contrary to Participants' suggestion,[43] this conclusion is not at odds with the CAT NMS Plan's framework for identifying and correcting errors. Although the initial data submitted by CAT Reporters may contain errors, the CAT NMS Plan specifically contemplates regulator access to ''all iterations of processed data'' during the period between noon Eastern Time on T+1 (when such errors must be identified) and T+5 (when corrected data must be made available to regulators).[44] Consistent with this framework, the CAT NMS Plan requires that the Plan Processor first provide lifecycle linkages to regulators by T+1 at noon Eastern Time, and then, after any errors in linkage data have been identified and corrected, provide finalized and corrected lifecycle linkages by T+5 at 8:00 a.m. Eastern Time.[45] Indeed, the error correction process has not prevented the Plan Processor from generally providing interim CAT Order IDs by T+1 at 9 p.m. Eastern Time, which are then corrected if necessary by T+5.

The Participants also incorrectly assert that there is ''no benefit'' to requiring lifecycle linkages by noon Eastern Time on T+1.[46] Timely access to linked data was one of the underlying goals of Rule 613 and the CAT NMS Plan. Before the implementation of CAT, it could take up to several days for regulators to gain access to uncorrected order event data, and regulators could spend additional days (or months) processing data to create lifecycle linkages.[47] The CAT NMS Plan proposed by the Participants and approved by the Commission therefore specifically included measures like Appendix D, Section 3 and Section 6.1 that require the Plan Processor to provide faster access to uncorrected data in a linked format.[48] These measures ''generally represent[ed] a significant improvement in timeliness'' and were intended to ''reduce or eliminate the delays associated with merging and linking order events within the same lifecycle.'' [49] The alternative approach suggested by the Participants in their Second Motion—*e.g.,* that regulatory users should manually piece together lifecycle linkages using unique order identifiers submitted by CAT Reporters instead of the Plan Processor providing lifecycle linkages by T+1 at noon Eastern Time [50]—actively undercuts these goals by burdening regulatory users with the Plan Processor's obligations. The expected regulatory benefits provided by timely access to linked CAT Data would be even further undermined if the CAT did not provide lifecycle linkages to regulatory users until T+5. In order to study and react to market events and/or problematic trading activity in an effective and expeditious way, regulators need access to relevant data as close in time to such events or activity as is possible. Delays in access to data could delay a regulator's response time.

The Participants argue that, in exercising its discretionary authority to grant exemptive relief, the Commission must consider whether the regulatory benefits of the requirement to create lifecycle linkages by T+1 at noon justify the cost of reconfiguring the CAT system to enable it do so.[51] But in granting *sua sponte* exemptive relief from this requirement, the Commission was *relieving* burdens. The Commission has not altered the CAT NMS Plan requirement to create lifecycle linkages by T+1 at noon Eastern Time and the Participants configured the CAT System knowing what that requirement was. To the extent the Participants believe that requirement is no longer appropriate in light of the way the CAT System has been built, the Participants may propose an alternative solution that advances the relevant regulatory objectives in a more cost-effective manner, either through a CAT NMS Plan amendment or a request for permanent exemptive relief. The Commission is open to considering and working with the Participants to identify such a solution.

To give the Participants additional time either to implement the required functionality or to obtain the Commission's approval of an alternative solution, the Commission continues to believe that temporary conditional exemptive relief from the requirement set forth in Appendix D, Section 6.1 that lifecycle linkages be created by T+1 at noon Eastern Time is appropriate. However, in light of the information the Participants have provided with their stay motion and further developments in the interim period, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024, and to replace the conditions set forth in the Second Order with the following conditions:

- The Participants must maintain or improve the existing performance of functionality currently providing lifecycle linkages by T+1 at 9 p.m. Eastern Time.
- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe any improvements to the time by which the Plan Processor is capable of providing lifecycle linkages.
- To ensure that the Participants remain on track either to come into compliance with the requirements of the CAT NMS Plan or obtain the Commission's approval of an alternative solution by July 31, 2024, the

[39] *See, e.g.,* Second Order, *supra* note 5, at 83634.

[40] *See id.* at 83634–35.

[41] *Id.* at 83635.

[42] *See* Second Motion, *supra* note 7, at 5–6.

[43] *See id.* at 7.

[44] *See, e.g.,* CAT NMS Plan, *supra* note 3, at Appendix D, Section 6.2.

[45] *See id.* None of the CAT NMS Plan provisions cited by the Participants state that the Plan Processor may wait until T+5 to assign CAT Order IDs given their role in creating lifecycle linkages. *See* Second Motion, *supra* note 7, at 7.

[46] *See* Second Motion, *supra* note 7, at 8.

[47] *See* CAT NMS Plan Notice, *supra* note 38, at 30693.

[48] *See id.* at 30691–93.

[49] *Id.* at 30691, 30693.

[50] *See* Second Motion, *supra* note 7, at 6.

[51] *See, e.g., id.* at 8.

Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.

The Commission intends these conditions to preserve, as a baseline, the lifecycle linkage functionality that is already in place and expects that the Participants will provide the Commission with sufficient information to gather necessary insight into the Plan Processor's ability to meet the T+1 at noon Eastern Time deadline and the impact of any changes or improvements made by the Participants.

C. Requirements for Re-Processing of Corrected Data Received After T+5

Appendix D, Section 3 of the CAT NMS Plan requires that ''[a]ll CAT Data reported to the Central Repository must be processed and assembled to create the complete lifecycle of each Reportable Event.'' The CAT NMS Plan sets a deadline of T+3 at 8:00 a.m. Eastern Time for the ''[r]esubmission of corrected data'' and a deadline of T+5 at 8:00 a.m. Eastern Time for the Plan Processor to make ''[c]orrected data available to Participant regulatory staff and the SEC.'' [52] For data corrections received after T+5, the CAT NMS Plan specifies that ''Participants' regulatory staff and the SEC must be notified and informed as to how re-processing will be completed.'' [53] Together, these sections require the Plan Processor to process and assemble any corrected CAT Data received after T+5 into complete order event lifecycles and to notify regulatory users as to how such re-processing will be completed.

The Commission understands that the Participants do not currently process and assemble all corrected CAT Data received after T+5 into complete order event lifecycles; in some cases, for instance, the Plan Processor may simply add corrected CAT Data to the Central Repository without integrating such CAT Data into order event lifecycles.[54] In the Second Order, the Commission granted the Participants temporary exemptive relief, until July 31, 2021, to provide the Participants time to come into compliance with the requirement in Section 3 and Section 6.2 of Appendix D of the CAT NMS Plan that the Participants process and assemble the complete lifecycle for corrected Reportable Events received by the Plan Processor after T+5.[55] The Commission conditioned this exemptive relief on the Participants including in the Quarterly Progress Reports required by Section 6.6(c) of the CAT NMS Plan factual indicators that describe ''progress made with respect to the re-processing of all corrections received after T+5 prior to the expiration of the exemptive relief on July 31, 2021.'' [56]

In their Second Motion, the Participants object that the Commission's interpretation requires the Plan Processor to assign a new CAT Order ID every time a correction is received after T+5.[57] But the Commission recognizes that, in many such circumstances, it may not be necessary to assign a new CAT Order ID. As discussed above, the CAT NMS Plan gives the Participants the discretion to choose how—but not whether—to process and assemble corrected CAT Data submitted after T+5 into complete order event lifecycles. Some re-processing is mandatory under Appendix D, Section 3 of the CAT NMS Plan to ensure that CAT Data submitted after T+5 is processed and assembled into complete order event lifecycles; if the Plan Processor is able to process and assemble CAT Data submitted after T+5 into complete and accurate order event lifecycles using existing CAT Order IDs, it need not assign a new CAT Order ID. To the extent the Participants believe that the above-described requirements should be revised because of the costs involved in or technological obstacles presented by implementing such requirements in certain circumstances, the Participants may propose an amendment to the CAT NMS Plan or request permanent exemptive relief from the Commission.

One of the main regulatory goals of Rule 613 and the CAT NMS Plan was to cure shortcomings in existing audit trail systems that made it impractical to follow orders through their entire lifecycles, as they may be routed, aggregated, re-routed, and disaggregated.[58] Failure to process and assemble corrected data received after T+5 into complete order event lifecycles would perpetuate a similar problem within the CAT by making it difficult and/or time-consuming for regulators to find the relevant data and by forcing individual regulatory users to manually process data and assemble lifecycles on their own.[59] These are burdens that the CAT NMS Plan was specifically designed to alleviate.[60]

To give the Participants additional time either to implement the required functionality or to obtain the Commission's approval of an alternative solution, the Commission continues to believe that it is appropriate to grant temporary conditional exemptive relief from the requirements set forth in Appendix D, Section 3 and Appendix D, Section 6.2 of the CAT NMS Plan that the Plan Processor process and assemble any corrected CAT Data received after T+5 into complete order event lifecycles and notify regulatory users as to how such re-processing will be completed. However, in light of information the Participants have provided with their stay motion and further developments in the interim period, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024, and to replace the condition set forth in the Second Order with the following condition:

- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe any improvements to functionality that processes and assembles corrected CAT Data submitted after T+5 into complete order event lifecycles.
- To ensure that the Participants remain on track either to come into compliance with the requirements of the CAT NMS Plan or obtain the

[52] *See* CAT NMS Plan, *supra* note 3, at Appendix D, Section 6.1.

[53] *See id.* at Appendix D, Section 6.2.

[54] *See, e.g.,* Second Motion, *supra* note 7, at 11. For example, if a corrected record submitted after T+5 connects two broken order event lifecycles into one order event lifecycle, the Plan Processor does not join all relevant records into a single order event lifecycle as it would have if the corrected data had been received prior to T+5. As another example, in some instances the Plan Processor adds a corrected record to an order event lifecycle but also retains the original record, leaving two records representing the same event in the Central Repository—whereas the Plan Processor would have replaced the original record if the corrected data had been received prior to T+5.

[55] *See* Second Order, *supra* note 5, at 83635.

[56] *See id.*

[57] *See, e.g.,* Second Motion, *supra* note 7, at 10.

[58] *See, e.g.,* Rule 613 Adopting Release, *supra* note 2, at 45722. *See also, e.g.,* CAT NMS Plan Notice, *supra* note 38, at 30615; CAT NMS Plan Approval Order, *supra* note 3, at 84698.

[59] Simply adding corrected data to the Central Repository, for example, could require regulators to run multiple, time-consuming searches to locate corrected data (or just to discover whether corrected data exists), to manually process data to weed out inaccurate event records, to manually format data to look the same as data that was submitted before T+5, and/or to manually construct lifecycles. Depending on the circumstances, this methodology may not satisfy the requirement that corrected data submitted after T+5 be ''processed and assembled to create the complete lifecycle of each Reportable Event.''

[60] *See, e.g.,* CAT NMS Plan Notice, *supra* note 38, at 30693 (''Currently regulators can spend days and up to months processing data they receive into a useful format. Part of this delay is due to the need to combine data across sources that could have non-uniform formats and to link data about the same event both within and across data sources. . . . [T]he Commission preliminarily believes that the Plan would reduce or eliminate the delays associated with merging and linking order events within the same lifecycle.'').

Commission's approval of an alternative solution by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.

The Commission intends these conditions to provide the Commission with sufficient information to gather necessary insight into the Plan Processor's ability to meet the above-described requirements and the impact of any changes or improvements made by the Participants.

D. Requirements for SIP Data Linkage

Section 6.5(a)(ii) of the CAT NMS Plan, which implements Rule 613(e)(7), requires that the Central Repository ''collect . . . and retain on a current and continuing basis,'' certain SIP Data ''in a format compatible with'' the Participant Data and Industry Member Data that is collected pursuant to Rule 613(c)(7).[61] This SIP Data must include: ''(A) information, including the size and quote condition, on quotes including the National Best Bid and National Best Offer for each NMS Security; [and] (B) Last Sale Reports and transaction reports reported pursuant to an effective transaction reporting plan filed with the SEC pursuant to, and meeting the requirements of, SEC Rules 601 and 608.'' [62] Section 6.5(b)(i) of the CAT NMS Plan further states that SIP Data, ''when available to Participant regulatory staff and the SEC[,] shall be linked'' to the Participant Data and Industry Member Data that is collected pursuant to Rule 613(c)(7). Moreover, the CAT NMS Plan explicitly includes the SIP Data described in Section 6.5(a)(ii) in its definition of ''CAT Data,'' [63] thereby subjecting SIP Data to the same requirements that generally apply to CAT Data, including the requirement set forth in Appendix D, Section 3 that ''[a]ll CAT Data reported to the Central Repository must be processed and assembled to create the complete lifecycle of each Reportable Event.'' [64]

The Commission understands that the CAT currently does not link SIP Data to the ''complete lifecycle of each Reportable Event,'' but instead presents regulatory users with a side-by-side view of SIP Data and other transactional data reported to the CAT.[65] In other words, SIP Data is provided to regulatory users in a separate stream from order event lifecycles, such that regulatory users may only view SIP Data sequentially with other CAT Data, rather than as part of order event lifecycles. This side-by-side functionality forces regulatory users to perform the time-consuming and burdensome work of manually matching SIP Data with order event lifecycles and creating their own combined and linked audit trail.[66] In approving the CAT NMS Plan, the Commission explained that ''regulators analyzing an event or running a surveillance pattern often need to link data,'' but that ''linking many different data sources'' was ''cumbersome and time-consuming'' and that ''the inability to link all records affects the accuracy of the resulting data and can force an inefficient manual linkage process that would delay the completion of the data collection and analysis portion of an examination, investigation, or reconstruction.'' [67] Linkage of all CAT Data—which includes SIP Data by definition—was intended to address these issues by improving the accuracy of the data provided to regulators and the timeliness of regulatory review.[68] SIP Data is a core component of market structure and established market control mechanisms; SIP Data linkage would better enable regulators to clearly and accurately identify the market participants involved in the order event lifecycles that cause SIP messages, which is critical in recreating market events and looking for problematic trading behaviors.

In the Second Order, the Commission granted the Participants temporary exemptive relief, until July 31, 2023, to give them more time to develop the changes necessary to meet the SIP data linkage requirements described above.[69] The Commission conditioned this exemptive relief on the Participants including in Quarterly Progress Reports factual indicators that describe ''the release of updated specifications and/or scenarios documents relating to the linkage of Participant Data and Industry Member Data with SIP Data, such that SIP Data is incorporated in the lifecycle of an order.'' [70]

In their Second Motion, the Participants argue that the Commission was obligated to consider various practical and technological obstacles before requiring them to link SIP data to the complete order lifecycle.[71] But as discussed above, that requirement was imposed by the CAT NMS Plan itself, not by the Commission's exemptive order, which merely granted the Participants more time to meet the requirement. To the extent the Participants now believe this CAT NMS Plan requirement is inappropriate or unjustified in light of its costs, the Participants are free to propose an alternative solution that advances the relevant regulatory objectives in a more cost-effective manner, either through a CAT NMS Plan amendment or a request for permanent exemptive relief. The Commission is open to considering and working with the Participants to identify such a solution.

The Participants contend that linking SIP Data to complete order lifecycles is impractical, in part because it would require changes to the existing national market system plans that govern the collection, consolidation, processing, and dissemination of SIP Data (the ''existing SIP Plans''),[72] and because of the new approach to SIP Data provided for under the Commission's Market Data Infrastructure Rule (''MDI Rules'').[73] The Commission does not believe that amending the existing SIP Plans is impractical. The Commission also believes that there may be alternatives that would allow the Participants to achieve SIP Data linkage without changing the existing SIP Plans or the MDI Rules. Under the existing SIP Plans, which remain in effect despite the promulgation of the MDI Rules, the Participants provide data to the SIPs; under the MDI Rules, the Participants would provide data to competing consolidators. The Participants are also the parties that currently provide this data to the CAT and that would provide

[61] *See* CAT NMS Plan, *supra* note 3, at Section 6.5(a)(ii)(A)–(B); 17 CFR 242.613(e)(7).

[62] *See* CAT NMS Plan, *supra* note 3, at Section 6.5(a)(ii)(A)–(B); *see also* 17 CFR 242.613(e)(7).

[63] *See* CAT NMS Plan, *supra* note 3, at Section 1.1 (defining ''CAT Data'' as ''data derived from Participant Data, Industry Member Data, SIP Data, and such other data as the Operating Committee may designate as 'CAT Data' from time to time'').

[64] *See also* 17 CFR 242.613(e)(1) (''The central repository shall store and make available to regulators data in a uniform electronic format, and in a form in which all events pertaining to the same originating order are linked together in a manner that ensures timely and accurate retrieval of the information required by paragraph (c)(7) of this section for all reportable events for that order.'').

[65] *See, e.g.,* Second Order, *supra* note 5, at 83635.

[66] The Commission identified several possible uses for SIP Data in approving the CAT NMS Plan. *See* CAT NMS Plan Approval Order, *supra* note 3, at 84914 n.3222–23.

[67] *See, e.g.,* CAT NMS Plan Approval Order, *supra* note 3, at 84814–15.

[68] *See* notes 58, 60 and associated text *supra; see also* CAT NMS Plan Approval Order, *supra* note 3, at 84826–27.

[69] *See* Second Order, *supra* note 5, at 83635.

[70] *Id.*

[71] *See, e.g.,* Second Motion, *supra* note 7, at 15.

[72] *See* Securities Exchange Act Release No. 90610 (Dec. 9, 2020), 86 FR 18596, at 18598 n.10 (Apr. 9, 2021) (describing the three effective national market system plans that govern the collection, consolidation, processing, and dissemination of certain NMS information) (''MDI Release'').

[73] *See id.; see also* Second Motion, *supra* note 7, at 14–15.

this data to the CAT in the future. To achieve compliance with the CAT NMS Plan, the Participants may therefore be able to include in their data the information necessary for the Plan Processor to facilitate SIP Data linkage in a manner that would not require an amendment to the existing SIP Plans or the MDI Rules. In any event, if the Participants disagree, the appropriate course is for the Participants to seek regulatory relief in the form of a CAT NMS Plan amendment or permanent exemptive relief.

The Commission continues to believe that temporary conditional exemptive relief from the requirements set forth in Section 6.5(b)(i) and Appendix D, Section 3 of the CAT NMS Plan that SIP Data ''shall be linked,'' processed, and assembled to create complete order event lifecycles is appropriate to give the Participants time either to implement the required functionality or to obtain the Commission's approval of an alternative solution. However, in light of information the Participants have provided with their stay motion, further developments in the interim period, and the current status of implementation of the MDI Rules, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024.[74] The Commission further believes it is appropriate to replace the condition set forth in the Second Order with the following conditions:

- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe any improvements to functionality that links Participant Data and Industry Member Data with SIP Data, such that SIP Data is incorporated into complete order event lifecycles.
- To ensure that the Participants remain on track to either come into compliance with the requirements of the CAT NMS Plan or obtain the Commission's approval of an alternative solution by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.

The Commission intends these conditions to provide the Commission with sufficient information to gather necessary insight into the Participants' efforts to meet the requirements of the CAT NMS Plan and the impact of any changes or improvements made by the Participants.

E. Reporting Requirements for Port-Level Settings

Rule 613 and Sections 6.3(d)(i)(F), 6.3(d)(ii)(G), 6.3(d)(iii)(F), 6.3(d)(iv)(E), and 6.4(d)(i) of the CAT NMS Plan require the Participants to report, and to amend their Compliance Rules to require Industry Members to report, the ''Material Terms of the Order'' for certain events in an order's lifecycle, including ''for original receipt or origination of an order,'' ''for the routing of an order,'' ''for the receipt of an order that has been routed,'' and for orders that are ''modified or cancelled.'' [75] Rule 613 and the CAT NMS Plan further define the ''Material Terms of the Order'' to include ''any special handling instructions.'' [76] Port-level settings are used by Industry Members and Participants as one method of communicating various Material Terms of the Order, including, in some cases, special handling instructions.[77] When port-level settings are used to communicate Material Terms of the Order, Rule 613 and the CAT NMS Plan thus require these port-level settings to be reported for that order by both senders and receivers.[78]

The Commission understands, however, that Participants and/or Industry Members would have to make technological changes to ensure the accurate and reliable reporting of port-level settings by both the sender and receiver of the order. In the Second Order, the Commission therefore granted the Participants temporary exemptive relief, until July 31, 2023, from the requirement that both the CAT Reporter sending an order and the CAT Reporter receiving an order report port-level settings as part of the Material Terms of an Order.[79] The Commission conditioned this relief on the Participants (1) including in the Quarterly Progress Reports required by Section 6.6(c) factual indicators that describe ''the release of updated specifications and/or scenarios documents relating to the reporting of port-level settings by both the sender and receiver of an Order as a special handling instruction'' and (2) engaging both the Commission and Industry Members on a plan to address the reporting of port-level settings on an exchange-by-exchange basis.[80]

The Participants correctly assert in the Second Motion that the CAT NMS Plan does not require *all* port-level settings to be reported to the CAT.[81] Rule 613 and the CAT NMS Plan only require Participants and Industry Members to report port-level settings that are used by a sender or a receiver of an order to communicate the Material Terms of the Order, including ''any special handling instructions.'' Furthermore, Rule 613 and the CAT NMS Plan only obligate the sender of an order to report the Material Terms of the Order that it communicated to and/or agreed upon with the receiver of the order, including default or implicit special handling instructions communicated through a port-level setting. If the receiver of an order subsequently attaches ''any special handling instructions'' to an order without informing the sender, including special handling instructions communicated through a port-level

[74] The MDI Rules, pursuant to which the SIPs will eventually be replaced by ''competing consolidators,'' are in the process of being implemented. The Commission has stated that as a result of the MDI Rules, ''the Central Repository may have to collect the data from a different source,'' which may be one or multiple competing consolidators. *See* MDI Release, *supra* note 72, at 18697. Therefore, the Participants can meet the requirements of Section 6.5(b)(i) and Appendix D, Section 3 of the CAT NMS Plan by July 31, 2024, by using the current SIPs or one or more competing consolidators that the Operating Committee may determine to use once they are operational.

[75] *See also* 17 CFR 242.613(c)(7).

[76] *See* CAT NMS Plan, *supra* note 3, at Section 1.1; 17 CFR 242.613(j)(7).

[77] Material Terms of the Order can also be communicated verbally. In response to the Participants' request for exemptive relief, the Commission granted temporary exemptive relief from certain reporting requirements contained in the CAT NMS Plan that relate to such verbal communications. *See* Securities Exchange Act Release No. 90405 (Nov. 12, 2020), 85 FR 73544 (Nov. 18, 2020).

[78] The terms of Rule 613 and the CAT NMS Plan require that any special handling instructions be reported by senders (for ''origination of an order'' and ''for the routing of an order'') and receivers (''for original receipt'' of an order and ''for the receipt of an order that has been routed''), as well as by both Participants and Industry Members. Each party—sender and receiver, Participant and Industry Member—is therefore required to report any special handling instructions that it communicated through a port-level setting. Requiring both the sender and the receiver to report in this manner is not necessarily duplicative. Rather, this kind of differential reporting is of value to regulators; comparing the special handling instructions reported by senders and receivers can be used by regulators to identify inconsistencies in reporting. Moreover, even where two-sided reporting would be duplicative, it still provides value to regulators. Because of the differences between the technical specifications utilized by Industry Members and Participants, and the varied approach to applying and reporting port-level settings among the Participants, it is far more efficient for regulators evaluating the trading activity of one firm to analyze that firm's (*e.g.,* the sender's) data directly. If only receivers are required to report, the regulatory user would be required to expend significant additional effort to run unique queries to find each receiver's data and process such data into a consistent and usable format.

[79] *See* Second Order, *supra* note 5, at 83636.

[80] *Id.*

[81] *See, e.g.,* Second Motion, *supra* note 7, at 16.

setting, only the receiver would be obligated to report those Material Terms of the Order.

However, the Participants go further, suggesting that the reporting obligation is only implicated when instructions communicated through such port-level settings are ''applied'' or ''triggered,'' but that fact is irrelevant to this inquiry.[82] A special handling instruction that a sender or receiver communicates through a port-level setting must be reported as Material Terms of the Order regardless of whether it is subsequently ''applied'' or ''triggered.'' Neither Rule 613 nor the CAT NMS Plan state, for instance, ''any special handling instructions applied to the order'' or ''Material Terms Applied to the Order.'' Rather, as one example, an instruction that prevents an order from trading with another order from the same broker-dealer (self-trade match prevention) is reportable as a special handling instruction even if the exchange does not need to apply the instruction because there is not another order from the same broker-dealer that would trade with the incoming order.[83] Such information is valuable to regulators, regardless of whether it is applied, because it could potentially help regulators to identify and investigate trading behaviors like layering or wash sales and establish the intent of broker-dealers sending such orders.

The Participants also argue that, in exercising its discretion to grant a temporary exemption from the port-level settings reporting requirements, the Commission was obligated to consider certain costs and practical obstacles.[84] But in granting *sua sponte* exemptive relief from this requirement, the Commission was *relieving* burdens and did not alter the CAT NMS Plan requirement. To the extent the Participants now believe this CAT NMS Plan requirement is inappropriate or unjustified in light of its costs, the Participants are free to propose an alternative solution that advances the relevant regulatory objectives in a more cost-effective manner, either through a CAT NMS Plan amendment or a request for permanent exemptive relief. The Commission is open to considering and working with the Participants to identify such a solution.

To give the Participants and Industry Members additional time either to implement the required functionality or to obtain the Commission's approval of an alternative solution, the Commission continues to believe that it is appropriate to grant temporary conditional exemptive relief from the requirement set forth in Rule 613(c)(7) and Sections 6.3(d)(i)(F), 6.3(d)(ii)(G), 6.3(d)(iii)(F), 6.3(d)(iv)(E), and 6.4(d)(i) of the CAT NMS Plan that the Participants report, and amend their Compliance Rules to require Industry Members to report, the Material Terms of the Order for certain events in an order's lifecycle that are communicated through a port-level setting. However, in light of information the Participants have provided with their stay motion and further developments in the interim period, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024, and to replace the conditions set forth in the Second Order with the following conditions:

- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe any improvements to the Participants' current efforts to report, and to require Industry Members to report, port-level settings that communicate ''Material Terms of the Order,'' including efforts to implement two-sided reporting (when required) and efforts to require that port-level settings that communicate ''any special handling instructions'' be reported regardless of whether such instructions are ''applied.''

- To ensure that the Participants remain on track to either come into compliance with the requirements of the CAT NMS Plan or obtain the Commission's approval of an alternative solution by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.[85]

The Commission intends these conditions to provide the Commission with sufficient information to gather necessary insight into the Participants' efforts to meet the requirements of the CAT NMS Plan and the impact of any changes or improvements made by the Participants.

F. Requirements for Lifecycle Linkages Between Customer Orders and ''Representative'' Orders

Appendix D, Section 3 of the CAT NMS Plan requires the Plan Processor to ''link all related order events from all CAT Reporters involved in the lifecycle of an order. At a minimum,'' the CAT NMS Plan specifies that the ''Central Repository must be able to create the lifecycle between . . . [c]ustomer orders to 'representative' orders created in firm accounts for the purpose of facilitating a customer order (*e.g.,* linking a customer order handled on a riskless principal basis to the street-side proprietary order).'' [86] As discussed above, one of the main regulatory goals of Rule 613 and the CAT NMS Plan was to cure shortcomings in existing audit trail systems that made it impractical to follow orders through their entire lifecycles, as they may be routed, aggregated, re-routed, and disaggregated.[87] Lifecycle linkage for all order events—including linkage of ''representative orders'' to customer orders and linkage of customer data across an order event lifecycle—was intended to alleviate the burdens associated with manual processing and linkage of data and to provide regulators with information that is not otherwise available.[88] It is therefore critical that the Participants fully implement functionality to create complete order event lifecycle linkages, including linkage of ''representative'' orders to customer orders.

The Commission understands that the Participants do not currently have the ability to create lifecycles in certain representative order scenarios where Industry Members do not have a systematic or direct link between their order management systems and execution management systems. This is a critical loss of data that breaks order event lifecycles, because regulatory users would not be able to recreate these parts of the order event lifecycles on their own. In the Second Order, the Commission granted the Participants temporary exemptive relief, until July 31, 2023, to allow time for Participants and Industry Members to develop the

[82] *See, e.g.,* Second Motion, *supra* note 7, at 16; *see also* FAQ D34, *available at https://catnmsplan.com/faq.*

[83] *See* Second Order, *supra* note 5, at 83635–36.

[84] *See, e.g.,* Second Motion, *supra* note 7, at 16.

[85] The Commission believes the Participants will need to engage and meet regularly with Industry Members in order to satisfy this condition.

[86] *See* CAT NMS Plan, *supra* note 3, at Appendix D, Section 3. A representative order is an order originated in a firm-owned or -controlled account, including principal, agency average price and omnibus accounts, by an Industry Member for the purpose of working one or more customer or client orders. *See, e.g.,* Second Order, *supra* note 5, at 83636 n.14.

[87] *See, e.g.,* note 58 and associated text *supra.*

[88] *See, e.g.,* note 60 and associated text *supra; see also, e.g.,* CAT NMS Plan Notice, *supra* note 38, at 30665–66 (describing difficulties involved in manual linkage of customer data across multiple parts of an order lifecycle).

capability of meeting this CAT NMS Plan requirement.[89] The Commission conditioned this relief on the Participants (1) continuing to require Industry Member reporting of representative orders as described in another exemptive relief order related to the timing and phasing of Industry Member reporting and (2) including in the Quarterly Progress Reports required by Section 6.6(c) factual indicators that describe ''progress made regarding the release of updated specifications and/or scenarios documents relating to the reporting of all representative orders.'' [90]

After challenging this part of the Second Order in the Second Motion, the Participants issued guidance indicating that Industry Members will be required to provide the data necessary for the Central Repository to create the required lifecycle linkages starting on July 31, 2023.[91] To give Industry Members additional time to implement the necessary reporting, the Commission believes that it is appropriate to grant temporary conditional exemptive relief from the requirement set forth in Appendix D, Section 3 of the CAT NMS Plan that the ''Central Repository must be able to create the lifecycle between . . . [c]ustomer orders to 'representative' orders created in firm accounts for the purpose of facilitating a customer order (*e.g.,* linking a customer order handled on a riskless principal basis to the street-side proprietary order)'' for representative order scenarios in which Industry Members do not have a systematic or direct link between their order management systems and execution management systems until July 31, 2024. The Commission also believes that it is appropriate to impose conditions on this relief similar to those set forth in the Second Order:

- The Participants must require Industry Members to report ''representative'' orders as currently described in FAQs F5–F7 and as described in other exemptive relief issued by the Commission by July 31, 2024.[92]
- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe the progress made towards the release of updated specifications and/or scenarios documents relating to the reporting and linkage of all ''representative'' orders.
- To ensure that the Participants remain on track to come into compliance with the requirements of the CAT NMS Plan by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.[93]

The Commission intends these conditions to preserve, as a baseline, the reporting and linkage functionality that is already in place for ''representative'' orders and expects the Participants and Industry Members to provide the Commission with sufficient information to gather necessary insight into the efforts made by both Participants and Industry Members to fully meet the requirements of the CAT NMS Plan.

G. Requirements for Participant Reporting of Rejected Orders

Rule 613(c)(7) and Section 6.3(d)(i) of the CAT NMS Plan require Participants to ''record and electronically report to the Central Repository'' certain information for ''each order and each Reportable Event,'' including ''for original receipt or origination of an order.'' [94] The CAT NMS Plan specifies that ''order'' has ''the meaning set forth in Rule 613(j)(8),'' [95] which further defines ''order'' to include: ''(i) [a]ny order received by a member of a national securities exchange or national securities association from any person; (ii) [a]ny order originated by a member of a national securities exchange or national securities association; or (iii) [a]ny bid or offer.'' [96] These provisions require the Participants to report all orders that are ''received,'' not just those orders that are ''received and successfully processed by the matching engine,'' those orders that are ''received and accepted,'' and/or those orders that are ''received and assigned an order ID''; the reporting requirement is not conditioned on how a Participant acts on an order that is received. For example, if a Participant receives a message that contains all of the terms necessary for an order to be executed, that message still constitutes a ''received'' order that must be reported pursuant to the provisions of Section 6.3(d) of the CAT NMS Plan regardless of whether it is subsequently rejected. Moreover, as ''CAT Data,'' rejected orders must also be ''processed and assembled to create the complete lifecycle of each Reportable Event'' under Appendix D, Section 3 of the CAT NMS Plan.

Orders that are received and rejected are part of a complete order event lifecycle, in the same way that cancelled orders are part of a complete order event lifecycle. Without information about these events, regulatory users reviewing trading activity could struggle to determine how orders that are received but rejected were resolved.[97] As discussed above, one of the main regulatory goals of Rule 613 and the CAT NMS Plan was to cure shortcomings in existing audit trail systems that made it impractical to follow orders through their entire lifecycles.[98] Providing regulatory users with a more complete and comprehensive set of audit trail data was another of the main regulatory goals of Rule 613 and the CAT NMS Plan.[99] Failure to report orders that are received and rejected and to create complete order lifecycles for such orders would subvert these two goals, because regulators would not have access to ''all of the market activity of interest in sufficient detail in one consolidated audit trail.'' [100]

In the Second Order, the Commission granted the Participants temporary exemptive relief, until December 13, 2021, from the requirement in Section 6.3(d) of the CAT NMS Plan that the Participants report rejected orders.[101] The Commission conditioned this relief on the Participants including in Quarterly Progress Reports factual indicators that describe ''any updates to specifications and/or scenarios

[89] *See* Second Order, *supra* note 5, at 83636.

[90] *Id.*

[91] *See, e.g.,* FAQ F5–F7, *available at https://catnmsplan.com/faq.*

[92] *See, e.g.,* Securities Exchange Act Release No. 88702 (Apr. 20, 2020), 85 FR 23075 (Apr. 24, 2020).

[93] The Commission believes the Participants will need to engage and meet regularly with Industry Members in order to satisfy this condition.

[94] 17 CFR 242.613(c)(7); CAT NMS Plan, *supra* note 3, at Section 6.3(d)(i).

[95] *See* CAT NMS Plan, *supra* note 3, at Section 1.1.

[96] 17 CFR 242.613(j)(8).

[97] Sometimes a rejected order may represent the final action in a complete order event lifecycle; other times, the sender may submit a second order as a ''follow-up'' to the rejected order. In both cases, data reflecting orders that were received and rejected provides useful and necessary context to regulatory users evaluating trading activity.

[98] *See, e.g.,* note 58, note 60 and associated text *supra.*

[99] *See, e.g.,* Rule 613 Adopting Release, *supra* note 2, at 45723 (''In performing their oversight responsibilities, regulators today must attempt to cobble together disparate data from a variety of existing information systems lacking in completeness, accuracy, accessibility, and/or timeliness—a model that neither supports the efficient aggregation of data from multiple trading venues nor yields the type of complete and accurate market activity data needed for robust market oversight.''); *see also, e.g.,* CAT NMS Plan Notice, *supra* note 38, at 30652 (stating that the CAT NMS Plan would benefit regulators by improving the completeness of data by requiring the reporting of additional data fields, events, and products in Section 6.3 of the CAT NMS Plan).

[100] *See* CAT NMS Plan Notice, *supra* note 38, at 30662.

[101] *See* Second Order, *supra* note 5, at 83636.

documents relating to the capture and reporting of rejected orders.'' [102] The Participants represent in the Second Motion that they are reporting to the CAT ''all messages rejected after receipt by an exchange.'' [103] However, the Commission understands that the Participants are currently only reporting a subset of the rejected orders that are required to be reported by Section 6.3(d) and are working on implementing functionality that will permit the Participants to report additional rejected orders.

To give the Participants and Industry Members sufficient time either to implement the required functionality or to obtain the Commission's approval of an alternative solution, the Commission continues to believe that it is appropriate to grant temporary conditional exemptive relief from the requirement set forth in Rule 613(c)(7) and Section 6.3(d)(i) of the CAT NMS Plan that Participants ''record and electronically report to the Central Repository'' certain information for orders that are received and subsequently rejected, and from the requirement set forth in Appendix D, Section 3 of the CAT NMS Plan that ''[a]ll CAT Data'' related to such orders be ''processed and assembled to create the complete lifecycle of each Reportable Event.'' However, in light of further developments in the interim period, the Commission believes it is appropriate for the Third Order to provide this exemptive relief until July 31, 2024, and to replace the condition set forth in the Second Order with the following conditions:

- The Participants must maintain or improve their existing reporting of orders that are received and subsequently rejected, including existing efforts towards implementing functionality that would permit the Participants to report additional rejected orders.
- The Participants must provide, in Quarterly Progress Reports submitted pursuant to Section 6.6(c), factual indicators that describe any improvements to the Participants' reporting of orders that are received and subsequently rejected, as well as improvements to the functionality that creates linkages for such orders.
- To ensure that the Participants remain on track to either come into compliance with the requirements of the CAT NMS Plan or obtain the Commission's approval of an alternative solution by July 31, 2024, the Participants and the Plan Processor must meet with Commission staff on at least a monthly basis to provide a detailed status update regarding their current efforts towards this goal and promptly respond to related requests for additional information or data.

The Commission intends these conditions to preserve, as a baseline, the reporting functionality that is already in place and expects the Participants to provide the Commission with sufficient information to gather necessary insight into the Participants' efforts to meet the requirements of the CAT NMS Plan.

III. Conclusion

Accordingly, *it is hereby ordered*, pursuant to Section 36(a)(1) of the Exchange Act [104] and Rule 608(e) under the Exchange Act,[105] that the above-described temporary conditional exemptive relief be granted.

By the Commission.

J. Matthew DeLesDernier,

Assistant Secretary.

[FR Doc. 2022–14982 Filed 7–13–22; 8:45 am]

BILLING CODE 8011–01–P

[102] *Id.* at 83636–37.

[103] *See* Second Motion, *supra* note 7, at 3 n.8.

[104] 15 U.S.C. 78mm(a)(1).

[105] 17 CFR 242.608(e).

SMALL BUSINESS ADMINISTRATION

Temporary 504 Express Loan Authority for Certified Development Companies Participating in the Accredited Lenders Program—Industries With a High Rate of Default

The Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act (Pub. L. 116–260) (''Economic Aid Act'') temporarily provides increased authority to Certified Development Companies (CDCs) participating in the Small Business Administration's (SBA) Accredited Lenders Program (ALP) with respect to 504 loans that are not more than $500,000 and that are not made to a borrower in an industry with a high rate of default. The authority for ALP CDCs to make ALP Express Loans was implemented through an interim final rule published in the **Federal Register** on June 27, 2022 Vol. 97, No. 122 RIN 3245–AH74.

Section 328(b) of the Economic Aid Act further requires that SBA annually identify the industries with a high rate of default. Accordingly, on an annual basis, SBA will list the industries that it has determined have a high rate of default in a notice published in the **Federal Register**, with the first list published after the publication of the interim final rule, and annually thereafter.

To comply with this requirement, SBA defines ''industries with a high rate of default'' as an industry that for the past 5 fiscal years has 50 or more approvals/year and an annualized default rate of 5% or above. Using SBA's ALP Express risk identification methodology, SBA has determined there are no industries with a high rate of default in the 504 program based on prior SBA 504 portfolio performance. SBA will review and update its analysis and publish an updated list annually through September 20, 2023.

For SBA's analysis, the industries are analyzed by North American Industry Classification System (NAICS) Subsector Title and three-digit subsector code.

Isabella Casillas Guzman,

Administrator.

[FR Doc. 2022–15015 Filed 7–13–22; 8:45 am]

BILLING CODE 8026–09–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #17505 and #17506; INDIANA Disaster Number IN–00077]

Administrative Declaration of a Disaster for the State of Indiana

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Indiana dated 07/08/2022.

Incident: Derecho Windstorm.

Incident Period: 06/13/2022 through 06/14/2022.

DATES: Issued on 07/08/2022.

Physical Loan Application Deadline Date: 09/06/2022.

Economic Injury (EIDL) Loan Application Deadline Date: 04/10/2023.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Allen.
Contiguous Counties:
Indiana: Adams, De Kalb, Huntington, Noble, Wells, Whitley.
Ohio: Defiance, Paulding, Van Wert.
The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	3.375
Homeowners without Credit Available Elsewhere	1.688
Businesses with Credit Available Elsewhere	5.870
Businesses without Credit Available Elsewhere	2.935
Non-Profit Organizations with Credit Available Elsewhere	1.875
Non-Profit Organizations without Credit Available Elsewhere	1.875
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	2.935
Non-Profit Organizations without Credit Available Elsewhere	1.875

The number assigned to this disaster for physical damage is 17505 B and for economic injury is 17506 0.

The States which received an EIDL Declaration # are Indiana, Ohio.

(Catalog of Federal Domestic Assistance Number 59008)

Isabella Guzman,

Administrator.

[FR Doc. 2022–15036 Filed 7–13–22; 8:45 am]

BILLING CODE 8026–09–P

DEPARTMENT OF STATE

[Public Notice: 11783]

Notice of Determinations; Culturally Significant Objects Being Imported for Exhibition—Determinations: ''Van Gogh in America'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects being imported from abroad pursuant to agreements with their foreign owners or custodians for temporary display in the exhibition ''Van Gogh in America'' at the Detroit Institute of Arts, Detroit, Michigan, and at possible additional exhibitions or venues yet to be determined, are of cultural significance, and, further, that their temporary exhibition or display within the United States as aforementioned is in the national interest. I have ordered that Public Notice of these determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Chi D. Tran, Program Administrator, Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, 2200 C Street NW (SA–5), Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000, and Delegation of Authority No. 523 of December 22, 2021.

Stacy E. White,

Deputy Assistant Secretary for Professional and Cultural Exchanges, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2022–15078 Filed 7–13–22; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 11786]

Biodiversity Beyond National Jurisdiction; Public Meeting

ACTION: Notice of public meeting.

SUMMARY: The Department of State will hold an information session regarding upcoming United Nations negotiations concerning marine biodiversity of areas beyond national jurisdiction.

DATES: The public meeting will be held via WebEx on July 26, 2022, 10:00–11:00 a.m.

ADDRESSES: If you would like to participate in this meeting, please send your (1) name, (2) organization/affiliation, and (3) email address and phone number, to Meaghan Cuddy at *CuddyMR@state.gov.*

SUPPLEMENTARY INFORMATION: The Department of State will hold a public meeting at 10:00 a.m. on Tuesday, July 26, 2022, to prepare for the fifth session of an Intergovernmental Conference (IGC) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). This public meeting will be held by way of WebEx, with a capacity of up to 1000 members of the public to participate. To RSVP, participants should contact the meeting coordinator, Meaghan Cuddy, by email at *CuddyMR@state.gov* for log on and dial-in information, and to request reasonable accommodation. Requests for reasonable accommodation received after July 22, 2022, will be considered but might not be possible to fulfill.

The United Nations will convene the fifth session of the BBNJ IGC from August 15–26, 2022, in New York City. The UN General Assembly established the IGC to consider the recommendations of a two-year Preparatory Committee and to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of Sea on BBNJ. This is the fifth and possibly final Session of the Intergovernmental Conference. It is anticipated that the BBNJ Agreement may be adopted at the conclusion of negotiations in this session. Additional information on the BBNJ process is available at *www.un.org/bbnj.*

We are inviting interested stakeholders to this virtual public meeting to share views about the BBNJ IGC, in particular to provide information to assist the U.S. Government in developing its positions. We will provide a brief overview of the upcoming discussions and listen to the viewpoints of U.S. stakeholders. The information obtained from this session will help the U.S. delegation prepare for participation in the fifth IGC session.

(Authority: 22 U.S.C. 2656)

John Griffith,

Acting Director, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2022–15033 Filed 7–13–22; 8:45 am]

BILLING CODE 4710–09–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21099]

Van Pool Transportation LLC—Acquisition of Control—F. M. Kuzmeskus, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On June 14, 2022, Van Pool Transportation LLC (Van Pool or Applicant), a noncarrier, filed an application for Van Pool to acquire control of an interstate passenger motor carrier, F. M. Kuzmeskus, Inc., doing business as Travel Kuz (Travel Kuz), from its shareholders, Darlene Kuzmeskus, Michael Doyle, and Pamala Reipold (collectively, Sellers). The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 28, 2022. If any comments are filed, Van Pool may file a reply by September 12, 2022. If no opposing comments are filed by August 28, 2022, this notice shall be effective on August 29, 2022.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Van Pool's representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 245–0283. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: According to the application, Van Pool is a limited liability company organized under Delaware law and headquartered in Wilbraham, Mass. (Appl. 2.) Van Pool states that it owns and controls all of the equity and voting interest in the following interstate passenger motor carriers (collectively, the Affiliate Regulated Carriers) that hold interstate passenger motor carrier authority, (*id.* at 2–4): [1]

- NRT Bus, Inc. (NRT), which primarily provides non-regulated student school bus transportation services in Massachusetts (Essex, Middlesex, Norfolk, Suffolk and Worcester counties), and occasional charter services;
- Trombly Motor Coach Service, Inc. (Trombly), which primarily provides non-regulated school bus transportation services in Massachusetts (Essex and Middlesex counties) and occasional charter services;
- Salter Transportation, Inc. (Salter), which primarily provides non-regulated school bus transportation services in Massachusetts (Essex County) and southern New Hampshire, and occasional charter services; and
- Easton Coach Company, LLC (Easton), which provides (i) intrastate paratransit, shuttle, and line-run services under contracts with regional transportation authorities and other organizations, primarily in New Jersey and eastern Pennsylvania, and (ii) private charter motor coach and shuttle services (interstate and intrastate), primarily in eastern Pennsylvania.[2]

According to the application, Van Pool also has operating subsidiaries that provide transportation services that do not involve regulated interstate transportation or require interstate passenger authority (together with the Affiliate Regulated Carriers, the Applicant Subsidiaries), primarily in the northeastern portion of the United States. (Appl. 2–3; *id.* at Ex. B.) Van Pool states that it is indirectly owned and controlled by investment funds affiliated with Audax Management Company, LLC, a Delaware limited liability company. (*Id.* at 6.) [3]

The application explains that Travel Kuz, the carrier being acquired, is a Massachusetts corporation that provides (i) non-regulated school bus transportation services in western Massachusetts and southern Vermont (the Service Areas), (ii) intrastate and interstate motor coach and limousine charter services for group activities in the Service Areas, and (iii) limited intrastate and interstate charter services utilizing school buses. (*Id.* at 5.) The application states that Travel Kuz: uses approximately 158 vehicles and employs approximately 150 drivers in providing its services; holds interstate operating authority under FMCSA Docket No. MC–205423; and has a ''Satisfactory'' USDOT Safety Rating. (*Id.*) [4] According to the application, all of the issued and outstanding shares of Travel Kuz are held by the Sellers, who do not own or control any interstate passenger motor carrier other than Travel Kuz. (*Id.* at 4–5.) Van Pool represents that, through this transaction, it will acquire the issued and outstanding shares of Travel Kuz, the effect of which will be to place Travel Kuz under the control of Van Pool. (*Id.* at 5.)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Van Pool has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 7–11.)

Van Pool asserts that the proposed transaction will not have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 7–8.) Van Pool states that Travel Kuz will continue to provide the same services it currently provides under the same name, but will operate as a subsidiary of Van Pool, which is experienced in passenger transportation operations. (*Id.*) Van Pool explains that it is experienced in the same market segments served by Travel Kuz and that the transaction is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, all of which will help ensure the provision of adequate service to the public. (*Id.* at 8.) Van Pool also asserts that adding Travel Kuz to its corporate family will enhance the viability of Van Pool's organization and the Applicant Subsidiaries. (*Id.*)

Van Pool claims that neither competition nor the public interest will be adversely affected by the proposed transaction. (*Id.* at 9–11.) Van Pool explains that the market for the transportation services provided by Travel Kuz is competitive in its Service Areas. (*Id.* at 10.) Specifically, Applicant states that school bus services are often outsourced under contracts using competitive bidding processes, and that competitors of Travel Kuz include First Student, Durham School Services, and Student Transportation of America. (*Id.*) As to motor coach and limousine charter services (intrastate and interstate), Van Pool states that competitors include King Gray, Premier Coach, Peter Pan, and Wilson Bus, as well as brokers for charter services that operate within the Service Areas. (*Id.* at 10–11.) Applicant further notes that all charter service providers, including Travel Kuz, compete with other modes of passenger transportation, including rail, low-cost airlines, and passenger transportation network companies. (*Id.* at 11.) Van Pool also notes that the Service Areas of Travel Kuz are geographically ''dispersed'' from the service areas of the Affiliate Regulated

[1] Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See id.* at 2–4; *id.* at Ex. A.)

[2] In *Van Pool Transportation LLC—Acquisition of Control—Alltown Bus Service, Inc.,* Docket No. MCF 21100, Van Pool has filed an application to acquire Alltown Bus Service, Inc. Today, the Board is tentatively approving that application.

[3] Further information about the Applicant's corporate structure and ownership can be found in the application. (*See* Appl. 6; *id.* at Ex. B.)

[4] Additional information about Travel Kuz, including information about operations pursuant to state authority, can be found in the application. (*See id.* at 5.)

Carriers [5] and states that there is virtually no overlap in the service areas and customer bases among the Affiliate Regulated Carriers and Travel Kuz. (*Id.*)

Van Pool states that the proposed transaction will increase fixed charges in the form of interest expenses because funds will be borrowed to assist in financing the transaction; however, Van Pool maintains that the increase will not impact the provision of transportation services to the public. (*Id.* at 8.) Van Pool also asserts that it does not expect the transaction to have substantial impacts on employees or labor conditions, and it does not anticipate a measurable reduction in force or changes in compensation levels or benefits at Travel Kuz. (*Id.* at 9.) Van Pool submits, however, that staffing redundancies could result in limited downsizing of back-office or managerial-level personnel. (*Id.*)

The Board finds that the acquisition as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective August 29, 2022, unless opposing comments are filed by August 28, 2022. If any comments are filed, Applicant may file a reply by September 12, 2022.

4. *A copy of this notice will be served on:* (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: July 8, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2022–15046 Filed 7–13–22; 8:45 am]

BILLING CODE 4915–01–P

[5] The service areas of NRT, Trombly, and Salter are in eastern Massachusetts and southern New Hampshire, and the service areas of Easton are in eastern Pennsylvania and the state of New Jersey. (*Id.*)

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21100]

Van Pool Transportation LLC—Acquisition of Control—Alltown Bus Service Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On June 14, 2022, Van Pool Transportation LLC (Van Pool or Applicant), a noncarrier, filed an application for Van Pool to acquire control of an interstate passenger motor carrier, Alltown Bus Service Inc. (Alltown), from its sole shareholder, Greg C. Polan (Seller). The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by August 28, 2022. If any comments are filed, Van Pool may file a reply by September 12, 2022. If no opposing comments are filed by August 28, 2022, this notice shall be effective on August 29, 2022.

ADDRESSES: Comments may be filed with the Board either via e-filing or in writing addressed to: Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001. In addition, send one copy of comments to Van Pool's representative: Andrew K. Light, Scopelitis, Garvin, Light, Hanson & Feary, P.C., 10 W Market Street, Suite 1400, Indianapolis, IN 46204.

FOR FURTHER INFORMATION CONTACT: Valerie Quinn at (202) 245–0283. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION: According to the application, Van Pool is a limited liability company organized under Delaware law and headquartered in Wilbraham, Mass. (Appl. 2.) Van Pool states that it owns and controls all of the equity and voting interest in the following interstate passenger motor carriers (collectively, the Affiliate Regulated Carriers) that hold interstate passenger motor carrier authority, (*id.* at 2–4): [1]

- NRT Bus, Inc., which primarily provides non-regulated student school bus transportation services in Massachusetts (Essex, Middlesex, Norfolk, Suffolk and Worcester counties), and occasional charter services;
- Trombly Motor Coach Service, Inc., which primarily provides non-regulated school bus transportation services in Massachusetts (Essex and Middlesex counties) and occasional charter services;
- Salter Transportation, Inc., which primarily provides non-regulated school bus transportation services in Massachusetts (Essex County) and southern New Hampshire, and occasional charter services; and
- Easton Coach Company, LLC, which provides (i) intrastate paratransit, shuttle, and line-run services under contracts with regional transportation authorities and other organizations, primarily in New Jersey and eastern Pennsylvania, and (ii) private charter motor coach and shuttle services (interstate and intrastate), primarily in eastern Pennsylvania.[2]

According to the application, Van Pool also has operating subsidiaries that provide transportation services that do not involve regulated interstate transportation or require interstate passenger authority (together with the Affiliate Regulated Carriers, the Applicant Subsidiaries), primarily in the northeastern portion of the United States. (Appl. 2–3; *id.* at Ex. B.) Van Pool states that it is indirectly owned and controlled by investment funds affiliated with Audax Management Company, LLC, a Delaware limited liability company. (*Id.* at 6.) [3]

The application explains that Alltown, the carrier being acquired, is an Illinois corporation that provides primarily non-regulated school bus transportation services in the Chicago, Ill., metropolitan area and Chicago suburbs (the Service Area), and occasional charter services when its vehicles are not in use for school activities. (*Id.* at 5, 10.) The application

[1] Additional information about these motor carriers, including U.S. Department of Transportation (USDOT) numbers, motor carrier numbers, and USDOT safety fitness ratings, can be found in the application. (*See id.* at 2–4; *id.* at Ex. A.)

[2] In *Van Pool Transportation LLC—Acquisition of Control—F.M. Kuzmeskus, Inc.,* Docket No. MCF 21099, Van Pool has filed an application to acquire F.M. Kuzmeskus, Inc. Today, the Board is tentatively approving that application.

[3] Further information about the Applicant's corporate structure and ownership can be found in the application. (*See* Appl. 6; *id.* at Ex. B.)

states that Alltown: uses approximately 462 school buses and approximately 325 drivers in providing its services; holds interstate operating authority under FMCSA Docket No. MC–193112; and has a ''Satisfactory'' USDOT Safety Rating. (*Id.* at 5.) According to the application, all of the issued and outstanding shares of Alltown are held by the Seller, who does not own or control any interstate passenger motor carrier other than Alltown. (*Id.*) Van Pool represents that, through this transaction, it will acquire the issued and outstanding shares of Alltown, the effect of which will be to place Alltown under the control of Van Pool. (*Id.*)

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) the effect of the proposed transaction on the adequacy of transportation to the public, (2) the total fixed charges that result from the proposed transaction, and (3) the interest of affected carrier employees. Van Pool has submitted the information required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), *see* 49 CFR 1182.2(a)(7), and a jurisdictional statement under 49 U.S.C. 14303(g) that the aggregate gross operating revenues of the involved carriers exceeded $2 million during the 12-month period immediately preceding the filing of the application, *see* 49 CFR 1182.2(a)(5). (*See* Appl. 7–12.)

Van Pool asserts that the proposed transaction will not have a material, detrimental impact on the adequacy of transportation services available to the public. (*Id.* at 7–8.) Van Pool states that Alltown will continue to provide the same services it currently provides under the same name, but will operate as a subsidiary of Van Pool, which is experienced in passenger transportation operations. (*Id.*) Van Pool explains that it is experienced in the same market segments served by Alltown and that the transaction is expected to result in improved operating efficiencies, increased equipment utilization rates, and cost savings derived from economies of scale, all of which will help ensure the provision of adequate service to the public. (*Id.* at 8.) Van Pool also asserts that adding Alltown to its corporate family will enhance the viability of Van Pool's organization and the Applicant Subsidiaries. (*Id.*)

Van Pool claims that neither competition nor the public interest will be adversely affected by the proposed transaction. (*Id.* at 9–12.) Van Pool explains that the school bus transportation market is very competitive in northern Illinois; school bus services are often outsourced under contracts using competitive bidding processes, and there are many school bus services providers in that market area. (*Id.* at 11 (listing multiple competitors).) As to charter services, which represent ''a very small portion of Alltown's revenue,'' Van Pool states that Alltown's competitors include Aries Charter Transportation, Chicago Classic Coach, Culvers Transportation, Chicago Motor Coach, and several school bus transportation companies, as well as brokers for charter services that operate within the Service Area. (*Id.* at 11.)[4] Applicant further notes that all charter service providers, including Alltown, compete with other modes of passenger transportation, including rail and passenger transportation network companies. (*Id.* at 11.) Van Pool also notes that the Service Area of Alltown is geographically ''dispersed'' from the service areas of the Affiliate Regulated Carriers[5] and states that there is virtually no overlap in the service areas and customer bases among the Affiliate Regulated Carriers and Alltown. (*Id.* at 12.)

Van Pool states that the proposed transaction will increase fixed charges in the form of interest expenses because funds will be borrowed to assist in financing the transaction; however, Van Pool maintains that the increase will not impact the provision of transportation services to the public. (*Id.* at 8.) Van Pool also asserts that it does not expect the transaction to have substantial impacts on employees or labor conditions, and it does not anticipate a measurable reduction in force or changes in compensation levels or benefits at Alltown. (*Id.* at 9.) Van Pool submits, however, that staffing redundancies could result in limited downsizing of back-office or managerial-level personnel. (*Id.*)

The Board finds that the acquisition as proposed in the application is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6. If no opposing comments are filed by expiration of the comment period, this notice will take effect automatically and will be the final Board action.

This action is categorically excluded from environmental review under 49 CFR 1105.6(c).

Board decisions and notices are available at *www.stb.gov.*

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective August 29, 2022, unless opposing comments are filed by August 28, 2022. If any comments are filed, Applicant may file a reply by September 12, 2022.

4. A copy of this notice will be served on: (1) the U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW, Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590.

Decided: July 8, 2022.

By the Board, Board Members Fuchs, Hedlund, Oberman, Primus, and Schultz.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2022–15044 Filed 7–13–22; 8:45 am]

BILLING CODE 4915–01–P

[4] (*See also id.* at 5 (stating that Alltown's charter services generate less than 7.8% of its aggregate annual revenue, with the interstate portion of those services accounting for less than 0.8%).)

[5] The service areas of the Affiliate Regulated Carriers are in New England (regions of Massachusetts and New Hampshire) and the Mid-Atlantic (New Jersey and eastern Pennsylvania). (*Id.* at 3–4.)

TENNESSEE VALLEY AUTHORITY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Tennessee Valley Authority (TVA).

ACTION: 30-Day notice of submission of information collection reinstatement approval request to OMB.

SUMMARY: Tennessee Valley Authority (TVA) provides notice of submission of this information clearance request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA). The general public and other federal agencies are invited to comment. TVA previously published a 60-day notice of the proposed information collection reinstatement for public review (May 4, 2022) and no comments were received.

DATES: The OMB will consider all written comments received on or before August 15, 2022.

ADDRESSES: Written comments for the proposed information collection reinstatement 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:

Type of Request: Reinstatement, with minor modification, of a previously approved information collection for which approval has expired.

Title of Information Collection: EnergyRight® Program.

OMB Control Number: 3316–0019.

Current Expiration Date: May 31, 2020.

Frequency of Use: On occasion.

Type of Affected Public: Individuals or Households and commercial businesses.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 455.

Estimated Number of Annual Responses: 33,500.

Estimated Total Annual Burden Hours: 8,650.

Estimated Average Burden Hours per Response: 0.3.

Need For and Use of Information: This information is used by distributors of TVA power to assist in identifying and financing energy improvements for their electrical energy customers.

Rebecca L. Coffey,

Agency Records Officer.

[FR Doc. 2022–14972 Filed 7–13–22; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Maps for Jack Northup/Hawthorne Municipal Airport, Hawthorne, Los Angeles County, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of acceptance of Noise Exposure Maps.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the City of Hawthorne for Jack Northup/Hawthorne Municipal Airport are in compliance with applicable requirements.

DATES: The effective date of the FAA's determination on the noise exposure maps is July 8, 2022.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Regional Environmental Protection Specialist, 777 South Aviation Boulevard, El Segundo, California 90045. Telephone 424–405–7315.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Jack Northup/Hawthorne Municipal Airport are in compliance with applicable requirements, effective July 8, 2022. Under 49 U.S.C. 47503 of the Aviation Safety and Noise Abatement Act (hereinafter referred to as ''the Act''), and Title 14, Code of Federal Regulations (CFR) part 150, an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of part 150, promulgated pursuant to the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes to take to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has completed its review of the noise exposure maps and accompanying documentation submitted by the City of Hawthorne. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of part 150 includes: the radar flight tracks (Chapter 2; Exhibit 2C); the existing and future consolidated arrival, departure, local and helicopter flight tracks (Chapter 2; Exhibits 2D, 2E, 2F); the 2020 Noise Exposure Map (Introduction, Exhibit 1) and 2025 Noise Exposure Map (Introduction, Exhibit 2), both depicting the runway location, airport boundaries, and location of noise sensitive public buildings over a land use map of a sufficient scale and quality to discern streets and other identifiable geographic features; the location of the noise monitoring sites (Chapter 2; Table 2H, Exhibit 2J); and the estimates of the number of people residing within the CNEL 65, 70, and 75 dB contours in 2020 and 2025 (Chapter 3; Table 3B, Table 3D). The FAA has determined that these noise exposure maps and accompanying documentation are in compliance with applicable requirements. This determination is effective on July 8, 2022.

FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 47503 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 47506 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator that submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 47503 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of part 150, that the statutorily required consultation has been accomplished.

Copies of the full noise exposure map documentation and of the FAA's evaluation of the maps are available for examination online at *https://hawthornenoise.airportstudy.net/* as well as the following locations:

Federal Aviation Administration, Los Angeles Airports District Office, 777 South Aviation Boulevard, Suite 150, El Segundo, California 90045

Hawthorne City Hall, 2nd Floor Engineering Department, 4455 West 126th Street, Hawthorne, California 90250

Hawthorne Airport Administration Office, 12101 Crenshaw Blvd. Suite #300, Hawthorne, California 90250

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in El Segundo, California, on July 8, 2022.

William C. Garrison,

Acting Director, Airports Division, Western-Pacific Region.

[FR Doc. 2022–15007 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Marine Highway Project Designation Open Season and Renewal of Project Designations

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice of Open Season for Marine Highway Project Designation and Renewal of Project Designations.

SUMMARY: The U.S. Department of Transportation (DOT or Department) and Maritime Administration (MARAD) announce that the open season for the America's Marine Highway Program (AMHP) Marine Highway Project Designation application submissions is being extended to September 30, 2025 (Open Season). The purpose of this notice is to invite eligible applicants to submit Marine Highway Project Designation applications to DOT for review and consideration during this extended open season, in addition to outlining the process for renewing Project Designations once they have reached four years or older.

DATES: There will be eleven Project Designation application review sessions during the extended Marine Highway Project Designation Open Season. Table 1 contains the application due dates and review periods for each review session. Projects qualified for designation will be announced shortly after the completion of each review session. Applications can be submitted at any time but will only be reviewed during the next upcoming review session after submittal.

TABLE 1—OPEN SEASON PROJECT DESIGNATION APPLICATION SUBMISSION AND REVIEW TIMELINE

Review session	Project application due date (11:59 p.m. pacific)	Project review period
1	September 30, 2022	October 1, 2022–December 30, 2022.
2	January 31, 2023	February 1, 2023–April 30, 2023.
3	May 31, 2023	June 1, 2023–August 31, 2023.
4	September 30, 2023	October 1, 2023–December 30, 2023.
5	January 31, 2024	February 1, 2024–April 30, 2024.
6	May 31, 2024	June 1, 2024–August 31, 2024.
7	September 30, 2024	October 1, 2024–December 30, 2024.
8	January 31, 2025	February 1, 2025–April 30, 2025.
9	May 31, 2025	June 1, 2025–August 31, 2025.
10	September 30, 2025	October 1, 2025–December 30, 2025.

ADDRESSES: Applicants can submit applications for new Project Designations or to renew current Project Designations via hardcopy to the AMHP, Office of Ports & Waterways Planning, W21–233, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, or via email to *mh@dot.gov.* Electronic applications are preferred. Telephone (202) 366–0704; Fax (202) 366–5904.

FOR FURTHER INFORMATION CONTACT: Timothy Pickering, Office of Ports & Waterways Planning, W21–312, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone (202) 366–0704; Fax (202) 366–5904; or email Mr. Pickering at *mh@dot.gov.* You may also visit MARAD's America's Marine Highway web page at *https://www.maritime.dot.gov/grants/marine-highways/marine-highway.* MARAD's Gateway Offices can also respond to questions about the AMHP, including questions about Route Designations, the Project Designation Open Season, or grant funding. The Gateway Offices' contact information is available on the MARAD website at *https://www.maritime.dot.gov/about-us/gateway-offices/gateway-offices.*

SUPPLEMENTARY INFORMATION: The AMHP was established by Section 1121 of the Energy Independence and Security Act of 2007 to reduce landside congestion through the designation of Marine Highway Routes. Section 405 of the Coast Guard and Maritime Transportation Act of 2012 further expanded the scope of the program to increase the utilization and efficiency of domestic freight transportation on Marine Highway Routes between U.S. ports by including routes that do not have parallel landside routes. The National Defense Authorization Act for Fiscal Year 2016 expanded the definition of short sea shipping (now referred to as marine highway transportation) to include freight vehicles carried aboard commuter ferry boats and cargo shipped in discrete units—or packages that are handled individually, palletized, or unitized specifically for transport. In addition, the revised final rule at 46 CFR part 393, which outlines the scope of the AMHP, became effective on January 2, 2018.

The Department's objective through this program is to reduce landside congestion and increase the use of domestic marine highway transportation by supporting the development of transportation options for shippers. These services provide economic and environmental benefits to the U.S. public at large. Marine Highway Designated Projects can improve safety and system resilience, and serve to reduce transportation-related air emissions, transportation costs for shippers, energy consumption, and costs associated with landside transportation infrastructure. Currently, the AMHP includes Marine Highway Routes in the continental U.S. in addition to the non-contiguous states of Hawaii and Alaska as well as the U.S. territories of Puerto Rico, U.S. Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands. The AMHP includes projects that move freight along America's coastlines or waterways. For example, the change in definition to add freight vehicles carried on commuter passenger ferries allowed the AMHP to provide Federal support to several existing ferry services. The addition of

palletized and unitized cargoes has allowed the AMHP to work with steel manufacturers, as well as less-than-container/less-than-truckload services.

New Project Designations

The purpose of the open season call for Project Designation applications is to seek eligible Marine Highway Projects that will establish new or expand existing marine highway services. Eligible projects may be designated as Marine Highway Projects by the Secretary of Transportation. Designation as a Marine Highway Project allows the Project Applicant or an eligible substitute applicant to become eligible for funding from the AMHP. MARAD will accept and review Project Designation applications that propose to operate a new service or expand an existing service on a designated Marine Highway Route, use U.S. documented vessels, and mitigate landside congestion or promote marine highway transportation.

New Project Designation Application Process

The Marine Highway Project Designation application process is detailed in 46 CFR 393.3, *Marine Highway Projects* (found at *https://www.ecfr.gov/current/title-46/chapter-II/subchapter-K/part-393/subpart-B/section-393.3*).

Although Marine Highway Project Designations often involve private entities, such as vessel operators, the Project Designation applications must be submitted to MARAD by a public entity, such as a State government (including State departments of transportation), metropolitan planning organization, port authority, or a Federally recognized tribal government. Public/private partnerships, however, are encouraged.

To be eligible for designation, the proposed Marine Highway Project must: (1) use U.S. vessels documented under 46 U.S.C. chapter 121; (2) mitigate landside congestion or promote marine highway transportation; (3) involve the carriage of cargo in marine highway transportation as defined in 46 U.S.C. 55605; (4) involve new or expand existing services for the carriage of cargo; and (5) operate on a designated Marine Highway Route.

Refer to 46 U.S.C. 55601 & 55605 and 46 CFR part 393 for further information on project eligibility and application requirements. For more information on recommending that a navigable waterway be designated as a Marine Highway Route, please contact your regional Gateway Office (*https://www.maritime.dot.gov/about-us/gateway-offices/gateway-offices*). Designating a Marine Highway Project does not obligate the Department to provide future funding to support the project; however, the designation is necessary for projects to be eligible for funding from the AMHP.

Renewal of Project Designations

As outlined in 46 CFR 393.3(i), Marine Highway Project Designations are effective for a period of five years. Original Project Applicants wishing to renew a Marine Highway Project Designation must submit an updated application no later than six months before their Project's five-year designation period ends. To meet that requirement, Project Applicants with Designated Projects more than four years old must submit an updated application by June 30th of the year prior to their expiration period. The year the Project was designated will constitute the Project's starting period. For example, projects designated in 2018 (or earlier) must submit an updated application by June 30, 2022; projects designated in 2019 must submit an updated application by June 30, 2023, and so forth. If approved for renewal by the Maritime Administrator, the Project Designation will be effective for another five years after its expiration period. Project Applicants can determine the year their Project was designated, and, therefore, their Project's expiration period, by referring to the latest list of current Marine Highway Project descriptions document, found at *https://www.maritime.dot.gov/grants/marine-highways/marine-highway,* or by contacting the AMHP Office.

The updated application should follow the format and contain the information outlined in 46 CFR 393.3(c) and must include any changed or new information that is relevant to the Project. The updated application affords Project Applicants the opportunity to make changes to or update the original Project Designation. Examples of such changes may include a change in operator, addition or removal of a port or facility, addition or change to the commodity moved, or a change to the public benefits associated with the project. If still applicable, Project Applicants may use information submitted in their original Project Designation application; however, applicants should make sure their application for renewal addresses any AMHP requirements that may have changed since submittal of their original application.

Project Applicants are required to submit their renewal applications by June 30th of the year prior to their Project's expiration period. If the Project Applicant notifies MARAD that they no longer wish to maintain their Project Designation or if the Project Applicant does not apply for a Project Designation renewal by the applicable deadline, those projects will no longer be designated Marine Highway Projects.

(Authority: 46 U.S.C. 55601 and 55605, 46 CFR part 393, 49 CFR 1.92 and 1.93)

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2022–15006 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2021–0083]

National Emergency Medical Services Advisory Council Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC).

DATES: This meeting will be held in-person and simultaneously transmitted via virtual interface. It will be held on August 10–11, 2022, from 12:00 p.m. to 5:00 p.m. ET. Pre-registration is required to attend this meeting. A link permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time. If you wish to speak during the meeting, you must submit a written copy of your remarks to DOT by August 2, 2022.

The next scheduled NEMSAC meeting after the August 10–11 meeting will be held on November 2–3. Notifications containing specific details for this meeting will be published in the **Federal Register** no later than 30 days prior to the meeting dates.

ADDRESSES: General information about the Council is available on the NEMSAC internet website at *www.ems.gov.* The registration portal and meeting agenda will be available on the NEMSAC internet website at *www.ems.gov* at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is

available by phone at (202) 868–3275 or by email at *Clary.Mole@dot.gov.* Any committee-related requests should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

The NEMSAC was established pursuant to Section 31108 of the Moving Ahead for Progress in the 21st Century (MAP–21) Act of 2012, under the Federal Advisory Committee Act. The purpose of NEMSAC is to serve as a nationally recognized council of emergency medical services (EMS) representatives to provide advice and consult with:

a. The Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to EMS issues; and

b. The Secretary of Transportation on matters relating to EMS issues affecting DOT.

The NEMSAC provides an important national forum for the non-Federal deliberation of national EMS issues and serves as a platform for advice on DOT's national EMS activities. NEMSAC also provides advice and recommendations to the FICEMS. NEMSAC is authorized under Section 31108 of the MAP–21 Act of 2012, codified at 42 U.S.C. 300d–4.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Updates from Federal Emergency Services Liaisons
- Updates on the FICEMS Initiatives
- Updates on NHTSA Initiatives
- Subcommittee Reports

III. Public Participation

This meeting will be open to the public. We are committed to providing equal access to this meeting for all participants. Persons with disabilities in need of an accommodation should send a request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than August 2, 2022.

A period of time will be allotted for comments from members of the public joining the meeting. Members of the public may present questions and comments to the Council using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak directly to the Council during the meeting must submit a request. The request must include the name, contact information (address, phone number, and email address), and organizational affiliation of the individual wishing to address NEMSAC; it must also include a written copy of prepared remarks and must be forwarded to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than August 2, 2022.

All advance submissions will be reviewed by the Council Chairperson and Designated Federal Officer. If approved, advance submissions shall be circulated to NEMSAC representatives for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–14992 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[DOT–NHTSA–2021–0084]

National Emergency Medical Services Advisory Council Notice of Public Meeting

AGENCY: National Highway Traffic Safety Administration, U.S. Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the National Emergency Medical Services Advisory Council (NEMSAC).

DATES: This meeting will be held in-person, but also simultaneously transmitted via virtual interface. It will be held on November 2–3, 2022, from 12:00 p.m. to 5:00 p.m. ET. Pre-registration is required to attend this meeting. A link permitting access to the meeting will be distributed to registrants within 24 hours of the meeting start time. If you wish to speak during the meeting, you must submit a written copy of your remarks to DOT by October 27, 2022.

Notifications containing specific details for this meeting will be published in the **Federal Register** no later than 30 days prior to the meeting dates.

ADDRESSES: General information about the Council is available on the NEMSAC internet website at *www.ems.gov.* The registration portal and meeting agenda will be available on the NEMSAC internet website at *www.ems.gov* at least one week in advance of the meeting.

FOR FURTHER INFORMATION CONTACT: Clary Mole, EMS Specialist, National Highway Traffic Safety Administration, U.S. Department of Transportation is available by phone at (202) 868–3275 or by email at *Clary.Mole@dot.gov.* Any committee-related requests should be sent to the person listed in this section.

SUPPLEMENTARY INFORMATION:

I. Background

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a. The Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to EMS issues; and

b. The Secretary of Transportation on matters relating to EMS issues affecting DOT. The NEMSAC provides an important national forum for the non-Federal deliberation of national EMS issues and serves as a platform for advice on DOT's national EMS activities. NEMSAC also provides advice and recommendations to the FICEMS. NEMSAC is authorized under Section 31108 of the MAP–21 Act of 2012, codified at 42 U.S.C. 300d–4.

II. Agenda

At the meeting, the agenda will cover the following topics:

- Updates from Federal Emergency Services Liaisons
- Updates on the FICEMS Initiatives
- Updates on NHTSA Initiatives
- Subcommittee Reports

III. Public Participation

This meeting will be open to the public. We are committed to providing equal access to this meeting for all participants. Persons with disabilities in need of an accommodation should send a request to the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than October 27, 2022.

A period of time will be allotted for comments from members of the public joining the meeting. Members of the public may present questions and comments to the Council using the live chat feature available during the meeting. Members of the public may also submit materials, questions, and comments in advance to the individual

listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Members of the public wishing to reserve time to speak directly to the Council during the meeting must submit a request. The request must include the name, contact information (address, phone number, and email address), and organizational affiliation of the individual wishing to address NEMSAC; it must also include a written copy of prepared remarks and must be forwarded to the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than October 27, 2022.

All advance submissions will be reviewed by the Council Chairperson and Designated Federal Officer. If approved, advance submissions shall be circulated to NEMSAC representatives for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: 42 U.S.C. 300d–4(b); 49 CFR part 1.95(i)(4).

Issued in Washington, DC.

Nanda Narayanan Srinivasan,

Associate Administrator, Research and Program Development.

[FR Doc. 2022–14991 Filed 7–13–22; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See Supplementary Information section for effective date(s).

FOR FURTHER INFORMATION CONTACT: OFAC: Andrea Gacki, Director, tel.: 202–622–2490; Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On July 11, 2022, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following person is blocked under the relevant sanctions authorities listed below.

Individuals

1. SEPULVEDA PORTILLO, Obed Christian, Mexico; DOB 20 May 1982; POB Jalisco, Mexico; nationality Mexico; Gender Male; C.U.R.P. SEPO820520HJCPRB00 (Mexico) (individual) [ILLICIT–DRUGS–E.O.]. Sanctioned pursuant to section 1(b)(iii) of Executive Order 14059 of December 15, 2021, ''Imposing Sanctions on Foreign Persons Involved in the Global Illicit Drug Trade,'' for being owned, controlled, or directed by, or having acted or purported to act for or on behalf of, directly or indirectly, the Cartel de Jalisco Nueva Generacion (CJNG), a sanctioned person.

Dated: July 11, 2022.

Andrea M. Gacki,

Director, Office of Foreign Assets Control, U.S. Department of the Treasury.

[FR Doc. 2022–15095 Filed 7–13–22; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Information Collection for Treasury Decision 8517, Debt Instruments With Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property; Treasury Decision 9599, Property Traded on an Established Market

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning Treasury Decision 8517, Debt Instruments with Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property; Treasury Decision 9599, Property Traded on an Established Market.

DATES: Written comments should be received on or before September 12, 2022 to be assured of consideration.

ADDRESSES: Direct all written comments to Molly Stasko, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to *pra.comments@irs.gov.* Please include OMB Number 1545–1353 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection tools should be directed to Sara Covington, at (202) 317–5744, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at *sara.l.covington@irs.gov.*

SUPPLEMENTARY INFORMATION: The IRS is seeking comments concerning the following information collection tools, reporting, and record-keeping requirements:

Title: Debt Instruments with Original Discount; Imputed Interest on Deferred Payment Sales or Exchanges of Property; Property Traded on an Established Market.

OMB Number: 1545–1353.

Treasury Decision Numbers: 8517; 9599.

Abstract: These regulations provide definitions, reporting requirements, elections, and general rules relating to the tax treatment of debt instruments with original issue discount and the imputation of, and accounting for, interest on certain sales or exchanges of property. Current Actions: IRS is updating the burden estimates for TD 9599, due to an inadvertent overstatement in the previous OMB submissions. This results in a decrease in the burden estimates by 180,000 responses (from 200,000 to 20,000) and a decrease of 90,000 hours (from 100,000 to 10,000).

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, Individuals or Households.

Taxpayer Burden Estimates:

Treasury Decision 8517:

Estimated Number of Respondents: 525,000.

Estimated Time per Response: 0.35.

Estimated Total Annual Burden Hours: 185,500.

Treasury Decision 9599:

Estimated Number of Respondents: 20,000.

Estimated Time per Response: 0.5.

Estimated Total Annual Burden Hours: 10,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 11, 2022.

Sara L. Covington,

IRS Tax Analyst.

[FR Doc. 2022–15068 Filed 7–13–22; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL REGISTER

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Part II

Department of Energy

10 CFR Part 430
Energy Conservation Program: Test Procedure for Consumer Water Heaters and Residential-Duty Commercial Water Heaters; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 430

[EERE–2019–BT–TP–0032]

RIN 1904–AE77

Energy Conservation Program: Test Procedure for Consumer Water Heaters and Residential-Duty Commercial Water Heaters

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

ACTION: Supplemental notice of proposed rulemaking and request for comment.

SUMMARY: The U.S. Department of Energy (''DOE'') is publishing this supplemental notice of proposed rulemaking (''SNOPR'') to amend the test procedure for consumer water heaters and residential-duty commercial water heaters. This SNOPR updates the proposals presented in a notice of proposed rulemaking published in the **Federal Register** on January 11, 2022. In this SNOPR, DOE proposes additional amendments that would provide additional specificity regarding flow rate tolerances for water heaters with a rated storage volume of less than 2 gallons; allow for voluntary representations at certain additionally specified test conditions for heat pump water heaters; revise the proposed specifications regarding separate storage tank requirements for certain types of water heaters; provide instructions for testing certain water heaters that store water at a temperature higher than the delivery setpoint; establish a metric and method for determining the effective storage volume of certain storage-type water heaters; and update the proposed methodology for estimating the internal tank temperature of water heaters which cannot be directly measured. DOE is seeking comment from interested parties on these proposals.

DATES: DOE will accept comments, data, and information regarding this SNOPR no later than August 4, 2022. See section IV, ''Public Participation,'' for details.

ADDRESSES: *Comments:* Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *www.regulations.gov,* under docket number EERE–2019–BT–TP–0032. Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2019–BT–TP–0032 and/or RIN 1904–AE77, by any of the following methods:

(1) *Email: WaterHeaters2019TP0032@ee.doe.gov.* Include docket number EERE–2019–BT–TP–0032 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 V of this document (Public Participation).

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

The docket web page can be found at *www.regulations.gov/docket?D=EERE-2019-BT-TP-0032.* The docket web page contains instructions on how to access all documents, including public comments, in the docket. See section V (Public Participation) for information on how to submit comments through *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Julia Hegarty, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–5B, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 597–6737. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Mr. Eric Stas, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW, Washington, DC 20585–0121. Telephone: (202) 586–5827. Email: *Eric.Stas@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. Authority and Background

Consumer water heaters are included in the list of ''covered products'' for which DOE is authorized to establish and amend energy conservation standards and test procedures. (42 U.S.C. 6292(a)(4)) DOE's energy conservation standards and test procedures for consumer water heaters are currently prescribed respectively at Title 10 of the Code of Federal Regulations (''CFR''), part 430 section 32(d), and 10 CFR part 430, subpart B, appendix E (''appendix E''), *Uniform Test Method for Measuring the Energy Consumption of Water Heaters.* Residential-duty commercial water heaters, for which DOE is also authorized to establish and amend energy conservation standards and test procedures (42 U.S.C. 6311(1)(K)), must also be tested according to appendix E. 10 CFR 431.106(b)(1) (*See* 42 U.S.C. 6295(e)(5)(H)). DOE's energy conservation standards for residential-duty commercial water heaters are currently prescribed at 10 CFR

431.110(b)(1). The following sections discuss DOE's authority to establish and amend test procedures for consumer water heaters and residential-duty commercial water heaters, as well as relevant background information regarding DOE's consideration of test procedures for these products and equipment.

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, as codified) Title III, Part B [2] of EPCA established the Energy Conservation Program for Consumer Products Other Than Automobiles, which sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6291–6309, as codified) These products include consumer water heaters, one of the subjects of this document. (42 U.S.C. 6292(a)(4)) Title III, Part C [3] of EPCA, added by Public Law 95–619, Title IV, section 441(a), established the Energy Conservation Program for Certain Industrial Equipment, which again sets forth a variety of provisions designed to improve energy efficiency. (42 U.S.C. 6311–6317, as codified) This equipment includes residential-duty commercial water heaters, which are also the subject of this document. (42 U.S.C. 6311(1)(k))

The energy conservation program under EPCA consists essentially of four parts: (1) testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. Relevant provisions of EPCA specifically include definitions (42 U.S.C. 6291; 42 U.S.C. 6311), test procedures (42 U.S.C. 6293; 42 U.S.C. 6314), labeling provisions (42 U.S.C. 6294; 42 U.S.C. 6315), energy conservation standards (42 U.S.C. 6295; 42 U.S.C. 6313), and the authority to require information and reports from manufacturers (42 U.S.C. 6296; 42 U.S.C. 6316).

The Federal testing requirements consist of test procedures that manufacturers of covered products and commercial equipment must use as the basis for: (1) certifying to DOE that their products/equipment comply with the applicable energy conservation standards adopted pursuant to EPCA (42 U.S.C. 6295(s); 42 U.S.C. 6296; 42 U.S.C. 6316(a)–(b)), and (2) making other representations about the efficiency of those consumer products (42 U.S.C. 6293(c); 42 U.S.C. 6314(d)). Similarly, DOE must use these test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s))

Federal energy efficiency requirements for covered products and equipment established under EPCA generally supersede State laws and regulations concerning energy conservation testing, labeling, and standards. (42 U.S.C. 6297(a)–(c); 42 U.S.C. 6316(a)–(b)) DOE may, however, grant waivers of Federal preemption in limited circumstances for particular State laws or regulations, in accordance with the procedures and other provisions of EPCA. (42 U.S.C. 6297(d); 42 U.S.C. 6316(a); 42 U.S.C. 6316(b)(2)(D))

Under 42 U.S.C. 6293, EPCA sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered products. Specifically, EPCA requires that any test procedures prescribed or amended shall be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) Under 42 U.S.C. 6314, the statute sets forth the criteria and procedures DOE must follow when prescribing or amending test procedures for covered equipment, reciting similar requirements at 42 U.S.C. 6314(a)(2).

In addition, the Energy Independence and Security Act of 2007 (EISA 2007) amended EPCA to require that DOE amend its test procedures for all covered consumer products to integrate measures of standby mode and off mode energy consumption. (42 U.S.C. 6295(gg)(2)(A)) Standby mode and off mode energy consumption must be incorporated into the overall energy efficiency, energy consumption, or other energy descriptor for each covered product unless the current test procedures already account for and incorporate standby and off mode energy consumption or such integration is technically infeasible. (42 U.S.C. 6295(gg)(2)(A)(i)–(ii)) If an integrated test procedure is technically infeasible, DOE must prescribe a separate standby mode and off mode energy use test procedure for the covered product, if technically feasible. (42 U.S.C. 6295(gg)(2)(A)(ii)) Any such amendment must consider the most current versions of the International Electrotechnical Commission (IEC) Standard 62301 [4] and IEC Standard 62087,[5] as applicable. (42 U.S.C. 6295(gg)(2)(A))

The American Energy Manufacturing Technical Corrections Act (AEMTCA), Pub. L. 112–210, further amended EPCA to require that DOE establish a uniform efficiency descriptor and accompanying test methods to replace the energy factor (EF) metric for covered consumer water heaters and the thermal efficiency (TE) and standby loss (SL) metrics for commercial water-heating equipment [6] within one year of the enactment of AEMTCA. (42 U.S.C. 6295(e)(5)(B)–(C)) The uniform efficiency descriptor and accompanying test method were required to apply, to the maximum extent practicable, to all water-heating technologies in use at the time and to future water-heating technologies, but could exclude specific categories of covered water heaters that do not have residential uses, can be clearly described, and are effectively rated using the TE and SL descriptors. (42 U.S.C. 6295(e)(5)(F) and (H)) In addition, beginning one year after the date of publication of DOE's final rule establishing the uniform descriptor, the efficiency standards for covered water heaters were required to be denominated according to the uniform efficiency descriptor established in the final rule (42 U.S.C. 6295(e)(5)(D)); and for affected covered water heaters tested prior to the effective date of the test procedure final rule, DOE was required to develop a mathematical factor for converting the measurement of their energy efficiency from the EF, TE, and SL metrics to the new uniform energy

[1] All references to EPCA in this document refer to the statute as amended through Energy Act of 2020, Pub. L. 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.

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

[4] IEC 62301, *Household electrical appliances—Measurement of standby power* (Edition 2.0, 2011–01).

[5] IEC 62087, *Methods of measurement for the power consumption of audio, video, and related equipment* (Edition 3.0, 2011–04).

[6] The initial thermal efficiency and standby loss test procedures for commercial water heating equipment (including residential-duty commercial water heaters) were added to EPCA by the Energy Policy Act of 1992 (EPACT 1992), Public Law 102–486, and corresponded to those referenced in the ASHRAE and Illuminating Engineering Society of North America (IESNA) Standard 90.1–1989 (*i.e.,* ASHRAE Standard 90.1–1989). (42 U.S.C. 6314(a)(4)(A)) DOE subsequently updated the commercial water heating equipment test procedures on two separate occasions—once in a direct final rule published on October 21, 2004, and again in a final rule published on May 16, 2012. These rules incorporated by reference certain sections of the latest versions of American National Standards Institute (ANSI) Standard Z21.10.3, *Gas Water Heaters, Volume III, Storage Water Heaters with Input Ratings Above 75,000 Btu Per Hour, Circulating and Instantaneous,* available at the time (*i.e.,* ANSI Z21.10.3–1998 and ANSI Z21.10.3–2011, respectively). 69 FR 61974, 61983 (Oct. 21, 2004) and 77 FR 28928, 28996 (May 16, 2012).

descriptor. (42 U.S.C. 6295(e)(5)(E)(i)–(ii))

EPCA also requires that, at least once every 7 years, DOE evaluate test procedures for each type of covered product or equipment, including consumer water heaters and residential-duty commercial water heaters, to determine whether amended test procedures would more accurately or fully comply with the requirements for the test procedures to not be unduly burdensome to conduct and be reasonably designed to produce test results that reflect energy efficiency, energy use, and estimated operating costs during a representative average use cycle (or, additionally, period of use for consumer products). (42 U.S.C. 6293(b)(1)(A); 42 U.S.C. 6314(a)(1)(A))

If the Secretary determines, on her own behalf or in response to a petition by any interested person, that a test procedure should be prescribed or amended, the Secretary shall promptly publish in the **Federal Register** proposed test procedures and afford interested persons an opportunity to present oral and written data, views, and arguments with respect to such procedures. (42 U.S.C. 6293(b)(2); 42 U.S.C. 6314(b)) The comment period on a proposed rule to amend a test procedure shall be at least 60 days [7] and may not exceed 270 days. (42 U.S.C. 6293(b)(2)) In prescribing or amending a test procedure, the Secretary shall take into account such information as the Secretary determines relevant to such procedure, including technological developments relating to energy use or energy efficiency of the type (or class) of covered products involved. (42 U.S.C. 6293(b)(2)) If DOE determines that test procedure revisions are not appropriate, DOE must publish in the **Federal Register** its determination not to amend the test procedures. (42 U.S.C. 6293(b)(1)(A)(ii) and 42 U.S.C. 6314(a)(1)(A)(ii))

DOE is conducting this rulemaking in satisfaction of the 7-year-lookback review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A) and 42 U.S.C. 6314(a)(1)(A))

B. Background

On January 11, 2022, DOE published in the **Federal Register** a notice of proposed rulemaking (''January 2022 NOPR'') in which the Department proposed to update appendix E, and related sections of the CFR, as follows:

(1) Incorporate by reference current versions of industry standards referenced by the current and proposed DOE test procedures: American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE) Standard 41.1,[8] ASHRAE Standard 41.6,[9] the pending update to ASHRAE Standard 118.2 [10] (contingent on it being substantively the same as the draft which was under review), ASTM International (ASTM) D2156,[11] and ASTM E97.[12]

(2) Add definitions for ''circulating water heater,'' ''low temperature water heater,'' and ''tabletop water heater.''

(3) Specify how a mixing valve should be installed when the water heater is designed to operate with one.

(4) Modify flow rate requirements during the FHR test for water heaters with a rated storage volume less than 20 gallons.

(5) Modify timing of the first measurement in each draw of the 24-hour simulated-use test.

(6) Clarify the determination of the first recovery period.

(7) Clarify the mass of water to be used to calculate recovery efficiency.

(8) Modify the terminology throughout appendix E to explicitly state ''non-flow activated'' and ''flow-activated'' water heater, where appropriate.

(9) Clarify the descriptions of defined measured values for the standby period measurements.

(10) Modify the test condition specifications and tolerances, including electric supply voltage tolerance, ambient temperature, ambient dry bulb temperature, ambient relative humidity, standard temperature and pressure definition, gas supply pressure, and manifold pressure.

(11) Add provisions to address gas-fired water heaters with measured fuel input rates that deviate from the certified input rate.

(12) Clarify provisions for calculating the volume or mass delivered.

(13) Add specifications for testing for the newly defined ''low temperature water heaters.''

(14) Clarify testing requirements for the heat pump part of a split-system heat pump water heater.

(15) Define the use of a separate unfired hot water storage tank for testing water heaters designed to operate with a separately sold hot water storage tank.

(16) Clarify that any connection to an external network or control be disconnected during testing.

(17) Add procedures for estimating internal stored water temperature for water heater designs in which the internal tank temperature cannot be directly measured.

(18) Modify the provisions for untested water heater basic models within 10 CFR 429.70(g) to include electric instantaneous water heaters.

87 FR 1554, 1558.[13]

DOE received written comments in response to the January 2022 NOPR pertinent to the issues discussed in this SNOPR from the interested parties listed in Table III.1 of this document. In this SNOPR, DOE is maintaining the proposals from the January 2022 NOPR with modifications as discussed in this SNOPR and will address comments on any remaining topics in a future test procedure final rule.

TABLE III.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE JANUARY 2022 NOPR RELEVANT TO TOPICS COVERED IN THIS SNOPR

Commenter(s)	Reference in this SNOPR	Comment No. in Docket	Commenter type
A.O. Smith Corporation	A.O. Smith	37	Manufacturer.
Air Conditioning, Heating, and Refrigeration Institute	AHRI	40	Trade Association.
Appliance Standards Awareness Project, American Council for and Energy-Efficient Economy, National Consumer Law Center.	Joint Advocates	34	Efficiency Advocacy Organizations.
Bradford White Corporation	BWC	33	Manufacturer.

[7] For covered, equipment, if the Secretary determines that a test procedure amendment is warranted, the Secretary must publish proposed test procedures in the **Federal Register**, and afford interested persons an opportunity (of not less than 45 days' duration) to present oral and written data, views, and arguments on the proposed test procedures. (42 U.S.C. 6314(b))

[8] ASHRAE Standard 41.1–2020, ''Standard Methods for Temperature Measurement,'' approved June 30, 2020.

[9] ASHRAE Standard 41.6–2014, ''Standard Method for Humidity Measurement,'' ANSI approved July 3, 2014.

[10] ASHRAE Standard 118.2–2022, ''Method of Testing for Rating Residential Water Heaters and Residential-Duty Commercial Water Heaters,'' ANSI approved March 1, 2022.

[11] ASTM Standard D2156–09 (RA 2018), ''Standard Test Method for Smoke Density in Flue Gases from Burning Distillate Fuels,'' reapproved October 1, 2018.

[12] ASTM Standard E97–1987 (W 1991), ''Standard Test Methods for Directional Reflectance Factor, 45-Deg 0-Deg, of Opaque Specimens by Broad-Band Filter Reflectometry,'' approved January 1987, withdrawn 1991. Referenced by ASTM Standard D2156–09 (RA 2018).

[13] A correction was published in the **Federal Register** on January 19, 2022, to properly reflect the date of the public meeting to discuss the test procedure NOPR. 87 FR 2731.

TABLE III.1—LIST OF COMMENTERS WITH WRITTEN SUBMISSIONS IN RESPONSE TO THE JANUARY 2022 NOPR RELEVANT TO TOPICS COVERED IN THIS SNOPR—Continued

Commenter(s)	Reference in this SNOPR	Comment No. in Docket	Commenter type
Pacific Gas and Electric Company, San Diego Gas and Electric, and Southern California Edison; collectively, the California Investor-Owned Utilities.	CA IOUs	36	Utilities.
Jim Lutz	Lutz	35	Individual.
New York State Energy Research and Development Authority	NYSERDA	32	State Agency.
Northwest Energy Efficiency Alliance	NEEA	30	Efficiency Advocacy Organization.
Rheem Manufacturing Company	Rheem	31	Manufacturer.

As discussed, this SNOPR addresses only those comments related to the proposals laid out in this document; all other relevant comments will be addressed in a future stage of the rulemaking. A parenthetical reference at the end of a comment quotation or paraphrase provides the location of the item in the public record.[14]

II. Synopsis of Proposed Amendments

DOE's proposed actions in this SNOPR are summarized in Table II.1 of this document as compared to the January 2022 TP NOPR. Reasons for each proposed change are also explained in summary.

TABLE II.1—SUMMARY OF PROPOSED CHANGES ADDRESSED IN THIS SNOPR

January 2022 NOPR proposal	SNOPR	Attribution
Proposed that flow rates for all water heaters with rated storage volume less than 2 gallons must be maintained within a tolerance of ±0.25 gallons per minute.	Additionally proposes that for water heaters with rated storage volume less than 2 gallons and a rated Max GPM of less than 1 gallon per minute, the flow rate tolerance shall be ±25 percent of the rated Max GPM.	Improve repeatability and reproducibility of the test procedure.
Did not propose to allow for optional efficiency representations at alternative test conditions for heat pump water heaters.	Proposes to allow for optional efficiency representations at alternative test conditions for heat pump water heaters.	Harmonize with current industry testing practices.
Did not propose a definition for split-system heat pump water heaters.	Proposes a definition for split-system heat pump water heaters to distinguish these from heat pump-only water heaters.	Provide additional clarity to application of test conditions for heat pump water heaters.
Proposed to define ''circulating water heaters'' and require that such products be tested using an 80 gallon (±1 gallon) unfired hot water storage tank (''UFHWST'') that meets the energy conservation standards for an unfired hot water storage tank at 10 CFR 431110(a).	Proposes that gas-fired circulating water heaters be tested using a UFHWST with a storage volume between 80 and 120 gallons and an R-value exactly at the minimum R-value required at 10 CFR 431110(a), and that heat pump circulating water heaters be tested using a 40-gallon electric resistance water heater at the minimum UEF standard required at 10 CFR 43032(d).	Improve representativeness of test methodology for circulating water heaters.
Proposed to continue to specify that water heaters with multiple modes of operation be tested in the ''default'' or other similarly named mode as currently required by Appendix E.	Proposes that water heaters (with the exception of demand-response water heaters) with user-selectable modes to ''over-heat'' the water stored in the tank to increase effective capacity be tested at the highest internal tank temperature that can be achieved while maintaining the outlet water temperature at 125 ± 5 °F If no such overheated mode exists, the unit is to be tested in a default mode.	Improve representativeness of test methodology for water heaters with user-selectable overheated storage tank modes.
Did not include a definition for ''demand-response water heater''.	Proposes to define ''demand-response water heater'' based on the ENERGY STAR specification v5.0 definition for connected water heating product, with the additional requirement that demand-response water heaters cannot over-heat as a result of user-initiated operation.	Clarify the test methods for products with demand-response utility,
Did not include any proposal related to the effective storage volume of storage-type water heaters.	Proposes to establish a metric and method for determining the effective storage volume of storage-type water heaters.	Adopt a metric to provide additional information to consumers on product performance.

[14] The parenthetical reference provides a reference for information located in the docket of DOE's rulemaking to develop test procedures for consumer water heaters and residential-duty commercial water heaters. (Docket No. EERE–2019–BT–TP–0032, which is maintained at *www.regulations.gov*). The references are arranged as follows: (commenter name, comment docket ID number, page of that document).

TABLE II.1—SUMMARY OF PROPOSED CHANGES ADDRESSED IN THIS SNOPR—Continued

January 2022 NOPR proposal	SNOPR	Attribution
Proposed a method of determining the internal storage tank temperature (for water heaters with rated storage volume greater than or equal to 2 gallons which cannot be directly measured) based on an assumption that the mean tank temperature is approximately the average of the inlet water temperature and the outlet water temperature.	Proposes a method of determining the internal storage tank temperature using draws at the beginning and end of the 24-hour simulated use test.	Adopt a test method for certain water heaters which cannot be directly measured.

III. Discussion

A. Flow Rate Tolerance Requirements

In this SNOPR, DOE proposes to supplement the proposal presented in the January 2022 NOPR regarding specified flow rate tolerances for water heaters with a rated storage volume under 2 gallons.

Section 5.4 of appendix E provides instructions for conducting the 24-hour simulated-use test for the determination of the uniform energy factor (''UEF''). Section 5.4.1 of appendix E specifies directions for determination of the draw pattern of the water heater under test; section 5.4.2 of appendix E specifies the test sequence for water heaters with rated storage volume greater than or equal to 2 gallons; and section 5.4.3 of appendix E specifies the test sequence for water heaters with rated storage volume less than 2 gallons. These test sequences specify the timings of each water draw during the 24-hour simulated-use test, the flow rates at which the draws must occur, and condition tolerances for these draws.

In particular, section 5.4.2 of appendix E, *Test Sequence for Water Heaters with Rated Storage Volumes Greater Than or Equal to 2 Gallons,* provides that all draws during the 24-hour simulated-use test must be made at the flow rates specified in the applicable draw pattern table in section 5.5 of this appendix, within a tolerance of ±0.25 gallons per minute (±0.9 liters per minute). Section 5.4.3 of appendix E, *Test Sequence for Water Heaters with Rated Storage Volume Less Than 2 Gallons,* currently does not provide explicit instruction for the tolerance on the flow rate.

Within the proposed amendments to the regulatory text provided in the January 2022 NOPR, DOE included a proposed amendment to section 5.4.3 of appendix E to specify that flow rates for water heaters with rated storage volume less than 2 gallons must be maintained within a tolerance of ±0.25 gallons per minute. 87 FR 1554, 1603 (Jan. 11, 2022). The preamble to the January 2022 NOPR did not include discussion of this topic, nor did DOE specifically request for comment on this topic.

Adopting these proposed tolerances at section 5.4.3 of appendix E would ensure repeatability and reproducibility of test results for water heaters with rated storage volume less than 2 gallons. Most water heaters with storage volume less than 2 gallons are flow-activated devices, meaning that burner or heating element activation is controlled based on sensing the flow rate when hot water is called for. As such, significant variations in the flow rate from test to test could affect the measured efficiency of these products.

In this SNOPR, DOE is updating its proposal to include additional specificity for water heaters with flow rates less than 1 gallon per minute. In section III.C.6 of the January 2022 NOPR, DOE discussed water heaters on the market with maximum gallon per minute (''Max GPM'') delivery capacities below 1 gallon per minute. 87 FR 1554, 1582 (Jan. 11, 2022). For these models, the ''very small'' draw pattern for the 24-hour simulated-use test would be applicable. Section 5.5 of appendix E states that, for the very small draw pattern, if the water heater has a Max GPM rating less than 1 gallon per minute (3.8 L/min), then all draws shall be implemented at a flow rate equal to the rated Max GPM. For products with Max GPM less than 1 gallon per minute, an allowable flow rate tolerance of ±0.25 gallon per minute would represent a significant variation of flow rate in comparison to the rated Max GPM. For example, for a water heater with Max GPM of 0.5 gallon per minute, a tolerance of ±0.25 gallon per minute would represent a ±50 percent difference from the rated flow rate. Furthermore, in its review of publicly certified water heater ratings,[15] DOE identified models with rated Max GPM delivery capacities as low as 0.20 gallon per minute. For such products, a flow rate tolerance of ±0.25 gallon per minute would allow for either flow rates close to zero or flow rates that are more than twice the rated Max GPM; either case would lead to results unrepresentative of actual product usage. Therefore, in this SNOPR, DOE proposes further amending section 5.4.3 of appendix E to specify that for water heaters with a rated Max GPM of less than 1 gallon per minute, the flow rate tolerance shall be ±25 percent of the rated Max GPM. For such products, a flow rate tolerance of ±25 percent would represent the same level of variation (on a percentage basis) as for products rated at 1.0 gallon per minute and subject to a tolerance of ±0.25 gallon per minute.

By way of example, under the proposal, for a water heater with a rated Max GPM flow rate of 0.5 gallon per minute, the required tolerance would be ±0.125 gallon per minute. For a water heater with a rated Max GPM flow rate of 0.20 gallon per minute, the required tolerance would thus be ±0.05 gallon per minute.

As discussed, EPCA requires that test procedures be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3)) DOE expects that laboratories may require high-precision water flow rate instrumentation (*e.g.,* Coriolis flow meters) in order to maintain the tolerances discussed, in particular for water heaters with rated Max GPM flow rates less than 1 gallon per minute. DOE is aware through its testing activities that multiple third-party laboratories already use Coriolis flow meters. In reviewing water heater test data previously collected, DOE has observed third-party laboratories maintaining flow rate condition tolerances as low as ±0.05 gallon per minute. For these reasons, DOE has initially determined that the proposed tolerances would generally not require additional capital investments for test

[15] DOE consulted its public Certification Compliance Database (Available at: *www.regulations.doe.gov/certification-data/CCMS-4-Water_Heaters.html#q=Product_Group_s%3A%22Water%20Heaters%22*).

laboratories and, therefore, would not be unduly burdensome to conduct.

DOE also has tentatively determined that the proposed amendment would not alter the measured efficiency of consumer water heaters and residential-duty commercial water heaters, nor require retesting or recertification solely as a result of DOE's adoption of the proposed amendments to the test procedure, if made final. In the absence of an explicit instruction for the flow rate tolerance applicable to water heaters with rated storage volume under 2 gallons, DOE expects that general industry best practice is to apply the flow rate tolerances being proposed for section 5.4.3 of appendix E for water heaters with rated storage volume less than 2 gallons (based on DOE's review of third-party laboratory test data), such that this proposal is expected to be consistent with current methodology.

With the addition of these proposed amendments to section 5.4.3 of appendix E, DOE maintains the proposals set forth in the January 2022 NOPR.

DOE seeks comment on the proposed amendment to specify flow rate tolerances for the 24-hour simulated use test for water heaters with rated storage volume under 2 gallons, and in particular to specify the tolerance as ±25 percent for water heaters with a rated maximum flow rate of less than 1 gallon per minute. DOE is particularly interested in test data or information that would indicate the technical feasibility of maintaining the tolerances proposed with instrumentation that is used in general practice, as well as the potential impacts on test burden.

B. Optional Test Conditions

Section 2.2 of appendix E specifies that the ambient air temperature shall be maintained between 65.0 °F and 70.0 °F (18.3 °C and 21.1 °C) on a continuous basis during the test. Additionally, for heat pump water heaters, that test procedure provision provides that the dry-bulb temperature shall be maintained at 67.5 °F ±1 °F (19.7 °C ±0.6 °C) and that the relative humidity shall be maintained at 50 percent ±2 percent throughout the test.[16]

In the January 2022 NOPR, DOE discussed comments previously received on the April 2020 RFI suggesting that DOE explore the usage of NEEA's Advanced Water Heating Specification for voluntary climate-specific efficiency representations of heat pump water heaters. 87 FR 1554, 1580 (Jan. 11, 2022). In response to those comments, DOE stated that it did not have data to indicate what conditions would be representative for regional representations, and, thus, DOE tentatively decided not to allow optional representations of additional efficiency ratings at test conditions other than those found in the DOE test procedure, such as those made in accordance with NEEA's Advanced Water Heating Specification. *Id.*

In response to the January 2022 NOPR, DOE received additional comments regarding optional representations that have led the Department to reconsider its tentative decision not to allow optional representations.

The CA IOUs stated that water heater installation practices vary regionally, and that similar units installed in the same region can experience different ambient conditions. The CA IOUs further stated that the direct relationship between the diverse ambient conditions and efficiency make it impossible to choose a single representative value for ambient conditions for the consumer water heaters test procedure that will yield useful energy consumption estimates for heat pump water heaters. The CA IOUs asserted that in the case of a split-system heat pump water heater, the condenser is almost always located in an unconditioned space (*e.g.,* outdoors), such that the ambient conditions specified in the current DOE test procedure are not representative. The CA IOUs recommended that DOE clarify whether manufacturers may provide information on the performance of heat pump water heaters at ambient temperatures other than 67.5 °F ±1 °F. The CA IOUs reiterated their recommendation to allow manufacturers to provide representations for more than one ambient condition, stating that allowing manufacturers to state performance under different conditions would allow them to introduce heat pump water heater models optimized for different applications, would help keep performance claims consistent, and would help consumers select the most appropriate products. (CA IOUs, No. 36 at p. 2)

The Joint Advocates stated that the value of having test data at both colder and warmer conditions than those specified in the current test procedure is that they would allow for calculating UEFs for any climate regardless of whether the specific optional test conditions are representative of any region. The Joint Advocates reiterated its recommendation that DOE allow voluntary reporting of ratings at two additional test conditions. The Joint Advocates asserted that allowing optional reporting would help provide a better understanding of the differences in heat pump water heater performance at various conditions without increasing test burden for manufacturers who do not wish to report these additional rating. (Joint Advocates, No. 34 at p. 1)

NYSERDA requested that DOE require heat pump water heater performance data at a range of operating conditions. NYSERDA stated that demonstrating performance at different ambient temperatures is a commonly applied approach for heat pumps that serve HVAC loads, and that similar treatment for heat pump water heaters is appropriate. NYSERDA stated that in order for heat pump water heaters to provide utility in all climates, including the colder temperatures in New York, consumers and installers will need to understand the expected performance at a range of operating conditions. NYSERDA encouraged DOE to allow manufacturers to provide performance data at conditions representative of where heat pump water heaters will be installed throughout the country. NYSERDA specifically referenced NEEA's Advanced Water Heating Specification as an example resource. (NYSERDA, No. 32 at p. 3)

BWC stated that voluntary representations would potentially increase burden and not increase representativeness for performance on a national basis. BWC expressed its support for DOE's tentative determination not to allow additional voluntary representations. (BWC, No. 33 at p. 8)

After considering these comments, the Department once again notes that EPCA requires that the DOE test procedure must be reasonably designed to produce test results which measure energy efficiency during a representative average use cycle or period of use. (42 U.S.C. 6293(b)(3)) While the test conditions in the current appendix E test procedure must remain representative for the nation as a whole, comments from interested parties have demonstrated that allowing additional representations of efficiency at alternative ambient conditions could provide consumers with additional information about the expected performance of heat pump water heaters at conditions that are representative of their specific installation circumstances. For other types of covered products and equipment, DOE has adopted optional metrics for voluntary representations where it was determined that the primary efficiency metric would not be representative for certain installation

[16] DOE proposed amendments to the ambient air tolerance requirements in the January 2022 NOPR. 87 FR 1554, 1577–1578 (Jan. 11, 2022).

conditions common for the product or equipment. For heat pump water heaters, both the efficiency and the heating capacity of the product are sensitive to the ambient conditions, and in general will be lower at colder ambient temperatures and higher at warmer ambient temperatures. For example, at lower ambient temperatures, the reduction in heating capacity of the heat pump could result in back-up electric resistance heating elements operating more frequently than at the current DOE rating conditions. Differences in ambient conditions also would affect integrated heat pump water heaters installed in unconditioned spaces (*e.g.,* garage or attic) and split-system heat pump water heaters for which the heat pump components are located outdoors. Depending on the installation location, the ambient conditions may vary significantly from the conditions in the DOE test method, thereby resulting in significantly different performance for such products. For these reasons, in this SNOPR, DOE has tentatively determined to allow for certain optional representations for additional ambient conditions, as described further in the following paragraphs. DOE understands this to be the intent in NYSERDA's request (however, NYSERDA's comment discusses both a requirement for optional representations as well as an allowance for optional representations). In response to BWC's concerns regarding a potential increase in test burden, DOE proposes that any testing at multiple ambient conditions would be optional, and DOE is not proposing to require testing at the alternative ambient conditions. In summary, DOE is proposing to define new metrics for optional representations based primarily upon the test conditions provided in NEEA's Advanced Water Heating Specification version 8.0 (''AWHS v8.0'').

AWHS v8.0 was published by NEEA on March 1, 2022. Though early editions of the AWHS focused primarily on providing more representative performance metrics for heat pump water heaters in cold climates, the latest editions are now more broadly focused on providing representative performance metrics for heat pump water heaters across all climates. Performance metrics in the AWHS are generally calculated by measuring energy efficiency at multiple (two or more) ambient test conditions, linearly interpolating between the test results, and finally calculating an ambient temperature-weighted efficiency metric using temperature bin data. The metric is a cold climate efficiency (''CCE'') rating for integrated heat pump water heaters installed in semi-conditioned (*i.e.,* garage, basement) spaces and a seasonal coefficient of performance (''SCOP'') for split-system heat pump water heaters (where the heat pump is separated from the storage tank and located outdoors).

NEEA maintains a Qualified Products List for heat pump water heaters tested by manufacturers to the AWHS.[17] As of February 2022, the Qualified Products List contains CCE and SCOP representations from seventeen heat pump water heater brands. As such, DOE notes that manufacturers are already conducting testing per the AWHS and are providing representations in accordance with its test methods. On this basis, DOE has tentatively determined that adopting these test points for voluntary testing and representations would not significantly increase test burden for manufacturers who choose to provide these ratings.

In its review of the AWHS v8.0, DOE determined that there are several differences between the test conditions provided and those present in the appendix E test procedure. These differences include ambient dry bulb temperatures, relative humidity conditions, and supply water temperatures.

For integrated heat pump water heaters, AWHS v8.0 determines CCE_{50} at ambient air conditions of 50 °F dry bulb temperature and 58 percent relative humidity, with a supply water temperature of 50 °F. An additional high-temperature condition of 95 °F is also included but noted as optional in appendix B.1.1 to AWHS v8.0. DOE is proposing adopt the low ambient air conditions (50 °F and 58 percent relative humidity) and the high ambient air conditions (95 °F and 40 percent relative humidity) for optional representations of integral heat pump water heaters. Additionally, AWHS v8.0 modifies the inlet water temperatures at these ambient conditions to reflect the corresponding mains water temperature expected at each outdoor air temperature. At the 50 °F ambient condition, the specified inlet water temperature is also 50 °F, and at the 95 °F ambient condition, the specified inlet water temperature is 67 °F. Although NEEA's AWHS v8.0 specifies these air and water conditions only for integrated heat pump water heaters, DOE has tentatively determined that these conditions could also be used for heat pump-only water heaters, which typically do not have any outdoor components.

For split-system heat pump water heaters, Appendix B.4 to AWHS v8.0 includes a note that the test method and calculation procedure is ''in progress,'' and test conditions are labeled as ''draft testing conditions.'' Appendix B.4 to AWHS v8.0 states, ''broadly, the method will consist of calculating an efficiency for each test in Table 8 following the Uniform Energy Factor calculation method but substituting in appropriate temperature conditions.'' For split-system heat pump water heaters, AWHS v8.0 determines SCOP at ambient air conditions ranging from 5 °F dry bulb temperature and 30 percent relative humidity to 95 °F dry bulb temperature and 25 percent relative humidity. Similar to the requirements in AWHS v8.0 for integrated heat pump water heaters, the supply water temperature requirement varies with ambient dry bulb temperature. The four standard test conditions for SCOP in AWHS v8.0 are shown in Table 8 of AWHS v8.0 and in Table III.1 in this SNOPR.

TABLE III.1—AWHS V8.0 STANDARD TEST CONDITIONS FOR SPLIT-SYSTEM HEAT PUMP WATER HEATERS

Test point	Outdoor conditions			Water	Indoor conditions	
	Outdoor dry-bulb temperature	Outdoor wet-bulb temperature	Relative humidity (%)	Supply water temperature	Dry-bulb temperature	Relative humidity
A	5 °F	2 °F	30	42 °F	67.5 °F	Not specified.
B	34 °F	31 °F	72	47 °F		

[17] Available at: *neea.org/img/documents/residential-unitary-HPWH-qualified-products-list.pdf* (Last accessed on May 11, 2022).

TABLE III.1—AWHS v8.0 STANDARD TEST CONDITIONS FOR SPLIT-SYSTEM HEAT PUMP WATER HEATERS—Continued

Test point	Outdoor conditions			Water	Indoor conditions	
	Outdoor dry-bulb temperature	Outdoor wet-bulb temperature	Relative humidity (%)	Supply water temperature	Dry-bulb temperature	Relative humidity
C	68 °F	57 °F	50	58 °F		
D	95 °F	69 °F	25	67 °F		

Test point C in AWHS v8.0 most closely resembles the current test condition in appendix E. In this SNOPR, DOE is proposing to adopt the three additional outdoor air conditions (A, B, and D in AWHS v8.0) for optional representations of split-system heat pump water heaters. Where indoor relative humidity is not currently specified in AWHS v8.0 for split-system heat pump water heaters, DOE is proposing to use the 50-percent relative humidity requirement from the current appendix E test procedure in order to maintain the consistency and comparability of results. Tolerances on these conditions would be the same as those required for the standard UEF test conditions.

DOE proposes to adopt the optional test conditions as stand-alone metrics in sections 2.8 and 5.6 of appendix E. DOE proposes to adopt a new metric, E_X (where ''X'' represents the air temperature under which the test was conducted if not 67.5 °F), at sections 1.16 and 6.5 of appendix E for optional representations only. The metric E_X would represent the result of a test done in accordance with the UEF test procedure but at a different set of ambient test conditions. With the exception of the different temperature (both air and water) and humidity conditions, all other aspects of the test procedure would remain identical to those used to determine the regulated metric, UEF. The draw pattern used to determine E_X would be the same draw pattern used to determine UEF. The proposed optional test conditions for heat pump water heaters are shown in Table III.2.

TABLE III.2—PROPOSED OPTIONAL TEST CONDITIONS FOR HEAT PUMP WATER HEATERS

Heat pump type	Metric	Outdoor air conditions		Indoor air conditions		Supply water temperature
		Dry-bulb temperature	Relative humidity (%)	Dry-bulb temperature	Relative humidity (%)	
Split-System	E_5	5.0 °F	30	67.5 °F	50	42.0 °F
	E_{34}	34.0 °F	72			47.0 °F
	E_{95}	95.0 °F	25			67.0 °F
Integrated or Heat Pump-Only	E_{50}	N/A	N/A	50.0 °F	58	50.0 °F
	E_{95}	N/A	N/A	95.0 °F	40	67.0 °F

DOE seeks information and comments on its proposal to allow optional representations of E_X in the appendix E test procedure to indicate efficiency at different inlet air and water conditions. DOE also welcomes feedback on its proposal to use the same temperature measurement tolerances for optional E_x conditions and the required UEF condition. DOE is interested in data which can be used to determine the range of indoor ambient air conditions typical in semi-conditioned spaces in different geographical regions in the United States, and how these conditions typically correlate to outdoor air conditions. DOE is also interested in data which may be used to correlate consumer hot water usage patterns with different seasonal conditions.

In order to avoid any potential confusion between heat pump-only water heaters and split-system water heaters, DOE is also proposing to define ''split-system heat pump water heater'' in section 1.14 of appendix E. Specifically, DOE proposes to adopt the definition in AWHS v8.0 with minor modifications:

Split-system heat pump water heater means a heat pump-type water heater with an indoor storage tank and outdoor heat pump component.

DOE welcomes comment on its proposed definition of ''split-system heat pump water heater.''

DOE has tentatively determined that this proposal would not lead to additional testing costs or burden for manufacturers or test labs because these optional metrics would remain voluntary for representations.

C. Storage Tank Over-Heating

As discussed in the January 2022 NOPR, DOE proposed amendments pertaining to water heaters that are designed to, or have operational modes that, raise the temperature of the stored water significantly above the outlet water temperature requirements specified in section 2.4 of appendix E. 87 FR 1554, 1580 (Jan. 11, 2022). These water heaters are meant to be used with a mixing valve (which may or may not be provided with, or be built into, the unit) to temper the outlet water to a typical outlet water temperature. Generally, raising the temperature of the water in the storage tank significantly above the target output temperature (*i.e.,* ''over-heating'' the water) would effectively increase the amount of hot water that a given size water heater can deliver (*e.g.,* a 50-gallon water heater with an over-heated storage tank temperature could provide the same amount of hot water as an 80-gallon water heater with a more typical storage tank temperature). An FHR test performed at an over-heated storage tank temperature would result in a higher FHR than a test performed at a lower, more conventional storage tank temperature. The installation instructions in section 4 of appendix E do not address when a separate mixing valve should be installed, and the operational mode selection instructions in section 5.1 of appendix E do not specifically address when the water heater has an operational mode that can over-heat the water in the storage tank.

However, section 5.1 of appendix E requires that the water heater be tested in its default mode, and where a default mode is not specified, to test the unit in all modes and rate the unit using the results of the most energy-intensive mode. *Id.*

For this type of water heater, DOE proposed in the January 2022 NOPR to add instructions for the installation of a mixing valve similar to what is published in section 4.1 of the ENERGY STAR Connected Test Method.[18] 87 FR 1554, 1580 (Jan. 11, 2022).

In response to the January 2022 NOPR, several commenters requested that DOE consider further amendments to the appendix E test procedure to provide more representative efficiency results for such storage-type water heaters that ''over-heat'' the stored water beyond the delivery temperature. These comments are summarized and responded to in the paragraphs that follow. In consideration of these comments, DOE is proposing additional testing requirements to further address water heaters that have an operational mode (or modes) that over-heat the stored water.

NYSERDA commented that DOE should ensure that all test procedure requirements surrounding FHR enable comparison between products and accurately reflect the in-field performance of water heaters, including those which may augment capacity through the use of a mixing valve or other approaches. (NYSERDA, No. 32 at p. 4)

NEEA commented that it supports DOE's proposal to specify instructions for the installation of a mixing valve, stating that the proposal would improve repeatability and comparability of test results by providing clarity on the pipe, valve, and measurement locations. (NEEA, No. 30 at p. 2) The commenter further asserted that ensuring that inlet temperature is measured before supplying cold water to the mixing valve and that outlet temperature is measured after heating and mixing would produce the most representative and repeatable test results. (*Id.*) NEEA also recommended that DOE consider ways to account for the increased effective capacity enabled by a mixing valve (either separate or integrated). (*Id.*) According to NEEA, products that store water at a higher temperature in a mode other than default would have an increased effective capacity and lower UEF in this high temperature mode. (*Id.*) NEEA encouraged DOE to consider ways to account for the increased effective capacity for products with integrated mixing valves and those designed to be used with a mixing valve. (*Id.*)

The Joint Advocates expressed support for DOE's proposal to include instructions for the installation of a mixing valve and encouraged DOE to amend the test procedure to capture the associated increase in effective hot water storage volume for water heaters designed to be used with a mixing valve. (Joint Advocates, No. 34 at pp. 1–2) The Joint Advocates stated that raising the temperature of the stored water above the outlet water temperature requirements essentially increases the amount of hot water delivered without increasing the size of the water heater, and that this is not reflected in the test procedure or standards because water heater ratings are calculated based on the rated storage volume, not the actual effective volume. (*Id.*) Therefore, the Joint Advocates recommended that DOE amend the test procedure to account for the additional effective storage volume enabled by a higher operating temperature and mixing valve. Specifically, the Joint Commenters encouraged DOE to consider specifying how to calculate the effective storage volume for water heaters designed to be installed with a mixing valved based on the highest possible temperature setpoint and requiring such water heaters to be tested at both 125 ±5 °F and at their highest setpoint. (*Id.*) Furthermore, the Joint Advocates commented that water heaters designed to be installed with a mixing valve should be subject to the DOE standards based on both their rated storage volume (and FHR at the 125 ± 5 °F setpoint) and their effective storage volume (and FHR at their highest setpoint). (*Id.*)

The CA IOUs stated that storage volume and first hour rating are often correlated; however, with the increased use of thermostatic mixing valves, this correlation has decreased, and FHR has become a better representation of hot water delivery than storage volume. (CA IOUs, No. 36 at p. 3) The CA IOUs asserted that the FHR metric best defines consumer amenity, and that the current standards—which are differentiated by storage volume—allow for less-efficient performance for larger volume tanks within a given test procedure bin despite delivering similar service to the consumer. (*Id.*) With regard to mixing valves specifically, the CA IOUs supported DOE's proposal to require the fitting of thermostatic mixing valves between the inlet and outlet temperature measurement points when they are not an integral component of the water heater and in the absence of manufacturer instructions. (*Id.* at p. 5) The CA IOUs stated that this requirement would align with product designs, as manufacturers typically direct the integration of a valve or its installation, making it the correct choice to ensure comparability of results and to accurately represent real-world energy use. (*Id.*)

In order to further examine the potential impact of storage tank over-heating, DOE performed testing on one 50-gallon electric resistance storage water heater that includes built-in mixing valve and multiple user-selectable modes to boost the delivery capacity by over-heating the storage tank. DOE collected data at three different storage tank temperatures, each of which provided an outlet water temperature at 125 ±5 °F through the use of the built-in mixing valve. The maximum measured mean tank temperature after cut-out following the first draw of the 24-hour simulated use test ($\overline{T}_{max,1}$) and the average outlet water temperature during the second draw ($\overline{T}_{del,2}$) were used as indicators of over-heating. Data from this testing is shown in Table III.3 of this document. The first row of data (with maximum mean tank temperature value of 124.3) represents the unit as tested according to the current test procedure.

[18] The ENERGY STAR program published a Test Method to Validate Demand Response for connected residential water heaters on April 5, 2021 (the ''ENERGY STAR Connected Test Method''). Section 4.1 of the ENERGY STAR Connected Test Method addresses the test set-up in which a separate mixing valve is required. The Energy Star Test Method to Validate Demand Response for connected residential water heaters is available at: *www.energystar.gov/sites/default/files/ENERGY%20STAR%20Connected%20Residential%20Water%20Heaters%20Test%20Method%20to%20Validate%20Demand%20Response_0.pdf* (Last accessed May 19, 2022).

TABLE III.3—STORAGE TANK OVER-HEATING TEST DATA

$\overline{T}_{max,1}$* (°F)	$\overline{T}_{del,2}$** (°F)	Corresponding FHR	Corresponding UEF
124.3	121.3	77 gal	0.94
144.5	124.3	81 gal	0.90
159.6	124.3	95 gal	0.88

* $\overline{T}_{max,1}$ represents the maximum measured mean tank temperature after cut-out following the first draw of the 24-hour simulated-use test.
** $\overline{T}_{del,2}$ represents the average outlet water temperature during the second draw of the 24-hour simulated-use test.

The test results support NEEA's assertion that storage tank over-heating could lead to reductions in UEF. The test configuration corresponding to the current DOE test procedure produced a UEF value of 0.94, which surpasses the threshold for compliance with the current minimum energy conservation applicable to this unit (minimum UEF of 0.93). The over-heated configurations with mean tank temperatures of 144.5 and 159.6 produced UEF values of 0.90 and 0.88, respectively, both of which are below the applicable minimum energy conservation standard for this unit.

In addition, the test results indicate that storage tank over-heating leads to an increase in the measured FHR value. The test configuration corresponding to the current DOE test procedure produced an FHR value of 77 gallons. The over-heated configurations with mean tank temperatures of 144.5 and 159.6 produced FHR values of 81 and 95 gallons, respectively. DOE notes that an FHR of 95 gallons is comparable to that of a 100-gallon electric storage water heater.[19] By comparison, the current minimum energy conservation standard that applies to 100-gallon consumer water heaters in the high draw pattern is a UEF of 2.13 (which currently can only be achieved through heat pump technology).

From its review of publicly available product literature, products that utilize storage tank over-heating generally offer user-selectable operating modes that result in tank temperatures ranging from 100 °F to 170 °F. Based on DOE's test data, should consumers choose to operate these products to a high-capacity mode (which maintains the storage tank at, for example, 140 °F while delivering water at 125 °F), the water heater would likely perform significantly worse than a rating determined based on testing without storage tank over-heating (*i.e.,* the rated efficiency at the rated delivery capacity would not be representative of an average use cycle or period of use when operated in a high-capacity mode). Hence, DOE has tentatively determined that revisions to the method for determination of UEF and FHR are necessary to yield results representative of an average use cycle for these products. These proposed amendments are discussed in detail in the following sections.

1. Testing in Over-Heated Mode

Most conventional storage-type water heaters do not include a mixing valve and offer a range of temperature setpoints that would, in typical installations, deliver outlet water at the temperature corresponding to the setpoint temperature (*e.g.,* a 140 °F setting on the water heater will deliver a 140 °F outlet temperature). Whereas, as discussed previously, water heaters that include a mixing valve and provide ''over-heating'' capability offer a range of internal temperature setpoints, although the outlet water remains at nominally at 125 °F regardless of internal setpoint. For the remainder of this discussion, DOE refers to a user-initiated mode that results in an elevated internal water temperature without increasing the delivered water temperature as ''over-heated mode.''

Currently, section 5.1 of appendix E states, ''For water heaters that allow for multiple user-selected operational modes, all procedures specified in this appendix shall be carried out with the water heater in the same operational mode (*i.e.,* only one mode). This operational mode shall be the default mode (or similarly-named, suggested mode for normal operation) as defined by the manufacturer in its product literature for giving selection guidance to the consumer.'' An ''overheated mode'' in storage-type water heaters is distinct from a high-temperature setpoint because the outlet water temperature is unaffected by the internal temperature setpoint. DOE surmises that consumers who purchase a water heater that provides over-heating capability would do so with the intent to use such capability; as such, these consumers would be expected to use the over-heated mode some portion of the time, ranging from occasional use (*e.g.,* switching between the normal mode and the over-heated mode depending on the hot water capacity needed at any particular time) to regular use. Accordingly, for such products, DOE expects that a representative average use cycle would include some portion of time in over-heated mode. For this reason, DOE has tentatively concluded that testing only in the default mode would not produce results that are representative of an average use cycle or period of use for products with this capability if the default mode does not provide over-heat capability.

Considering these factors, DOE has tentatively determined that testing storage-type water heaters that offer user-selectable over-heated modes in the over-heated mode would provide a more representative result than testing in the default mode. Therefore, DOE proposes to amend section 5.1 of appendix E to require that for water heaters that offer a user-selected operational mode(s) in which the storage tank is maintained at a temperature higher than the delivery temperature, the operational mode shall be that which results in the highest mean tank temperature while maintaining an outlet temperature of 125 ±5 °F.

DOE recognizes that the aforementioned proposal would likely cause UEF ratings for these products to decrease if they are currently certified using a default operational mode that does not initiate over-heating. In order to limit potential re-testing and re-certification burden for manufacturers, DOE is proposing that the requirement to test these products in the over-heated mode go into effect only once DOE completes its ongoing review of potential amended energy conservation standards for consumer water heaters and residential-duty commercial water heaters.[20]

Electric storage water heaters with demand-response capabilities may undergo utility-initiated over-heating during certain periods in order to store additional energy in the water heater for

[19] For example, DOE's Compliance Certification Database includes a 107-gallon electric storage water heater with an FHR rating of 94 gallons.

[20] DOE is concurrently evaluating potential amended energy conservation standards for consumer water heaters (Docket No. EERE–2017–BT–STD–0019) and residential-duty commercial water heaters (Docket No. EERE–2021–BT–STD–0027).

use during peak demand periods. This over-heating, when initiated by the electric utility company, serves an important purpose for energy storage and grid flexibility. Products that offer the ability to respond to utility-initiated over-heating requests are distinct in function from products that offer user-initiated over-heating, because demand-response water heaters do not over-heat to increase the overall daily capacity of the water heater. Instead, the capacity is only temporarily boosted to counteract the deactivation of the heating elements for extended periods of time when demand curtailment is occurring. As such, demand-response water heaters with the capability to undergo utility-initiated over-heating would not be expected increase the capacity of the water heater over a typical average use cycle in the same way that a water heater with user-initiated over-heating would, so DOE has tentatively concluded that testing demand-response water heaters in the default/normal mode would be the most representative for demand-response water heaters.

In order to clarify which products with over-heating capability should be tested in the operational mode that results in the highest mean tank temperature while maintaining an outlet temperature of 125 ±5 °F and which products with over-heating capability should be tested in default/normal mode, DOE is proposing to define ''demand-response water heater'' in section 1.3 of appendix E. Products meeting that definition would be tested in normal/default mode, while all other products capable of over-heating the stored water in the tank would be tested in the in the operational mode that results in the highest mean tank temperature while maintaining an outlet temperature of 125 ±5 °F. The proposed definition for ''demand-response water heater'' is based on the ENERGY STAR definitions for ''connected water heater product,'' ''demand response management system,'' and ''demand response'' in specification version 5.0, with certain modifications made by DOE.[21] More specifically, DOE proposes to define ''demand-response water heater'' as follows:

Demand-response water heater means a storage-type water heater that—

(1) Has integrated communications hardware and additional hardware and software required to enable connected functionality with a utility or third party, which dispatches signals with demand response instructions and/or price signals to the product and receives messages from the demand-response water heater;

(2) Meets the communication and equipment standards for Consumer Technology Association Standard (CTA) 2045–B (ANSI/CTA–2045–B); [22]

(3) Automatically heats the stored water above the delivery temperature setpoint only in response to instructions received from a utility or third party.

DOE welcomes comment on its proposed definition of ''demand-response water heater,'' including the specification for ANSI/CTA–2045–B to demonstrate connected functionality (as it is the latest version of the CTA–2045 standard).

DOE seeks comment on the proposal to specify that water heaters, except demand-response water heaters, that offer an operational mode (or modes) causing water to be stored at a temperature higher than the delivery temperature must be tested in the ''over-heated mode'' that results in the highest internal tank temperature while still while maintaining an outlet temperature of 125 ±5 °F. DOE also welcomes feedback on its proposal to require testing in this manner only after compliance with amended energy conservation standards for consumer water heaters and residential-duty commercial water heaters is required. DOE further seeks information and consumer use data to identify how often the over-heated mode is used in field installations.

2. Effective Storage Volume

As discussed in section III.C of this document, the Joint Advocates and the CA IOUs both recommended that the increase in water heating capacity attained through over-heating the storage tank be considered for energy conservation standards. The Joint Advocates suggested that compliance with standards should be based on an ''effective storage volume,'' whereas the CA IOUs advocated for FHR to be used for standards instead of a representation of storage volume.

The current energy conservation standards at 10 CFR 430.32(d) define the minimum required UEF as a function of rated storage volume. These standards have been amended over time but are based on the original standards prescribed by EPCA at 42 U.S.C. 6295(e)(1), which also correlated the efficiency metric to storage volume. In doing so, these standards account for differences in standby losses (*i.e.,* heat transfer from the hot, stored water to the ambient surroundings) for storage tanks of varying sizes. For storage-type water heaters, the amount of hot water immediately available for consumer use has typically been governed by the storage tank size, with increased tank size resulting in a corresponding increase in standby losses. Standby losses are primarily dependent upon three factors: (1) surface area of the tank; (2) temperature of the stored water, and (3) tank insulation. As storage tank volume increases, so do the expected standby losses (all else being equal). Similarly, an increased water temperature would also increase standby losses. The standards originally prescribed by EPCA and subsequently amended by DOE did not contemplate storage tank over-heating and its potential impact on standby losses and the amount of hot water that is immediately available for consumer use. Therefore, DOE has initially concluded that a capacity metric that combines information about the tank volume and storage temperature may be more appropriate.

Similar to standby loss, the thermal energy stored in a water heater is a function of both the volume and the temperature of the water being stored in the tank. The ability to over-heat the tank increases the effective thermal energy storage of the tank to that equivalent to a larger tank that has been heated to a more conventional, lower temperature (*i.e.,* approximately 125 ±5 °F). DOE has tentatively determined that a measure of ''effective storage volume'' (as suggested by the Joint Advocates) that reflects the thermal energy stored in the water heater would allow for a better comparison between a smaller water heater with over-heating and a larger water heater storing water at a lower temperature.

Lutz stated that the test procedure should be able to distinguish and measure the ability of a water heater to deliver hot water with enough energy and to deliver a high enough temperature. Lutz provided the example of a bath, where the temperature at every point during the draw is not important; contrasted with a shower, where the temperature is crucial. (Lutz, No. 35 at p. 1)

DOE notes that for activities such as filling a bathtub, consumers would benefit more from knowing the effective storage volume (*i.e.,* the volume of immediately available hot water) of a water heater, whereas for activities such as taking a shower, consumers could benefit more from knowing the FHR (*i.e.,* ability to deliver hot water for an extended period of time). In particular,

[21] The ENERGY STAR Version 5.0 Residential Water Heater Final Draft Specification was published on June 1, 2022 and is available online at: *www.energystar.gov/products/spec/residential_water_heaters_specification_version_5_0_pd* (Last accessed on June 4, 2022).

[22] ANSI/CTA–2045–B, ''Modular Communications Interface for Energy Management,'' published February 2021.

FHR represents one full hour of delivery and does not necessarily describe immediate hot water availability, as FHR is also impacted by the rate of recovery. Hence, in addition to FHR, DOE has tentatively determined that effective storage volume would be a meaningful performance metric for consumers. In this SNOPR, DOE proposes a method to determine effective storage volume, V_{eff} (expressed in gallons or liters), at section 6.3.1.1 of appendix E. For water heaters storing water no higher than the delivery temperature, DOE proposes that the effective storage volume be equivalent to the measured storage volume. DOE proposes that to determine whether the stored water temperature is higher than the delivery temperature, the maximum mean tank temperature measured after cut-out following the first draw of the 24-hour simulated-use test ($\overline{T}_{max,1}$) is to be compared to the average outlet water temperature during the second draw of the 24-hour simulated-use test ($\overline{T}_{del,2}$). If $\overline{T}_{max,1}$ is less than or equal to $\overline{T}_{del,2}$, then the unit would be determined to not be capable of over-heating the stored water, and the effective storage volume would be set equal to the measured storage volume. DOE has tentatively chosen $\overline{T}_{max,1}$ to represent the temperature of the stored water. Based on DOE's review of its own test data, $\overline{T}_{max,1}$ is typically the highest mean tank temperature achieved by the water heater, and $\overline{T}_{max}$ values throughout the test (*i.e.,* all maximum mean tank temperatures following element cut-out) typically do not vary significantly. DOE has tentatively chosen $\overline{T}_{del,2}$ to represent the delivered water temperature because it corresponds to the first draw after $\overline{T}_{max,1}$ is observed.

By contrast, for water heaters capable of over-heating water (as determined by $\overline{T}_{max,1}$ being greater than $\overline{T}_{del,2}$), DOE proposes to calculate the effective storage volume based on a volume scaling factor and data already collected during the appendix E test. The volume scaling factor would be determined as follows, which is based on the relative heat transfer rates calculated from the temperature data collected during the test:

$$k_V = \frac{\rho(\overline{T}_{max,1}) \times C_p(\overline{T}_{max,1}) \times (\overline{T}_{max,1} - 67.5°\text{F})}{\rho(125°\text{F}) \times C_p(125°\text{F}) \times (125°\text{F} - 67.5°\text{F})}$$

Where:

k_V is the dimensionless volume scaling factor;

$\rho(T)$ is the density of water evaluated at temperature T;

$C_P(T)$ is the heat capacity of water evaluated at temperature T, and

67.5 °F is the average ambient temperature.

DOE proposes to determine the effective storage volume by multiplying the measured storage volume by k_V.

DOE notes that this approach to calculating effective storage volume would allow all calculations to be based on data collected during a single 24-hour simulated use test, but it would yield meaningful results only if water heaters capable of over-heating are required to be tested in an over-heated mode, which is discussed in section III.C.1 of this document.

This SNOPR does not propose to require representations of effective storage volume, but DOE may consider such requirements as part of a future energy conservation standards rulemaking, should this proposal be finalized.

With respect to the comment from the CA IOUs suggesting that the energy conservation standards be based on FHR rather than storage volume, DOE notes that changes to the energy conservation standards are outside the scope of this test procedure rulemaking. However, this recommendation, along with the Joint Advocates' recommendation that standards be based on an effective volume, will be considered further in DOE's concurrent energy conservation standards rulemaking.

DOE seeks comment on its tentative determination that effective storage volume would be a meaningful performance metric for consumers and is a more appropriate measure of thermal energy storage than FHR.

DOE seeks comment on the proposed equations and approach to calculating effective storage volume for water heaters.

D. Separate Storage Tank Requirements

Some water heaters on the market require a volume of water, typically contained in either a storage tank (or tanks) or in a piping distribution system of sufficient volume, to operate. These products operate by circulating water stored either in the piping system or from a separate tank (or multiple separate tanks) to the water heater to be heated then back to the piping system or tank until hot water is needed. In the January 2022 NOPR, DOE identified two types of products that require a volume of water to operate—heat pump-only water heaters that require installation with a separate storage tank and circulating gas-fired instantaneous water heaters that require installation with a separate storage tank or a piping system of sufficient volume. 87 FR 1554, 1583–1585 (Jan. 11, 2022). Circulating gas-fired instantaneous water heaters are distinct from other types of gas-fired instantaneous water heaters in that they are not designed to operate independent of a storage tank or hot water system, as other gas-fired instantaneous water heaters are. This applies generally to circulating water heaters; however, DOE has tentatively determined that there are no electric resistance or oil-fired circulating water heaters on the market today.

The current test procedure does not have procedures in place to appropriately test circulating water heaters. As such, in the January 2022 NOPR, DOE proposed to define ''circulating water heater'' (including both heat pump-only and gas-fired instantaneous circulating water heaters) and to require that such products be tested using an 80 gallon (± 1 gallon) unfired hot water storage tank (''UFHWST'') that meets the energy conservation standards for an unfired hot water storage tank at 10 CFR 431.110(a). 87 FR 1554, 1583–1585 (Jan. 11, 2022).

In response to the January 2022 NOPR, DOE received a number of comments regarding the separate storage tank requirements, primarily related to the ± 1 gallon tolerance, the representativeness of an 80-gallon unfired hot water storage tank, and the lack of a specification for the upper bound on thermal insulation for the unfired hot water storage tank. These comments are summarized and addressed in the paragraphs that follow.

NYSERDA commented that an 80-gallon UFHWST may not be the correct tank to use to increase repeatability and represent real world conditions. (NYSERDA, No. 32 at p. 2)

Rheem commented that because a circulating water heater can be paired with multiple sizes of tanks (*e.g.,* 40-, 60-, and 80-gallon tanks), DOE should consider multiple tank sizes for testing circulating water heaters instead of just one 80-gallon storage tank. Rheem also suggested that DOE increase the

tolerance on the volume of the storage tank to match the tolerance prescribed by product safety standards,[23] noting that a ±1 gallon tolerance on an 80-gallon storage volume is too tight. Rheem also requested clarification on whether the separately sold storage tank may have backup heating (*e.g.,* if the circulating water heater is designed to be used with a tank that has backup heating) and whether the two products could be rated together as a system. (Rheem, No. 40 at pp. 3–4)

AHRI recommended that DOE not adopt a ±1 gallon tolerance requirement for the storage tank used in the test for a heat pump-only water heater, stating that DOE should instead apply 10 percent volume tolerance, consistent with UL standard 174 or UL standard 1453. AHRI also suggested that manufacturers be allowed to specify the storage tank used to determine ratings for circulating and heat pump-only water heaters. (AHRI, No. 40 at pp. 3–5)

A.O. Smith stated that it would not be unduly burdensome to use an 80-gallon tank for heat pump-only water heater testing. However, A.O. Smith stated that tank insulation, inlet and outlet connection locations, internal tank baffling, and inlet tube designs could impact the UEF result, and accordingly, these variables should be addressed in the DOE test procedure. A.O. Smith recommended that, to minimize as many variables as possible, manufacturers be required to provide the model number of the specific tank as part of its certification data, and that the test tank should be defined as a part of the test apparatus. (A.O. Smith, No. 37 at p. 3) DOE understands this to mean that A.O. Smith recommends that the UFHWST model number used for testing UEF be certified to DOE by the manufacturer, and that appendix E should indicate that the specific UFHWST model certified to DOE must be used in the test set-up.

The CA IOUs stated that the proposed 80-gallon tank size may not reflect real-world applications. Additionally, the CA IOUs argued that because the proposed requirement would impose a minimum R-value for the tank, but no maximum, it could lead to variations in test outcomes. The CA IOUs suggested that heat pump-only water heater manufacturers should be allowed to test their products with a manufacturer-specified storage tank and certify the information about the tank used for testing. The CA IOUs also suggested that for heat-pump-only water heaters, DOE should specify a traditional consumer electric storage water heater tank, as it may be more representative of actual use. (CA IOUs, No. 36 at p. 5; CA IOUs, No. 27 at p. 31)

BWC commented that not all storage tanks are designed identically, and differences in tank design may lead to differences in ratings for circulating and heat pump-only water heaters. BWC also urged DOE to not adopt a 1-gallon tolerance on the volume of an 80-gallon storage tank, but instead to use a 10-percent tolerance. BWC requested that DOE clarify whether the 80-gallon requirement would pertain to nominal capacity. (BWC, No. 33 at p. 9)

After considering the issues raised by commenters, DOE is proposing several updates to its earlier proposals (in section 4.10 of appendix E) for testing circulating water heaters as initially presented in the January 2022 NOPR.

First, after re-evaluating the market for heat-pump-only water heaters, DOE tentatively agrees with the CA IOUs that testing such products with a conventional electric storage water (*i.e.,* an electric water heater that uses only electric resistance heating elements) would be more representative than testing with an UFHWST. Therefore, DOE is proposing that heat-pump-only water heaters be tested in the medium draw pattern using a 40-gallon traditional electric storage tank (*i.e.,* that provides heat only with electric resistance heating elements) that has a UEF rating at the minimum required at 10 CFR 430.32(d). DOE chose a 40-gallon tank in the medium draw pattern because that size and draw pattern combination has the highest number of models currently available on the market.[24] DOE is also proposing that, for heat pump-only water heaters, the test be carried out using a tank that does not ''over-heat'' the stored water (see discussion of over-heating in section III.C of this document; $\overline{T}_{max,1}$ (maximum measured mean tank temperature after the first recovery period of the 24-hour simulated-use test) must be less than or equal to $\overline{T}_{del,2}$ (average outlet water temperature during the 2nd draw of the 24-hour simulated-use test)). This would ensure that the electric storage tanks are not overheating during the test, thereby ensuring consistency across tests.

In contrast, DOE is maintaining its earlier proposal that a UFHWST be used for testing of circulating gas-fired water heaters, as those products are more likely to be installed with a UFHWST in the field. Therefore, DOE tentatively concludes that testing with an UFHWST would be representative for such units.

In response to AHRI's suggestion that DOE allow manufacturers to specify the storage tank used for testing, DOE notes that this approach could lead to additional test burden for third-party testing labs, who may need to acquire more than one storage tank if they are performing tests for multiple manufacturers, each of whom may specify a different storage tank for testing. In order to avoid creating the potential for additional test burden, DOE has tentatively determined not to allow manufacturers to specify the electric storage water heater or unfired hot water storage tank used respectively for testing the heat pump-only or gas-fired instantaneous circulating water heaters. Additionally, DOE will consider relevant amendments to certification and reporting requirements in a separate rulemaking.

After considering the comments regarding the tolerance on the storage tank initially proposed in the January 2022 NOPR, DOE has tentatively determined that a wider tolerance would reduce potential testing burden while still providing representative and reproducible results. In other words, DOE tentatively concludes that a 10-percent tolerance would increase flexibility for manufacturers by increasing the number of tanks that could be used for testing, while not materially impacting the UEF test results. Therefore, consistent with the recommendations provided by commenters, DOE is proposing to adopt a 10 percent tolerance (±10 percent, allowing products with rated storage volumes between 36 gallons and 44 gallons) for the electric storage water heater used for testing heat-pump-only water heaters.

In addition, after further review of the market for circulating gas-fired instantaneous water heaters and unfired hot water storage tanks, DOE is proposing to allow testing with a tank at any storage volume between 80- and 120-gallons. Based on further analysis, DOE has tentatively determined that variations in the tank size should not significantly impact the result of the test. During a water draw, the internal tank temperature decreases as hot water exits the tank and is replenished by colder water entering the tank.

[23] DOE understands this to be a reference to the 10 percent by volume tolerances prescribed by UL Standard 174 (''Household Electric Storage Tank Water Heaters'') and UL Standard 1453 (''Standard for Electric Booster and Commercial Storage Tank Water Heaters''). These standards can be found online at *www.shopulstandards.com* (Last accessed on June 21, 2022).

[24] *See* Figure 3A.2.8 of the Preliminary Analysis Technical Support Document for consumer water heaters (Docket No. EERE–2017–BT–STD–0019–0018).

Generally, different tank sizes will result in different rates of internal temperature decrease during a water draw (*e.g.,* during a specified water draw, a smaller tank will generally experience a faster decrease in temperature compared to a larger tank). During a test, any potential differences in the tank water temperature due to the use of different size tanks would be accompanied by a corresponding proportional difference in burner on-time, such that the impact on measured efficiency (*i.e.,* the ratio of energy output to energy input) would be negligible. DOE also recognizes that a larger tank would likely have more standby losses than a smaller tank; however, DOE has tentatively determined that the impact this would have on measure efficiency would also not be significant.

Providing a range of allowable tank volumes would reduce potential burden by providing manufacturers with more tank options, thereby allowing them to pair their circulating gas-fired instantaneous water heaters with an existing UFHWST model. This approach is also likely to be more representative of how the units would be installed in the field as opposed to testing with a custom-made tank for testing or a competitor's tank that meets a specific volume requirement.

DOE notes that, as suggested by the CA IOUs and A.O. Smith, the lack of an upper bound on the thermal insulation value for the UFHWST could lead to differences in measured efficiency that reflect differences in tank performance, rather than reflecting differences in water heater performance. Therefore, DOE has tentatively determined that more specific constraints on tank performance are warranted to ensure more comparable test results across the subject water heater models. Thus, DOE is proposing to require that UFHWSTs used for testing circulating gas-fired instantaneous water heaters exactly meet the baseline energy conservation standard for UFHWSTs.[25] As stated previously, A.O. Smith raised the concern that differences in the UFHWST's design (insulation, inlet and outlet connection locations, internal tank baffling, and inlet tube designs) could lead to variation in UEF results; however, A.O. Smith and other commenters did not provide suggestions on specific UFHWST designs which should be standardized in order to improve representativeness and repeatability of the test method. A.O. Smith did not provide any data to demonstrate these to be significant concerns. While the variations in insulation would most significantly impact the standby losses of the tank (and therefore the UEF rating of the circulating water heater), these variations would already be minimized by specifying the R-value of the UFHWST to be the baseline requirement in the energy conservation standards for UFHWSTs. Regarding the other design options, over-specifying the design of the UFHWST—given the impacts on the UEF rating are minimal—could result in a very narrow range of UFHWST models which can be used for testing circulating water heaters, thereby potentially introducing significant barriers to testing these products at third-party laboratories. Additionally, DOE does not currently have sufficient information on specifications for the inlet and outlet connection locations, internal tank baffling, and inlet tube designs for the UFHWST; therefore, DOE is not including these specifications in its proposed requirements.

As noted previously, DOE is similarly proposing that the electric storage water heater used for testing heat-pump-only water heaters have a rated UEF corresponding to the minimum standard found at 10 CFR 430.32(d), thereby helping to ensure more comparable results.

In summary, in this SNOPR, DOE proposes to further amend the separate storage tank requirements proposed in the January 2022 NOPR for heat pump-only and gas-fired circulating water heaters. DOE proposes that heat pump-only water heaters be tested with a 40-gallon (± 4 gallons) electric storage water heater that has a UEF value corresponding to the minimum standard for such products; and that gas-fired circulating water heaters be tested with an 80- to 120-gallon unfired hot water storage tank that is rated equal to the energy conservation standard for such equipment.

DOE requests comment on its proposed separate tank requirements for heat pump-only and gas-fired circulating water heaters. DOE also seeks comment on whether any additional tank characteristics should be specified.

For gas-fired circulating water heaters, these proposed changes could require a one-time purchase of an 80- to 120-gallon unfired hot water storage tank. DOE research indicates that such tanks are readily commercially available for approximately $2,000. For heat pump-only water heaters, the proposed changes could result in a one-time purchase of a 40-gallon (± 4 gallons) electric storage water heater. DOE research indicates that such water heaters are readily available for approximately $500. These estimates reflect costs for third-party laboratory testing (*i.e.,* assuming these tanks would have to be purchased at retail price).

DOE seeks comment on the estimated potential increase in costs for testing heat pump-only and gas-fired circulating water heaters according to this proposal.

Finally, although this SNOPR does not propose changes to the certification requirements, DOE may consider a requirement to certify the UFHWST and electric storage water heater models and/or characteristics in a future rulemaking.

E. Method for Determining Internal Tank Temperature for Certain Water Heaters

As discussed in the January 2022 NOPR, section 4.5 of appendix E specifies that the thermocouples be inserted into the storage tank of a water heater through either the anodic device opening, the temperature and pressure relief valve, or the outlet water line. DOE has identified consumer water heaters with physical attributes that make measuring internal storage tank temperature using any of these means difficult, such as water heaters that have a built-in mixing valve and no anodic device, or have a large heat exchanger that does not accommodate insertion of a thermocouple tree. 87 FR 1554, 1586 (Jan. 11, 2022). Commenters on the April 2020 RFI suggested an approach whereby the tank would be drained down to measure the temperature of the water inside. *Id.* In the January 2022 NOPR, DOE explained how draining down the tank would not be possible in the middle of the 24-hour simulated use test, when mean tank temperature data is required. *Id.* Therefore, DOE proposed that the internal tank temperature for these products would be approximated as the average between the inlet and outlet temperatures (*i.e.,* a ''linear temperature gradient'' assumption). *Id.*

Rheem agreed with DOE's proposed methodology to estimate the mean tank temperature for products for which the internal tank temperature cannot be directly measured. (Rheem, No. 31 at p. 4)

[25] Currently, baseline energy conservation standards for UFHWSTs require a thermal insulation of R–12.5. 10 CFR 431.110(a).

However, several commenters indicated that the linear temperature gradient assumption inherent to the proposed methodology in the January 2022 NOPR is incorrect. AHRI commented that the proposed procedure incorrectly assumes a linear temperature gradient in the tank, which can lead to inaccurate calculation of temperature and stored energy in the tank.[26] (AHRI, No. 40 at p. 5)

A.O. Smith commented that it has conducted testing using the proposed test method and has found that the assumption of a linear temperature gradient is inaccurate when compared to actual temperature readings conducted with thermocouples. Accordingly, A.O. Smith concluded that it would be premature to incorporate the proposed test method into the DOE test procedure at this time. (A.O. Smith, No. 37 at pp. 5–6) BWC indicated that, based on its own testing, the proposed methodology could record artificially lower tank temperatures, with errors as high as 10 to 25 percent. (BWC, No. 33 at p. 10)

In the final rule that established the current test procedure for commercial water heaters, DOE noted that using the average of the supply and outlet water temperature as an estimate for the stored water temperature is only valid if the water temperature inside the heat exchanger has a linear increase in temperature as it moves from the inlet to the outlet. 81 FR 79261, 79295 (Nov. 10, 2016). In order to estimate the internal tank temperature for commercial instantaneous water heaters and hot water supply boilers, DOE adopted a method that uses the outlet water temperature as an approximation, because it was consistent with the industry-adopted test method for flow-activated instantaneous water heaters, found at Annex E.3 of ANSI Standard Z21.10.3–2015. *Id.*

However, as discussed in section III.C of this SNOPR, DOE is aware of consumer water heaters that can store water at temperatures that are significantly higher than the outlet temperature, so the method used for commercial instantaneous water heaters and hot water supply boilers would not be applicable to all types of products covered under this rulemaking. Furthermore, outlet water temperature would only be representative of the internal tank temperature for consumer water heaters and residential-duty commercial water heaters with very limited storage volume, where the small volume prevents internal temperature stratification.[27]

Based on further consideration of comments received in response to the January 2022 NOPR and at previous stages of this rulemaking, DOE is proposing in this SNOPR that, for water heaters with rated storage volumes greater than or equal to 2 gallons that are unable to have their internal tank temperatures measured using thermocouples, the internal tank temperature shall be estimated by removing water from the water heater, as described in detail in the following paragraphs. This method, proposed in a new section 5.4.2.2 of appendix E, is partially based on the approaches suggested by Rheem and BWC prior to the January 2022 NOPR (*see* Document No. EERE–2019–BT–TP–0032–0012 at p. 5 and Document No. EERE–2019–BT–TP–0032–0014 at p. 9), with certain modifications.

As discussed in the January 2022 NOPR, throughout the 24-hour simulated-use test, internal tank thermocouples are used to determine the mean tank temperature. Mean tank temperatures are required at the start and end of the test, the start and end of the standby period, and the after the first recovery period (*i.e.,* $\overline{T}_0$, $\overline{T}_{24}$, $\overline{T}_{su,0}$, $\overline{T}_{su,f}$, and $\overline{T}_{max,1}$, respectively). Also, an average mean tank temperature throughout the standby period is required (*i.e.,* $\overline{T}_{t,stby,1}$). 87 FR 1554, 1586 (Jan. 11, 2022). DOE performed an analysis on data collected from its own testing and has initially concluded that, for typical storage-type water heaters, $\overline{T}_0$, , $\overline{T}_{su,0}$, and $\overline{T}_{max,1}$ are similar in that they represent temperatures near the cut-out control temperature. Removing the heated water from the tank and measuring the temperature, as described in detail below, immediately after cut-out may reasonably estimate these temperatures. The mean tank temperature at the end of the standby period, $\overline{T}_{su,f}$, can also be measured by removing water and measuring its temperature at the end of a sufficiently long standby period at the end of the test, and this value could also approximate $\overline{T}_{24}$.

In this SNOPR, DOE is proposing the following methodology for water heaters with rated storage volumes greater than or equal to 2 gallons that are unable to have their internal tank temperatures measured using thermocouples:

(1) After the FHR test (for non-flow-activated products) or Max GPM test (for flow-activated products), allow the water heater to fully recover.

(2) When cut-out occurs, deactivate the burner, compressor, and/or electrical heating elements.

(3) Remove the hot water from the tank by performing a continuous draw, while measuring the outlet water temperature at 3-second intervals, until the outlet water temperature is within 2 °F of the inlet water temperature for five consecutive readings. Perform the draw at a flow rate of 3.0 gallons per minute (±0.25 gallons per minute). Compute the mean tank temperature, $\overline{T}_{st}$, as follows and assign this value as $\overline{T}_0$, $\overline{T}_{su,0}$, and $\overline{T}_{max,1}$:

$$\overline{T}_{st} = T_p - \frac{v_{out,p}}{V_{st}} \times \tau_p (\overline{T}_{in,p} - \overline{T}_{out,p})$$

Where:

$\overline{T}_{st}$ = the estimated average internal storage tank temperature.

T_p = the average of the inlet and the outlet water temperatures at the end of the period defined by τ_p.

$v_{out,p}$ = the average flow rate during the period.

V_{st} = the rated storage volume of the water heater.

τ_p = the duration of the period, determined by the length of time taken for the outlet water temperature to be within 2 °F of the inlet water temperature for 15 consecutive seconds. The duration of the period shall include the 15-second stabilization period.

$\overline{T}_{in,p}$ = the average of the inlet water temperatures during the period.

$\overline{T}_{out,p}$ = the average of the outlet water temperatures during the period.

(4) Re-activate the burner, compressor, and/or electrical elements and perform the 24-hour simulated use

[26] Additionally, AHRI stated that the procedure should require measurements to be taken 15 seconds after the initial draw to be consistent with other proposals.

[27] Currently, mean tank temperature measurements are not required for consumer water heaters or residential-duty commercial water heaters less than 2 gallons in rated storage volume.

test as instructed in section 5.4 of appendix E.

(5) The standby period will start at five minutes after the end of the first recovery period after the last draw of the simulated-use test. The standby period shall last eight hours, so testing will extend beyond the 24-hour duration of the simulated-use test. At the end of the final standby measurement, remove water from the tank once again as in step #3, including computing the value of mean tank temperature. This calculated mean tank temperature is then assigned as $\overline{T}_{su,f}$ and $\overline{T}_{24}$.

(6) Determine $\overline{T}_{t,stby,1}$ as the average of $\overline{T}_{su,0}$ and $\overline{T}_{su,f}$.

DOE seeks comment on its revised proposed test method to determine the internal tank temperature for water heaters that cannot be directly measured and are greater than or equal to 2 gallons in rated storage volume.

DOE estimates that, at maximum, the proposed method for estimating the internal tank temperature would increase the test duration by 8 hours (corresponding to the final standby period appended to the current 24-hour simulated use test). DOE estimates that the testing a water heater to the 24-hour simulated use test currently costs $3,000 for a fossil-fuel-fired or electric water heater and $4,500 for a heat pump water heater. By extending the duration of the test by up to 8 hours (or 33 percent), this amendment, if finalized, could increase testing costs by $1,000 to $1,500 per basic model for water heaters with rated storage volume greater than or equal to 2 gallons which cannot have their internal storage tank directly measured. However, these products are designed in such a way that instruments for measuring the internal water temperature cannot be installed, and, thus, these products cannot be tested to the current version of appendix E.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

Executive Order (''E.O.'')12866, ''Regulatory Planning and Review,'' 58 FR 51735 (Oct. 4, 1993), as supplemented and reaffirmed by E.O. 13563, ''Improving Regulation and Regulatory Review,'' 76 FR 3821 (Jan. 21, 2011), requires agencies, to the extent permitted by law, to: (1) propose or adopt a regulation only upon a reasoned determination that its benefits justify its costs (recognizing that some benefits and costs are difficult to quantify); (2) tailor regulations to impose the least burden on society, consistent with obtaining regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations; (3) select, in choosing among alternative regulatory approaches, those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity); (4) to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt; and (5) identify and assess available alternatives to direct regulation, including providing economic incentives to encourage the desired behavior, such as user fees or marketable permits, or providing information upon which choices can be made by the public. DOE emphasizes as well that E.O. 13563 requires agencies to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible. In its guidance, the Office of Information and Regulatory Affairs (''OIRA'') in the Office of Management and Budget (''OMB'') has emphasized that such techniques may include identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes. For the reasons stated in the preamble, this proposed regulatory action is consistent with these principles.

Section 6(a) of E.O. 12866 also requires agencies to submit ''significant regulatory actions'' to OIRA for review. OIRA has determined that this proposed regulatory action does not constitute a ''significant regulatory action'' under section 3(f) of E.O. 12866. Accordingly, this action was not submitted to OIRA for review under E.O. 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (''IRFA'') for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's website: *www.energy.gov/gc/office-general-counsel.* DOE reviewed this test procedure SNOPR under the provisions of the Regulatory Flexibility Act and the policies and procedures previously published on February 19, 2003.

The following sections detail DOE's IRFA for this test procedure rulemaking.

1. Description of Reasons Why Action Is Being Considered

DOE is proposing to amend test procedures for consumer water heaters and residential-duty commercial water heaters. DOE is publishing this rulemaking in satisfaction of the 7-year-lookback review requirement specified in EPCA. (42 U.S.C. 6293(b)(1)(A); 6314(a)(1)) Further, amending test procedures for consumer and residential-duty commercial water heaters assists DOE in fulfilling its statutory deadline for amending energy conservation standards for products and equipment that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A); 42 U.S.C. 6313(a)(6)) Additionally, amending test procedures for consumer and residential-duty commercial water heaters allows manufacturers to produce measurements of energy efficiency that are representative of an average use cycle and uniform for all manufacturers.

On January 11, 2022, DOE published a test procedure NOPR (''January 2022 NOPR'') in the **Federal Register** proposing to amend the test procedure for consumer water heaters and residential-duty commercial gas water heaters. *See* 87 FR 1554, 1590–1592. In this SNOPR, DOE proposes modifications to the January 2022 NOPR.

2. Objectives of, and Legal Basis for, Rule

EPCA authorizes DOE to regulate the energy efficiency of a number of consumer products and certain industrial equipment, including the consumer and residential-duty commercial water heaters that are the subject of this proposed rulemaking. (42 U.S.C. 6292(a)(4) and 42 U.S.C. 6311(1)(K))

3. Description and Estimate of Small Entities Regulated

For manufacturers of consumer water heaters and residential-duty commercial water heaters, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the

purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. (*See* 13 CFR part 121.) The size standards are listed by North American Industry Classification System (''NAICS'') code and industry description and are available at: *www.sba.gov/document/support—table-size-standards.* Manufacturing of consumer water heaters and residential-duty commercial water heaters is classified under NAICS 335220, ''Major Household Appliance Manufacturing.'' The SBA sets a threshold of 1,500 employees or fewer for an entity to be considered as a small business for this category. DOE used available public information to identify potential small manufacturers. DOE accessed CCMS,[28] the certified product directory of the AHRI,[29] company websites, and manufacturer literature to identify companies that import, private label, or produce the consumer water heaters and residential-duty commercial water heaters covered by this proposal. Using these sources, DOE identified a total of 27 manufacturers of consumer water heaters and residential-duty commercial water heaters. Of these 27 manufacturers, DOE identified one domestic small business that manufactures products covered by the proposed test procedure amendments in this SNOPR.

4. Description and Estimate of Compliance Requirements

As noted previously, DOE conducted an initial regulatory flexibility analysis (''IRFA'') as part of the January 2022 NOPR, in which it determined that there is one domestic, small business that manufactures residential water heaters impacted by the January 2022 NOPR. *Id.* at 87 FR 1591. Under the proposed amendments in the January 2022 NOPR, DOE anticipated the small business would incur third-party re-testing costs of $4,500 for one basic model as result of DOE's proposal to require the use of a separate unfired hot water storage tank for testing water heaters designed to operate with a separately sold hot water storage tank. DOE estimated the compliance burden to represent less than 0.01 percent of the company's revenue. *Id.*

This SNOPR serves to: (1) provide additional specificity for the existing test procedure for water heaters with a rated storage volume of less than 2 gallons; (2) propose optional rating conditions and associated metrics for voluntary representations of heat pump water heaters; (3) revise the separate storage tank requirements for circulating water heaters proposed in the January 2022 NOPR; (4) provide instructions for testing water heaters which store water at a temperature higher than the delivery setpoint and for determining the effective storage volume of such products, and (5) revise the testing requirements for water heaters which are greater than or equal to 2 gallons in rated storage volume but cannot have the temperature of their internal storage tanks directly measured. Each of these proposed amendments will be discussed in turn to assess their potential impacts in light of the Regulatory Flexibility Act.

First, DOE proposes to add flow rate tolerances for the 24-hour simulated-use test for water heaters with a rated storage volume of less than 2 gallons. DOE expects that laboratories may utilize high-precision water flow rate instrumentation (*e.g.,* Coriolis flow meters) to meet the proposed flow rate tolerances. DOE is aware of multiple third-party laboratories which already incorporate Coriolis flow meters for DOE compliance testing. Further, DOE expects that general industry best practice is already applying the flow rate tolerances being proposed for section 5.4.3 of appendix E for water heaters with rated storage volume less than 2 gallons; therefore, this proposal is expected to be consistent with current methodology and practice.

Additionally, DOE has tentatively determined that the proposed amendment would not alter the measured efficiency of consumer water heaters and residential-duty commercial water heaters, nor require retesting or recertification solely as a result of DOE's adoption of the proposed amendments to the test procedure. For these reasons, DOE has initially determined that the proposed tolerances would generally not impose additional testing burden.

Second, DOE is proposing to adopt optional test conditions and metrics for voluntary representations of heat pump water heater energy efficiency at test conditions other than the standard rating conditions. If adopted in a final rule, these metrics will not be required for reporting or compliance with standards for consumer water heaters and residential-duty commercial water heaters. Therefore, DOE has initially determined that testing for these optional metrics would not be unduly burdensome to conduct.

Third, DOE previously proposed separate storage tank requirements for testing circulating water heaters in the January 2022 NOPR. 87 FR 1554, 1589 (Jan. 11, 2022). In the January 2022 NOPR, DOE proposed that circulating water heaters (including heat pump-only water heaters) be tested paired with 80-gallon unfired hot water storage tanks which meets the energy conservation standard requirements at 10 CFR 431.110(a). *Id.* In this SNOPR, DOE is instead proposing to require circulating gas-fired instantaneous water heaters and heat pump-only water heaters to be paired with different types of tanks to be more representative of field installations.

For circulating gas-fired instantaneous water heaters, DOE proposes that these products be paired with UFHWSTs that exactly meet baseline energy conservation standards (as required at 10 CFR 431.110(a)) and rated at a capacity between 80 gallons and 120 gallons. Compared to the January 2022 NOPR, DOE applied additional specificity to the tank performance constraints to improve reproducibility of the test method and increased the range of acceptable capacities after reviewing market data on which capacities are commercially available at the baseline energy conservation standard level.

DOE estimates that the cost of running the amended test procedure for circulating gas-fired instantaneous water heaters should be the same as testing a comparable water heater with storage volume (*i.e.,* third-party testing of a fossil fuel-fired or electric storage water heater would cost approximately $3,000 and third-party testing of an electric storage water heater which uses heat pump technology would cost approximately $4,500). However, DOE is not aware of any domestic small manufacturers of circulating gas-fired instantaneous water heaters at this time.

For heat pump-only water heaters, DOE is updating its proposal to propose that these products be paired with electric storage water heaters that have a rated storage volume of 40 gallons ± 4 gallons, have an FHR that results in classification at the medium draw pattern, and be rated at exactly the minimum required UEF. Compared to the January 2022 NOPR, DOE is proposing a different type and size of product to be paired with a heat pump-only water heater to better reflect how heat pump-only water heaters may be installed in the field.

DOE estimates that the cost of running the amended test procedure for heat pump-only water heaters should be the same as testing a comparable water

[28] U.S. Department of Energy Compliance Certification Management System, available at: *www.regulations.doe.gov/ccms.* (Last accessed March 1, 2022).

[29] AHRI Directory of Certified Product Performance, available at: *www.ahridirectory.org/Search/SearchHome. (Last accessed March 1, 2022).*

heater with storage volume. For this estimate, DOE utilized a third-party test estimate of $4,500. DOE believes this to represent the high-end range of the testing cost burden compared to in-house testing.

DOE is aware of one domestic small manufacturer which has a single model that would be affected by this amendment. DOE expects the cost to test that model per the test method proposed in this SNOPR to be $4,500. This represents less than 0.01 percent of company revenue, and, therefore, DOE has tentatively determined that it would not be unduly burdensome to conduct.

Fourth, DOE is proposing to require that water heaters, except for demand-response water heaters, which can store water at a temperature higher than the delivery setpoint as a result of a user-selected operating mode be tested using the setting that provides the highest internal mean tank temperature while delivering water at a temperature of 125 °F ±5 °F, and that an ''effective storage volume''—which quantifies the increase in energy storage due to this mode of operation—be calculated for all storage water heaters based on data that is already being collected per the current appendix E test procedure. This proposal, if adopted, would improve representativeness and reproducibility for water heaters with such a capability.

The proposed amendment to test in an ''over-heated'' mode could potentially lead to re-testing and re-certification costs for manufacturers of such water heaters, as it would impact the UEF rating of such products. Should a manufacturer be required to re-testing, DOE estimates re-testing costs to be up to $4,500 per basic model using third-party testing. DOE believes this to represent the high-end range of the testing cost burden compared to in-house testing.

DOE is not proposing to require compliance with this provision until compliance with amended energy conservation standards is also required (after the date of a final rule amending the test procedure for consumer water heaters and residential-duty commercial water heaters). Therefore, DOE has tentatively determined that this proposed amendment, if adopted, would not impose additional costs for manufacturers until such time as potential amended standards would be required. DOE will consider these impacts in a separate rulemaking as part of its ongoing review of potential amended energy conservation standards.

Lastly, there is currently no method to determine ratings for water heaters which have rated storage volumes of 2 gallons or more but cannot have the internal storage tank temperature directly measured by means of the instrumentation required in the appendix E test procedure. The use of standard instrumentation is limited by the geometries of these products. Examples of such cases include products which have built-in mixing valves at the water outlet, products which do not use a sacrificial anode rod (and therefore do not have the associated opening for the anode rod), or products with complex heat exchanger geometries. DOE previously proposed to rely on inlet and outlet water temperatures to approximate the internal storage tank temperatures for these water heaters. 87 FR 1554, 1586 (Jan. 11, 2022). However, in this SNOPR, DOE is revising its proposed methodology for determining the internal tank temperatures of such products to improve the accuracy as compared to the method originally proposed in the January 2022 NOPR.

The method proposed in this SNOPR relies on drawing out water from the tank at the beginning and end of the 24-hour simulated use test and monitoring the temperature of the water as it is drawn out to estimate the internal tank temperature of the stored water prior to being drawn out of the water heater. This method may result in overall testing costs of $4,000 to $6,000 per basic model of water heater which cannot be directly measured. This is comparable to the average cost of $3,000 to $4,500 per basic model of water heater which can be directly measured. DOE is currently not aware of any small businesses which produce water heaters which will have to be tested in this manner, and, thus, DOE has tentatively concluded that this amendment, if finalized, would not impact small manufacturers.

DOE requests comment on its understanding of the cost impacts of the proposed amendments in this notice on small, domestic manufacturers.

5. Duplication, Overlap, and Conflict With Other Rules and Regulations

DOE is not aware of any rules or regulations that duplicate, overlap, or conflict with the rule being considered today.

6. Significant Alternatives to the Rule

The discussion in the previous section analyzes impacts on small businesses that would result from DOE's proposed test procedure, if finalized. In reviewing alternatives to the proposed test procedure, DOE examined not establishing a performance-based test procedure for consumer and residential-duty commercial water heaters or establishing prescriptive-based test procedures. While not establishing performance-based test procedures or establishing prescriptive-based test procedures for consumer and residential-duty commercial water heaters would reduce the burden on small businesses, DOE must use test procedures to determine whether the products comply with relevant standards promulgated under EPCA. (42 U.S.C. 6295(s)) Because establishing performance-based test procedures for consumer and residential-duty commercial water heaters is necessary prior to establishing performance-based energy conservation standards, DOE tentatively concludes that establishing performance-based test procedures, as proposed in this SNOPR, supports DOE's authority to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. (42 U.S.C. 6295(o)(2)(A); 42 U.S.C. 6313(a)(6)(A)(ii)(II))

The Department has tentatively determined that there are no better alternatives than the test procedures amendments proposed in this SNOPR, in terms of both meeting the agency's objectives and reducing burden. Additionally, manufacturers subject to DOE's test procedures may apply to DOE's Office of Hearings and Appeals for exception relief under certain circumstances. Manufacturers should refer to 10 CFR part 430, subpart E, and 10 CFR part 1003 for additional details.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of consumer and residential-duty commercial water heaters must certify to DOE that their products comply with any applicable energy conservation standards. To certify compliance, manufacturers must first obtain test data for their products according to the DOE test procedures, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including consumer and residential-duty commercial water heaters. (*See generally* 10 CFR part 429.) The collection-of-information requirement for certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (''PRA''). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 35 hours per response,

including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

DOE is not proposing to amend the certification or reporting requirements for consumer and residential-duty commercial water heaters in this SNOPR. Instead, DOE may consider proposals to amend the certification requirements and reporting for these products under a separate rulemaking regarding appliance and equipment certification. DOE will address changes to OMB Control Number 1910–1400 at that time, as necessary.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this SNOPR, DOE proposes test procedure amendments that it expects will be used to develop and implement future energy conservation standards for consumer and residential-duty commercial water heaters. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, DOE has determined that adopting test procedures for measuring energy efficiency of consumer products and industrial equipment is consistent with activities identified in 10 CFR part 1021, appendix A to subpart D, A5 and A6. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999), imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. The Executive order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA'') requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *www.energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). Pursuant to OMB Memorandum M–19–15, Improving Implementation of the Information Quality Act (April 24, 2019), DOE published updated guidelines which are available at *www.energy.gov/sites/prod/files/2019/12/f70/DOE%20Final%20Updated%20IQA%20Guidelines%20Dec%202019.pdf.* DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to amend the test procedure for measuring the energy efficiency of consumer and residential-duty commercial water heaters is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; ''FEAA'') Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (''FTC'') concerning the impact of the commercial or industry standards on competition.

As discussed in the January 11, 2022 NOPR, the proposed modifications to the test procedure for consumer and residential-duty commercial water heaters would incorporate testing methods contained in certain sections of the following commercial standards: ASHRAE 41.1–2020, ASTM D2156–09 (RA 2018), and a finalized version of ASHRAE 118.2. DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

V. Public Participation

DOE will accept comments, data, and information regarding this supplemental proposed rule no later than the date provided in the **DATES** section at the beginning of this SNOPR. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this document.

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

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

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

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

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

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

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

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

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

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

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this supplemental notice of proposed rulemaking and request for comment.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Intergovernmental relations, Reporting and recordkeeping requirements, Small businesses.

Signing Authority

This document of the Department of Energy was signed on July 1, 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 July 6, 2022.

Treena V. Garrett,

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

For the reasons stated in the preamble, DOE is proposing to amend part 430 of Chapter II of Title 10, Code of Federal Regulations, as set forth below:

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 1. The authority citation for part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 2. Appendix E to subpart B of part 430 is amended by:
■ a. Revising the note at the beginning of the appendix;
■ b. Revising section 1;
■ c. Adding new sections 2.8, 4.10;
■ d. Revising sections 5.1, 5.4.2;
■ e. Adding sections 5.6, 6.3.1.1;
■ f. Revising section 6.3.9; and
■ g. Adding new section 6.5;

The revisions and additions read as follows:

Appendix E to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Water Heaters

Note: Prior to [*date 180 days after date of publication of the final rule in the* ***Federal Register***], representations with respect to the energy use or efficiency of consumer water heaters and residential-duty commercial water heaters covered by this test method, including compliance certifications, must be based on testing conducted in accordance with either this appendix as it now appears or appendix E as it appeared at 10 CFR part 430, subpart B revised as of January 1, 2021.

On and after [*date 180 days after date of publication of the final rule in the* ***Federal Register***], representations with respect to energy use or efficiency of consumer water heaters and residential-duty commercial water heaters covered by this test method, including compliance certifications, must be based on testing conducted in accordance with this appendix.

In addition, water heaters subject to section 5.1.2 of this appendix may optionally apply the requirements in section 5.1.1 of this appendix in lieu of the requirements in section 5.1.2 of this appendix until the compliance date of a final rule reviewing potential amended energy conservation standards for these products published after [*date of publication of the final rule in the* ***Federal Register***].

1. Definitions.

1.1. *Cut-in* means the time when or water temperature at which a water heater control or thermostat acts to increase the energy or fuel input to the heating elements, compressor, or burner.

1.2. *Cut-out* means the time when or water temperature at which a water heater control or thermostat acts to reduce to a minimum the energy or fuel input to the heating elements, compressor, or burner.

1.3. *Demand-response water heater* means a storage-type water heater that—

(1) Has integrated communications hardware and additional hardware and software required to enable connected functionality with a utility or third party, which dispatches signals with demand response instructions and/or price signals to the product and receives messages from the demand-response water heater;

(2) Meets the communication and equipment standards for Consumer Technology Association Standard 2045–B (CTA–2045–B);

(3) Automatically heats the stored water above the delivery temperature setpoint only in response to instructions received from a utility or third party.

1.4. *Design Power Rating* means the power rating or input rate that a water heater manufacturer assigns to a particular design of water heater and that is included on the nameplate of the water heater, expressed in kilowatts or Btu (kJ) per hour as appropriate. For modulating water heaters, the design power rating is the maximum power rating or input rate that is specified by the manufacturer on the nameplate of the water heater.

1.5. *Draw Cluster* means a collection of water draws initiated during the 24-hour simulated-use test during which no successive draws are separated by more than 2 hours.

1.6. *First-Hour Rating* means an estimate of the maximum volume of ''hot'' water that a non-flow activated water heater can supply within an hour that begins with the water heater fully heated (*i.e.,* with all thermostats satisfied).

1.7. *Flow-Activated* describes an operational scheme in which a water heater initiates and terminates heating based on sensing flow.

1.8. *Heat Trap* means a device that can be integrally connected or independently attached to the hot and/or cold water pipe connections of a water heater such that the device will develop a thermal or mechanical seal to minimize the recirculation of water due to thermal convection between the water heater tank and its connecting pipes.

1.9. *Maximum GPM (L/min) Rating* means the maximum gallons per minute (liters per minute) of hot water that can be supplied by flow-activated water heater when tested in accordance with section 5.3.2 of this appendix.

1.10. *Modulating Water Heater* means a water heater that can automatically vary its power or input rate from the minimum to the maximum power or input rate specified on the nameplate of the water heater by the manufacturer.

1.11. *Rated Storage Volume* means the water storage capacity of a water heater, in gallons (liters), as certified by the manufacturer pursuant to 10 CFR part 429.

1.12. *Recovery Efficiency* means the ratio of energy delivered to the water to the energy content of the fuel consumed by the water heater.

1.13. *Recovery Period* means the time when the main burner of a water heater with a rated storage volume greater than or equal to 2 gallons is raising the temperature of the stored water.

1.14. *Split-system heat pump water heater* means a heat pump-type water heater with an indoor storage tank and outdoor heat pump component.

1.15. *Standby* means the time, in hours, during which water is not being withdrawn from the water heater.

1.16. *Symbol Usage.* The following identity relationships are provided to help clarify the symbology used throughout this procedure:

C_p—specific heat of water

E_{annual}—annual energy consumption of a water heater

$E_{annual,e}$—annual electrical energy consumption of a water heater

$E_{annual,f}$—annual fossil-fuel energy consumption of a water heater

E_X—energy efficiency of a heat pump-type water heater when the 24-hour simulated use test is optionally conducted at any of the additional air temperature conditions as specified in section 2.8 of this appendix, where the subscript ''X'' corresponds to the dry-bulb temperature at which the test is conducted.

F_{hr}—first-hour rating of a non-flow activated water heater

F_{max}—maximum GPM (L/min) rating of a flow-activated water heater

i—a subscript to indicate the draw number during a test

k_V—storage tank volume scaling ratio for water heaters with a rated storage volume greater than or equal to 2 gallons

$M_{del,i}$—mass of water removed during the ith draw of the 24-hour simulated-use test

$M_{in,i}$—mass of water entering the water heater during the ith draw of the 24-hour simulated-use test

$M^*_{del,i}$—for non-flow activated water heaters, mass of water removed during the ith draw during the first-hour rating test

$M^*_{in,i}$—for non-flow activated water heaters, mass of water entering the water heater during the ith draw during the first-hour rating test

$M_{del,10m}$—for flow-activated water heaters, mass of water removed continuously during the maximum GPM (L/min) rating test

$M_{in,10m}$—for flow-activated water heaters, mass of water entering the water heater continuously during the maximum GPM (L/min) rating test

n—for non-flow activated water heaters, total number of draws during the first-hour rating test

N—total number of draws during the 24-hour simulated-use test

N_r—number of draws from the start of the 24-hour simulated-use test to the end to the first recovery period as described in section 5.4.2 of this appendix

Q—total fossil fuel and/or electric energy consumed during the entire 24-hour simulated-use test

Q_d—daily water heating energy consumption adjusted for net change in internal energy

Q_{da}—Q_d with adjustment for variation of tank to ambient air temperature difference from nominal value

Q_{dm}—overall adjusted daily water heating energy consumption including Q_{da} and Q_{HWD}

Q_e—total electrical energy used during the 24-hour simulated-use test

Q_f—total fossil fuel energy used by the water heater during the 24-hour simulated-use test

Q_{hr}—hourly standby losses of a water heater with a rated storage volume greater than or equal to 2 gallons

Q_{HW}—daily energy consumption to heat water at the measured average temperature rise across the water heater

$Q_{HW,67\,°F}$—daily energy consumption to heat quantity of water removed during test over a temperature rise of 67 °F (37.3 °C)

Q_{HWD}—adjustment to daily energy consumption, Q_{HW}, due to variation of the temperature rise across the water heater not equal to the nominal value of 67 °F (37.3 °C)

Q_r—energy consumption of water heater from the beginning of the test to the end of the first recovery period

Q_{stby}—total energy consumed during the standby time interval $\tau_{stby,1}$, as determined in section 5.4.2 of this appendix

$Q_{su,0}$—cumulative energy consumption, including all fossil fuel and electrical energy use, of the water heater from the start of the 24-hour simulated-use test to the start of the standby period as determined in section 5.4.2 of this appendix

$Q_{su,f}$—cumulative energy consumption, including all fossil fuel and electrical energy use, of the water heater from the start of the 24-hour simulated-use test to the end of the standby period as determined in section 5.4.2 of this appendix

$\overline{T}_0$—mean tank temperature at the beginning of the 24-hour simulated-use test as determined in section 5.4.2 of this appendix

$\overline{T}_{24}$—mean tank temperature at the end of the 24-hour simulated-use test as determined in section 5.4.2 of this appendix

$\overline{T}_{a,stby}$—average ambient air temperature during all standby periods of the 24-hour simulated-use test as determined in section 5.4.2 of this appendix

$\overline{T}_{a,stby,1}$—overall average ambient temperature between the start and end of the standby period as determined in section 5.4.2 of this appendix

$\overline{T}_{t,stby1}$—overall average mean tank temperature between the start and end of the standby period as determined in section 5.4.2 of this appendix

$\overline{T}_{del}$—for flow-activated water heaters, average outlet water temperature during the maximum GPM (L/min) rating test

$\overline{T}_{del,i}$—average outlet water temperature during the ith draw of the 24-hour simulated-use test

$\overline{T}_{in}$—for flow-activated water heaters, average inlet water temperature during the maximum GPM (L/min) rating test

$\overline{T}_{st}$—for water heaters which cannot have internal tank temperature directly measured, estimated average internal storage tank temperature

T_p—for water heaters which cannot have internal tank temperature directly measured, average of the inlet and the outlet water temperatures at the end of the period defined by τ_p

$\overline{T}_{in,p}$—for water heaters which cannot have internal tank temperature directly measured, average of the inlet water temperatures

$\overline{T}_{out,p}$—for water heaters which cannot have internal tank temperature directly measured, average of the outlet water temperatures

$\overline{T}_{in,i}$—average inlet water temperature during the ith draw of the 24-hour simulated-use test

$\overline{T}_{max,1}$—maximum measured mean tank temperature after the first recovery period of the 24-hour simulated-use test as determined in section 5.4.2 of this appendix

$\overline{T}_{su,0}$—maximum measured mean tank temperature at the beginning of the standby period as determined in section 5.4.2 of this appendix

$\overline{T}_{su,f}$—measured mean tank temperature at the end of the standby period as determined in section 5.4.2 of this appendix

$\overline{T}^*_{del,i}$—for non-flow activated water heaters, average outlet water temperature during the ith draw (i = 1 to n) of the first-hour rating test

$\overline{T}^*_{max,i}$—for non-flow activated water heaters, maximum outlet water temperature observed during the ith draw (i = 1 to n) of the first-hour rating test

$\overline{T}^*_{min,i}$—for non-flow activated water heaters, minimum outlet water temperature to terminate the ith draw (i = 1 to n) of the first-hour rating test

UA—standby loss coefficient of a water heater with a rated storage volume greater than or equal to 2 gallons

UEF—uniform energy factor of a water heater

V—the volume of hot water drawn during the applicable draw pattern

$V_{del,i}$—volume of water removed during the ith draw (i = 1 to N) of the 24-hour simulated-use test

$V_{in,i}$—volume of water entering the water heater during the ith draw (i = 1 to N) of the 24-hour simulated-use test

$V^*_{del,i}$—for non-flow activated water heaters, volume of water removed during the ith draw (i = 1 to n) of the first-hour rating test

$V^*_{in,i}$—for non-flow activated water heaters, volume of water entering the water heater during the ith draw (i = 1 to n) of the first-hour rating test

$V_{del,10m}$—for flow-activated water heaters, volume of water removed during the maximum GPM (L/min) rating test

$V_{in,10m}$—for flow-activated water heaters, volume of water entering the water heater during the maximum GPM (L/min) rating test
V_{st}—measured storage volume of the storage tank for water heaters with a rated storage volume greater than or equal to 2 gallons
V_{eff}—effective storage volume of water heaters with a rated storage volume greater than or equal to 2 gallons
$v_{out,p}$—for water heaters which cannot have internal tank temperature directly measured, average flow rate
W_f—weight of storage tank when completely filled with water for water heaters with a rated storage volume greater than or equal to 2 gallons
W_t—tare weight of storage tank when completely empty of water for water heaters with a rated storage volume greater than or equal to 2 gallons
η_r—recovery efficiency
ρ—density of water
τ_p—for water heaters which cannot have internal tank temperature directly measured, duration of the temperature measurement period, determined by the length of time taken for the outlet water temperature to be within 2 °F of the inlet water temperature for 15 consecutive seconds (including the 15-second stabilization period)
$\tau_{stby,1}$—elapsed time between the start and end of the standby period as determined in section 5.4.2 of this appendix
$\tau_{stby,2}$—overall time of standby periods when no water is withdrawn during the 24-hour simulated-use test as determined in section 5.4.2 of this appendix

1.17. *Temperature Controller* means a device that is available to the user to adjust the temperature of the water inside a water heater that stores heated water or the outlet water temperature.

1.18. *Uniform Energy Factor* means the measure of water heater overall efficiency.

1.19. *Water Heater Requiring a Storage Tank* means a water heater without a storage tank specified or supplied by the manufacturer that cannot meet the requirements of sections 2 and 5 of this appendix without the use of a storage water heater or unfired hot water storage tank.

2. * * *

2.8 *Optional Test Conditions (Heat Pump-Type Water Heaters).*

The following test conditions may be used for optional representations of E_X for heat pump-type water heaters. When conducting a 24-hour simulated use test to determine E_X, the test conditions in section 2.1 and sections 2.4 through 2.7 apply. The ambient air temperature and humidity conditions in section 2.2 and the supply water temperature in section 2.3 are replaced with the air temperature, humidity, and supply water temperature conditions as shown in the following table. Testing may optionally be performed at any or all of the conditions in the table.

Heat pump type	Metric	Outdoor air conditions		Indoor air conditions		Supply water temperature
		Dry-bulb temperature	Relative humidity (%)	Dry-bulb temperature	Relative humidity (%)	
Split-System	E_5	5.0 °F	30	67.5 °F	50	42.0 °F
	E_{34}	34.0 °F	72			47.0 °F
	E_{95}	95.0 °F	25			67.0 °F
Integrated or Heat Pump-Only	E_{50}	N/A	N/A	50.0 °F	58	50.0 °F
	E_{95}	N/A	N/A	95.0 °F	40	67.0 °F

* * * * *

4. * * *

4.10 *Storage Tank Requirement for Circulating Water Heaters.*

When testing a gas-fired, oil-fired, or electric resistance circulating water heater (*i.e.,* any circulating water heater that does not use a heat pump), the tank to be used for testing shall be an unfired hot water storage tank having a certified volume between 80 and 120 gallons (364–546 liters) that meets but does not exceed the minimum energy conservation standards required according to 10 CFR 431.110. When testing a heat pump circulating water heater, the tank to be used for testing shall be an electric storage water heater that uses only electric resistance elements for heating, has a measured volume of 40 gallons (± 4 gallons), has a First-Hour Rating greater than or equal to 51 gallons and less than 75 gallons resulting in classification under the medium draw pattern, and has a rated UEF equal to the minimum UEF standard specified at § 430.32(d), rounded to the nearest 0.01. In addition, the water heater used for testing shall not be capable of ''overheating'' the stored water, as determined by $\overline{T}_{max,1}$ (maximum measured mean tank temperature after the first recovery period of the 24-hour simulated-use test) being less than or equal to $\overline{T}_{del,2}$ (average outlet water temperature during the 2nd draw of the 24-hour simulated-use test).

5. * * *

5.1 *Operational Mode Selection.* For water heaters that allow for multiple user-selected operational modes, all procedures specified in this appendix shall be carried out with the water heater in the same operational mode (*i.e.,* only one mode). Water heaters subject to section 5.1.2 of this appendix may optionally apply the requirements in section 5.1.1 in lieu of the requirements in section 5.1.2 of this appendix until the compliance date of a final rule reviewing potential amended energy conservation standards for these products published after [*date of publication of the test procedure final rule in the* ***Federal Register***]

5.1.1 *Water Heaters Without Storage Tank Over-heating Capability.* If a non-flow-activated water heater does not have any user-selectable operational modes where the mean temperature of the storage tank can be maintained at a temperature higher than the delivery setpoint temperature (*e.g.,* by use of a mixing valve), the instructions in this section apply. The operational mode shall be the default mode (or similarly named, suggested mode for normal operation) as defined by the manufacturer in the I&O manual for giving selection guidance to the consumer. For heat pump water heaters, if a default mode is not defined in the product literature, each test shall be conducted under an operational mode in which both the heat pump and any electric resistance backup heating element(s) are activated by the unit's control scheme, and which can achieve the internal storage tank temperature specified in this test procedure; if multiple operational modes meet these criteria, the water heater shall be tested under the most energy-intensive mode. If no default mode is specified and the unit does not offer an operational mode that utilizes both the heat pump and the electric resistance backup heating element(s), the first-hour rating test and the 24-hour simulated-use test shall be tested in heat-pump-only mode. For other types of water heaters where a default mode is not specified, test the unit in all modes and rate the unit using the results of the most energy-intensive mode.

5.1.2 *Water Heaters With Storage Tank Over-heating Capability.* If a non-flow-activated water heater that is not a demand-response water heater (as defined in section 1.3 of this appendix) has a user-selectable operational mode where the mean temperature of the storage tank can be maintained at a temperature higher than the delivery setpoint temperature (*e.g.,* by use of a mixing valve), set the unit to maintain the highest mean tank temperature possible while delivering water at 125 °F ±5 °F. Maintain this setting throughout the entirety of the test.

* * * * *

5.4 * * *

5.4.2 *Test Sequence for Water Heater With Rated Storage Volume Greater Than or Equal to 2 Gallons.*

If the water heater is turned off, fill the water heater with supply water at the temperature specified in section 2.3 of this appendix and maintain supply water pressure as described in section 2.6 of this appendix. Turn on the water heater and associated heat pump unit, if present. If turned on in this fashion, the soak-in period described in section 5.2.4 of this appendix shall be implemented. If the water heater has

undergone a first-hour rating test prior to conduct of the 24-hour simulated-use test, allow the water heater to fully recover after completion of that test such that the main burner, heating elements, or heat pump compressor of the water heater are no longer raising the temperature of the stored water. In all cases, the water heater shall sit idle for 1 hour prior to the start of the 24-hour test; during which time no water is drawn from the unit, and there is no energy input to the main heating elements, heat pump compressor, and/or burners.

For water heaters that can have their internal storage tank temperature measured directly, perform testing in accordance with the instructions in section 5.4.2.1 of this appendix. For water heaters that cannot have their internal tank temperatures measured, perform testing in accordance with the instructions in section 5.4.2.2. of this appendix.

5.4.2.1 *Water Heaters which Can Have Internal Storage Tank Temperature Measured Directly.*

After the 1-hour period specified in section 5.4.2 of this appendix, the 24-hour simulated-use test will begin. One minute prior to the start of the 24-hour test simulated-use test, record the mean tank temperature (T_0).

At the start of the 24-hour simulated-use test, record the electrical and/or fuel measurement readings, as appropriate. Begin the 24-hour simulated-use test by withdrawing the volume specified in the appropriate table in section 5.5 of this appendix (*i.e.,* Table III.1, Table III.2, Table III.3, or Table III.4, depending on the first-hour rating or maximum GPM rating) for the first draw at the flow rate specified in the applicable table. Record the time when this first draw is initiated and assign it as the test elapsed time (τ) of zero (0). Record the average storage tank and ambient temperature every minute throughout the 24-hour simulated-use test. At the elapsed times specified in the applicable draw pattern table in section 5.5 of this appendix for a particular draw pattern, initiate additional draws pursuant to the draw pattern, removing the volume of hot water at the prescribed flow rate specified by the table. The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate of 1.0 GPM or 1.7 GPM is ± 0.1 gallons (± 0.4 liters). The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate of 3.0 GPM is ± 0.25 gallons (0.9 liters). The quantity of water withdrawn during the last draw shall be increased or decreased as necessary such that the total volume of water withdrawn equals the prescribed daily amount for that draw pattern ±1.0 gallon (±3.8 liters). If this adjustment to the volume drawn during the last draw results in no draw taking place, the test is considered invalid.

All draws during the 24-hour simulated-use test shall be made at the flow rates specified in the applicable draw pattern table in section 5.5 of this appendix, within a tolerance of ±0.25 gallons per minute (±0.9 liters per minute). Measurements of the inlet and outlet temperatures shall be made 15 seconds after the draw is initiated and at every subsequent 3-second interval throughout the duration of each draw. Calculate and record the mean of the hot water discharge temperature and the cold water inlet temperature for each draw $T_{del,i}$ and $T_{in,i}$). Determine and record the net mass or volume removed (M_i or V_i), as appropriate, after each draw.

The first recovery period is the time from the start of the 24-hour simulated-use test and continues during the temperature rise of the stored water until the first cut-out; if the cut-out occurs during a subsequent draw, the first recovery period includes the time until the draw of water from the tank stops. If, after the first cut-out occurs but during a subsequent draw, a subsequent cut-in occurs prior to the draw completion, the first recovery period includes the time until the subsequent cut-out occurs, prior to another draw. The first recovery period may continue until a cut-out occurs when water is not being removed from the water heater or a cut-out occurs during a draw and the water heater does not cut-in prior to the end of the draw.

At the end of the first recovery period, record the maximum mean tank temperature observed after cut-out ($T_{max,1}$). At the end of the first recovery period, record the total energy consumed by the water heater from the beginning of the test (Q_r), including all fossil fuel and/or electrical energy use, from the main heat source and auxiliary equipment including, but not limited to, burner(s), resistive elements(s), compressor, fan, controls, pump, etc., as applicable.

The start of the portion of the test during which the standby loss coefficient is determined depends upon whether the unit has fully recovered from the first draw cluster. If a recovery is occurring at or within five minutes after the end of the final draw in the first draw cluster, as identified in the applicable draw pattern table in section 5.5 of this appendix, then the standby period starts when a maximum mean tank temperature is observed starting five minutes after the end of the recovery period that follows that draw. If a recovery does not occur at or within five minutes after the end of the final draw in the first draw cluster, as identified in the applicable draw pattern table in section 5.5 of this appendix, then the standby period starts five minutes after the end of that draw. Determine and record the total electrical energy and/or fossil fuel consumed from the beginning of the test to the start of the standby period ($Q_{su,0}$).

In preparation for determining the energy consumed during standby, record the reading given on the electrical energy (watt-hour) meter, the gas meter, and/or the scale used to determine oil consumption, as appropriate. Record the mean tank temperature at the start of the standby period ($T_{su,0}$). At 1-minute intervals, record ambient temperature, the electric and/or fuel instrument readings and the mean tank temperature until the next draw is initiated. The end of the standby period is when the final mean tank temperature is recorded, as described. Just prior to initiation of the next draw, record the mean tank temperature ($T_{su,f}$). If the water heater is undergoing recovery when the next draw is initiated, record the mean tank temperature ($T_{su,f}$) at the minute prior to the start of the recovery. Determine the total electrical energy and/or fossil fuel energy consumption from the beginning of the test to the end of the standby period ($Q_{su,f}$). Record the time interval between the start of the standby period and the end of the standby period ($\tau_{stby,1}$).

Following the final draw of the prescribed draw pattern and subsequent recovery, allow the water heater to remain in the standby mode until exactly 24 hours have elapsed since the start of the 24-hour simulated-use test (*i.e.,* since $\tau = 0$). During the last hour of the 24-hour simulated-use test (*i.e.,* hour 23 of the 24-hour simulated-use test), power to the main burner, heating element, or compressor shall be disabled. At 24 hours, record the reading given by the gas meter, oil meter, and/or the electrical energy meter as appropriate. Determine the fossil fuel and/or electrical energy consumed during the entire 24-hour simulated-use test and designate the quantity as Q.

In the event that the recovery period continues from the end of the last draw of the first draw cluster until the subsequent draw, the standby period will start after the end of the first recovery period after the last draw of the 24-hour simulated-use test, when the temperature reaches the maximum mean tank temperature, though no sooner than five minutes after the end of this recovery period. The standby period shall last eight hours, so testing may extend beyond the 24-hour duration of the 24-hour simulated-use test. Determine and record the total electrical energy and/or fossil fuel consumed from the beginning of the 24-hour simulated-use test to the start of the 8-hour standby period ($Q_{su,0}$). In preparation for determining the energy consumed during standby, record the reading(s) given on the electrical energy (watt-hour) meter, the gas meter, and/or the scale used to determine oil consumption, as appropriate. Record the mean tank temperature at the start of the standby period ($T_{su,0}$). Record the mean tank temperature, the ambient temperature, and the electric and/or fuel instrument readings at 1-minute intervals until the end of the 8-hour period. Record the mean tank temperature at the end of the 8-hour standby period ($T_{su,f}$). If the water heater is undergoing recovery at the end of the standby period, record the mean tank temperature ($T_{su,f}$) at the minute prior to the start of the recovery, which will mark the end of the standby period. Determine the total electrical energy and/or fossil fuel energy consumption from the beginning of the test to the end of the standby period ($Q_{su,f}$). Record the time interval between the start of the standby period and the end of the standby period as $\tau_{stby,1}$. Record the average ambient temperature from the start of the standby period to the end of the standby period ($T_{a,stby,1}$). Record the average mean tank temperature from the start of the standby period to the end of the standby period ($T_{t,stby,1}$).

If the standby period occurred at the end of the first recovery period after the last draw of the 24-hour simulated-use test, allow the water heater to remain in the standby mode

until exactly 24 hours have elapsed since the start of the 24-hour simulated-use test (*i.e.,* since $\tau = 0$) or the end of the standby period, whichever is longer. At 24 hours, record the mean tank temperature (T_{24}) and the reading given by the gas meter, oil meter, and/or the electrical energy meter as appropriate. If the water heater is undergoing a recovery at 24 hours, record the reading given by the gas meter, oil meter, and/or electrical energy meter, as appropriate, and the mean tank temperature (T_{24}) at the minute prior to the start of the recovery. Determine the fossil fuel and/or electrical energy consumed during the 24 hours and designate the quantity as Q.

Record the time during which water is not being withdrawn from the water heater during the entire 24-hour period ($\tau_{stby,2}$). When the standby period occurs after the last draw of the 24-hour simulated-use test, the test may extend past hour 24. When this occurs, the measurements taken after hour 24 apply only to the calculations of the standby loss coefficient. All other measurements during the time between hour 23 and hour 24 remain the same.

5.4.2.2 *Water Heaters which Cannot Have Internal Storage Tank Temperature Measured Directly.*

After the water heater has undergone a 1-hour idle period (as described in section 5.4.2 of this appendix), deactivate the burner, compressor, or heating element(s).

Remove the water from the storage tank by performing a continuous draw at a flow rate of 3.0 GPM (11.4 L/min) ± 0.25 GPM (0.9 L/min) until the outlet water temperature is within ±2 °F (±1.1 °C) of the inlet water temperature for 15 consecutive seconds. While removing the hot water, measure the inlet and outlet temperature beginning 15 seconds after initiating the draw and at 3-second intervals thereafter until the outlet condition has stabilized. Determine the mean tank temperature using section 6.3.9 of this appendix and assign this value of $\overline{T}_{st}$ for $\overline{T}_0$, $\overline{T}_{max,1}$, and $\overline{T}_{su,0}$.

After completing the draw, reactivate the burner, compressor, or heating elements(s) and allow the unit to fully recover such that the main burner, heating elements, or heat pump compressor is no longer raising the temperature of the stored water. Let the water heater sit idle again for 1 hour prior to beginning the 24-hour test, during which time no water shall be drawn from the unit, and there shall be no energy input to the main heating elements. After the 1-hour period, the 24-hour simulated-use test will begin.

At the start of the 24-hour simulated-use test, record the electrical and/or fuel measurement readings, as appropriate. Begin the 24-hour simulated-use test by withdrawing the volume specified in the appropriate table in section 5.5 of this appendix (*i.e.,* Table III.1, Table III.2, Table III.3, or Table III.4, depending on the first-hour rating or maximum GPM rating) for the first draw at the flow rate specified in the applicable table. Record the time when this first draw is initiated and assign it as the test elapsed time (τ) of zero (0). Record the average ambient temperature every minute throughout the 24-hour simulated-use test. At the elapsed times specified in the applicable draw pattern table in section 5.5 of this appendix for a particular draw pattern, initiate additional draws pursuant to the draw pattern, removing the volume of hot water at the prescribed flow rate specified by the table. The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate of 1.0 GPM or 1.7 GPM is ± 0.1 gallons (± 0.4 liters). The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate of 3.0 GPM is ± 0.25 gallons (0.9 liters). The quantity of water withdrawn during the last draw shall be increased or decreased as necessary such that the total volume of water withdrawn equals the prescribed daily amount for that draw pattern ± 1.0 gallon (± 3.8 liters). If this adjustment to the volume drawn during the last draw results in no draw taking place, the test is considered invalid.

All draws during the 24-hour simulated-use test shall be made at the flow rates specified in the applicable draw pattern table in section 5.5 of this appendix, within a tolerance of ±0.25 gallons per minute (±0.9 liters per minute). Measurements of the inlet and outlet temperatures shall be made 15 seconds after the draw is initiated and at every subsequent 3-second interval throughout the duration of each draw. Calculate and record the mean of the hot water discharge temperature and the cold water inlet temperature for each draw $T_{del,i}$ and $T_{in,i}$). Determine and record the net mass or volume removed (M_i or V_i), as appropriate, after each draw.

The first recovery period is the time from the start of the 24-hour simulated-use test and continues until the first cut-out; if the cut-out occurs during a subsequent draw, the first recovery period includes the time until the draw of water from the tank stops. If, after the first cut-out occurs but during a subsequent draw, a subsequent cut-in occurs prior to the draw completion, the first recovery period includes the time until the subsequent cut-out occurs, prior to another draw. The first recovery period may continue until a cut-out occurs when water is not being removed from the water heater or a cut-out occurs during a draw and the water heater does not cut-in prior to the end of the draw.

At the end of the first recovery period, record the total energy consumed by the water heater from the beginning of the test (Q_r), including all fossil fuel and/or electrical energy use, from the main heat source and auxiliary equipment including, but not limited to, burner(s), resistive elements(s), compressor, fan, controls, pump, etc., as applicable.

The standby period begins at five minutes after the first time a recovery ends following last draw of the simulated-use test and shall continue for 8 hours. At the end of the 8-hour standby period, record the total amount of time elapsed since the start of the 24-hour simulated-use test (*i.e.,* since $\tau = 0$).

Determine and record the total electrical energy and/or fossil fuel consumed from the beginning of the 24-hour simulated-use test to the start of the 8-hour standby period ($Q_{su,0}$). In preparation for determining the energy consumed during standby, record the reading(s) given on the electrical energy (watt-hour) meter, the gas meter, and/or the scale used to determine oil consumption, as appropriate. Record the ambient temperature and the electric and/or fuel instrument readings at 1-minute intervals until the end of the 8-hour period. At the 8-hour mark, deactivate the water heater and before drawing water from the tank. Remove water from the storage tank by performing a continuous draw at a flow rate of 3.0 GPM (11.4 L/min) ± 0.25 GPM (0.9 L/min) until the outlet water temperature is within ±2 °F (±1.1 °C) of the inlet water temperature for 15 consecutive seconds. While removing the hot water, measure the inlet and outlet temperature beginning 15 seconds after initiating the draw and at 3-second intervals thereafter until the outlet condition has stabilized. Determine the mean tank temperature using section 6.3.9 of this appendix and assign this value of $\overline{T}_{st}$ for $\overline{T}_{su,f}$ and $\overline{T}_{24}$.

Determine the total electrical energy and/or fossil fuel energy consumption from the beginning of the test to the end of the standby period ($Q_{su,f}$). Record the time interval between the start of the standby period and the end of the standby period as $\tau_{stby,1}$. Record the average ambient temperature from the start of the standby period to the end of the standby period ($T_{a,stby,1}$). The average mean tank temperature from the start of the standby period to the end of the standby period ($T_{t,stby,1}$) shall be the average of $T_{su,0}$ and $T_{su,f.}$

5.4.3 *Test Sequence for Water Heaters with Rated Storage Volume Less Than 2 Gallons.*

Establish normal operation with the discharge water temperature at 125 °F ±5 °F (51.7 °C ±2.8 °C) and set the flow rate as determined in section 5.2 of this appendix. Prior to commencement of the 24-hour simulated-use test, the unit shall remain in an idle state in which controls are active but no water is drawn through the unit for a period of one hour. With no draw occurring, record the reading given by the gas meter and/or the electrical energy meter as appropriate. Begin the 24-hour simulated-use test by withdrawing the volume specified in Tables III.1 through III.4 of section 5.5 of this appendix for the first draw at the flow rate specified. Record the time when this first draw is initiated and designate it as an elapsed time, τ, of 0. At the elapsed times specified in Tables III.1 through III.4 for a particular draw pattern, initiate additional draws, removing the volume of hot water at the prescribed flow rate specified in Tables III.1 through III.4. The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate less than or equal to 1.7 GPM (6.4 L/min) is ±0.1 gallons (±0.4 liters). The maximum allowable deviation from the specified volume of water removed for any single draw taken at a nominal flow rate of 3.0 GPM (11.4 L/min) is ±0.25 gallons (0.9 liters). The quantity of water drawn during the final draw shall be increased or decreased as necessary such that the total volume of water withdrawn equals the prescribed daily amount for that draw pattern ±1.0 gallon

(±3.8 liters). If this adjustment to the volume drawn in the last draw results in no draw taking place, the test is considered invalid.

All draws during the 24-hour simulated-use test shall be made at the flow rates specified in the applicable draw pattern table in section 5.5 of this appendix within a tolerance of ± 0.25 gallons per minute (±0.9 liters per minute) unless the unit being tested has a rated Max GPM of less than 1 gallon per minute, in which case the tolerance shall be ± 25% of the rated Max GPM. Measurements of the inlet and outlet water temperatures shall be made 15 seconds after the draw is initiated and at every 3-second interval thereafter throughout the duration of the draw. Calculate the mean of the hot water discharge temperature and the cold water inlet temperature for each draw. Record the mass of the withdrawn water or the water meter reading, as appropriate, after each draw. At the end of the first recovery period following the first draw, determine and record the fossil fuel and/or electrical energy consumed, Q_r. Following the final draw and subsequent recovery, allow the water heater to remain in the standby mode until exactly 24 hours have elapsed since the start of the test (*i.e.,* since $\tau = 0$). At 24 hours, record the reading given by the gas meter, oil meter, and/or the electrical energy meter, as appropriate. Determine the fossil fuel and/or electrical energy consumed during the entire 24-hour simulated-use test and designate the quantity as Q.

* * * * *

5.6 *Optional Tests (Heat Pump-Type Water Heaters).*

Optional testing may be conducted on heat pump-type water heaters to determine E_X. If optional testing is performed, conduct the additional 24-hour simulated use test(s) at one or multiple of the test conditions specified in section 2.8 of this appendix. Prior to conducting a 24-hour simulated use test at an optional condition, confirm the air and water conditions specified in section 2.8 are met and re-set the outlet discharge temperature in accordance with section 5.2.2 of this appendix. Perform the optional 24-hour simulated use test(s) in accordance with section 5.4 of this appendix using the same draw pattern used for the determination of UEF.

* * * * *

6.3 * * *

6.3.1.1 *Effective Storage Volume.* The effective storage tank capacity, $V_{eff,}$ is computed as follows:

$V_{eff} = k_v V_{st}$

where:

V_{st} = as defined in section 6.3.1 and

k_V = a dimensionless volume scaling factor determined as follows:

$$\text{If } \overline{T}_{max,1} \leq \overline{T}_{del,2},\ k_V = 1;\ \text{or}$$

$$\text{if } \overline{T}_{max,1} > \overline{T}_{del,2},\ k_V = \frac{\rho(\overline{T}_{max,1}) \times C_p(\overline{T}_{max,1}) \times (\overline{T}_{max,1} - 67.5°F)}{\rho(125°F) \times C_p(125°F) \times (125°F - 67.5°F)}$$

$$\text{or } k_V = \frac{\rho(\overline{T}_{max,1}) \times C_p(\overline{T}_{max,1}) \times (\overline{T}_{max,1} - 19.7°C)}{\rho(51.7°C) \times C_p(51.7°C) \times (51.7°C - 19.7°C)}$$

where:

$\overline{T}_{max,1}$ = the maximum measured mean tank temperature after cut-out following the first draw of the 24-hour simulated-use test, °F(°C).

$\overline{T}_{del,2}$= the average outlet water temperature during the second draw of the 24-hour simulated-use test, °F(°C).

$\rho(\overline{T}_{max,1})$ = the density of the stored hot water evaluated at the maximum measured mean tank temperature after cut-out following the first draw of the 24-hour simulated-use test ($\overline{T}_{max,1}$), lb/gal (kg/L).

$C_p(\overline{T}_{max,1})$ = the specific heat of the stored hot water, evaluated at $\overline{T}_{max,1}$, Btu/(lb·°F) (kJ/(kg·°C)).

ρ(125 °F) = the density of the stored hot water at 125 °F, lb/gal (kg/L).

C_p(125 °F) = the specific heat of the stored hot water at 125 °F, Btu/(lb·°F) (kJ/(kg·°C)).

125 °F (51.7 °C) = the nominal maximum mean tank temperature for a storage tank that does not utilize a mixing valve to achieve a 125 °F delivery temperature.

67.5 °F (19.7 °C) = the nominal average ambient air temperature.

* * * * *

6.3.9 *Estimated Mean Tank Temperature for Water Heaters with Rated Storage Volumes Greater Than or Equal to 2 Gallons.* If testing is conducted in accordance with section 5.4.2.2 of this appendix, calculate the mean tank temperature immediately prior to the internal tank temperature determination draw using the following equation:

$$\overline{T}_{st} = T_p - \frac{v_{out,p}}{V_{st}} \times \tau_p(\overline{T}_{in,p} - \overline{T}_{out,p})$$

Where:

$\overline{T}_{st}$ = the estimated average internal storage tank temperature, °F (°C)

T_p = the average of the inlet and the outlet water temperatures at the end of the period defined by τ_p, °F (°C).

$v_{out,p}$ = the average flow rate during the period, gal/min (L/min).

V_{st} = the rated storage volume of the water heater, gal (L).

τ_p = the number of minutes in the duration of the period, determined by the length of time taken for the outlet water temperature to be within 2 °F of the inlet water temperature for 15 consecutive seconds and including the 15-second stabilization period.

$\overline{T}_{in,p}$ = the average of the inlet water temperatures during the period, °F (°C).

$\overline{T}_{out,p}$ = the average of the outlet water temperatures during the period, °F (°C).

* * * * *

6.5 *Energy Efficiency at Optional Test Conditions.* If testing is conducted at optional test conditions in accordance with section 5.6 of this appendix, calculate the energy efficiency at the test condition, $E_{X,}$ using the formulas section 6.3 or 6.4 of this appendix (as applicable), except substituting the applicable ambient temperature and supply water temperature used for testing (as specified in section 2.8 of this appendix) for the nominal ambient temperature and supply water temperature conditions used in the equations for determining UEF (*i.e.,* 67.5 °F and 58 °F).

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